

## Process for eligible professionals to be listed as qualified to conduct court ordered competency evaluations

The following legislation was enacted during the 2017 Legislative Session, expanding what professionals can conduct competency evaluations and the requirements.

### **23A-46-1. Conduct of psychiatric or psychological examination--Appointment of examiners--Additional examiners--Commitment for examination.**

A psychiatric or psychological examination ordered pursuant to this chapter, §§ 23A-10A-3 to 23A-10A-4.2, inclusive, 23A-26-12 to 23A-26-12.6, inclusive, or 23A-27-42 to 23A-27-46, inclusive, shall be conducted by:

- (1) A licensed or certified psychiatrist;
- (2) A licensed clinical psychologist;
- (3) A certified social worker licensed for private independent practice with two years of supervised clinical experience in a mental health setting and with training on how to conduct and score competency evaluations;
- (4) A certified nurse practitioner or clinical nurse specialist with current psychiatric certification and with training on how to conduct and score competency evaluations;
- (5) A licensed professional counselor-mental health with training on how to conduct and score competency evaluations; or
- (6) If the court finds it appropriate, by more than one examiner.

Each examiner shall be designated by the court, except that if the examination is ordered under § 23A-27-43 or 23A-46-9, upon the request of the defendant an additional examiner may be selected by the defendant. For the purposes of an examination pursuant to an order under § 23A-10-4, 23A-10A-3, 23A-26-12.1, 23A-27-43, or 23A-46-9, the court may commit the person to be examined for a reasonable period to the custody of a suitable facility.

**Source:** SL 1985, ch 192, § 30; SL 2017, ch 109, § 18.

---

### **23A-46-1.1. List of professionals qualified to conduct evaluations.**

The licensing board of each professional listed in § 23A-46-1 shall maintain a list of each professional licensed under their authority qualified to conduct competency evaluations. The Department of Social Services shall maintain a list of those evaluators for use by the courts in coordination with Department of Health, as needed.

.....

As a result of the above legislative action, DSS and UJS worked collaboratively to develop the following training for professionals to use to meet the statutory obligation cited in 23A-46-1 for training on how to conduct and score competency evaluations.

The training can be found here: <https://concept.paloaltou.edu/course/South-Dakota-Best-Practices-in-the-Evaluation-of-Competence-to-Stand-Trial>

Once an eligible professional completes the required training, they should provide documentation to the appropriate licensing board. The licensing board can then submit to the Department of Social Services at [DSSBH@state.sd.us](mailto:DSSBH@state.sd.us) the following information:

- Provide name and credentials
- Agency/Contact Address
- Phone Number
- Email Address
- Counties willing to provide evaluation services

The list will then be updated and posted on the Department of Social Services, Behavioral Health website.