



Vermont Psychiatric
ASSOCIATION

Memo:	S.91, Re: Psychologists Performing Competency Evaluation
To:	Senate Health and Welfare Committee
From:	Jill Sudhoff-Guerin, Vermont Medical Society & Vermont Psychiatric Association
Date:	March 24, 2023

On behalf of the Vermont Medical Society (VMS) and the Vermont Psychiatric Association (VPA) thank you for the opportunity to provide feedback on S.91. Our organizations support the overall intent of the bill and appreciate that the legislature is taking up the separation of competency and sanity evaluations.

S. 91 will help provide more access to competency evaluations

Our members have pointed out that the current status quo creates problems of access to evaluations because it is not best practice for someone trained in forensic psychiatry to perform both competency and sanity evaluations at the same time. We support performing competency evaluations first and implementing a competency restoration plan as proposed in this legislation. When you separate these two distinct evaluations you will open up the pool of forensically-trained psychiatrists willing to perform competency evaluations.

First study whether forensic evaluations should be done by doctoral level psychologists before authorizing (see Sec. 2 (d) and Sec. 8 (b)).

Our organizations do not support authorizing psychologists and other mental health providers to perform forensic evaluations without first studying if they have the training to perform such evaluations. The bill already calls for a study of this expansion, however, asks for results of the study after already authorizing expansion to doctoral level psychologists. The VMS and VPA have not had time to obtain feedback from our forensic psychiatrist members and urge you to study whether this action would provide the best care for those being evaluated **first**, before implementing this change in practice.

There are few forensic psychiatrists in Vermont and few forensic psychologists. Based on the Oct 2022, [VDH Health Care Workforce Census Report](#) on Master's and Doctoral Level of Psychologists there are 10 doctoral psychologists whose main practice is in forensic mental health, there are 7.4 FTEs, 9 list it as a secondary practice with 1.6 FTEs. Forensic training is very specific - so this action alone won't alleviate access issues.

Further, we have concern that without medical training psychologists could overlook medical issues that can impair competence. For instance, someone with a TBI could act with delirium; an individual could have corticosteroid induced delirium; and even the mood effects of Chantix can impact the outcome of the evaluation. So, having appropriate medical background is important in judging competency as well as restoring competency. **Please study the training of doctoral-level psychologists before authorizing them to perform competency examinations.**

There should be a full evaluation of other doctoral level mental health providers, psychiatric nurse practitioners, or any other professionals before they are authorized to perform competency evaluations (Sec. 8 (a))

It is necessary to study whether other doctoral-level mental health providers should be approved to perform competency evaluations. It would be important for any additional professionals permitted to perform these evaluations to have oversight, for instance, a process where they are supervised, or observed by a forensic psychiatrist, and their written work reviewed.

DMH has previously proposed language that allows MDs to attend a three day course (the forensic psychiatry review course) to be approved to provide competency examinations. Three days is not adequate training for the highly complex needs of these patients.

Defendants should not be responsible for paying for a sanity evaluation (Sec. 1 (d))

Our members have a concern about the defendant (except for indigent defendants) having to pay for the evaluation for sanity and for competency, the moving party paying for the evaluation (except for indigent defendants). We are concerned about what effect if any this may have on evaluation. This may discourage competency evaluations as well as discouraging the consideration of an insanity defense.

Thank you for your consideration. Please reach out to Jill at jsudhoffguerin@vtmd.org if you have questions.