

§312. Independent medical examiners

1. Examiner system. The board shall develop and implement an independent medical examiner system consistent with the requirements of this section. As part of this system, the board shall, in the exercise of its discretion, create, maintain and periodically validate a list of not more than 50 health care providers that it finds to be the most qualified and to be highly experienced and competent in their specific fields of expertise and in the treatment of work-related injuries to serve as independent medical examiners from each of the health care specialties that the board finds most commonly used by injured employees. An independent medical examiner must be certified in the field of practice that treats the type of injury complained of by the employee. For an independent medical examiner who is a doctor of chiropractic, certification must be by a board recognized by the American Chiropractic Association or its successor organization. For an independent medical examiner who is a doctor of podiatric medicine, certification must be by a board recognized by the American Podiatric Medical Association or its successor organization. For an independent medical examiner who is a psychologist, licensure by the State Board of Examiners of Psychologists satisfies the certification requirement of this section. For all other medical examiners, certification must be by a board recognized by the American Board of Medical Specialties or the American Osteopathic Association or their successor organizations. The board shall establish a fee schedule for services rendered by independent medical examiners and adopt any rules considered necessary to effectuate the purposes of this section.

[PL 2013, c. 63, §9 (AMD).]

2. Duties. An independent medical examiner shall render medical findings on the medical condition of an employee and related issues as specified under this section. The independent medical examiner in a case may not be the employee's treating health care provider and may not have treated the employee with respect to the injury for which the claim is being made or the benefits are being paid. Nothing in this subsection precludes the selection of a provider authorized to receive reimbursement under section 206 to serve in the capacity of an independent medical examiner. Unless agreed upon by the parties or no other physician is reasonably available, a physician is not eligible to be assigned as an independent medical examiner if the physician has examined the employee at the request of an insurance company, employer or employee in accordance with section 207 or has been closely affiliated with the insurance company at any time during the previous 52 weeks. An independent medical examiner selected and paid for by an employer to examine an employee in accordance with section 207 is limited to 12 such examinations per calendar year and shall notify the board of the name of the employee, the employer or the insurance company that requested the examination and the date of the examination within 10 days of the date of the examination.

[PL 2011, c. 215, §2 (AMD).]

3. Appointment. If the parties to a dispute can not agree on an independent medical examiner of their own choosing, the board shall assign an independent medical examiner from the list of qualified examiners to render medical findings in any dispute relating to the medical condition of a claimant, including but not limited to disputes that involve the employee's medical condition, improvement or treatment, degree of impairment or ability to return to work.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

4. Rules. The board may adopt rules pertaining to the procedures before the independent medical examiner, including the parties' ability to propound questions relating to the medical condition of the employee to be submitted to the independent medical examiner. The parties shall submit any medical records or other pertinent information to the independent medical examiner. In addition to the review of records and information submitted by the parties, the independent medical examiner may examine the employee as often as the examiner determines necessary to render medical findings on the questions propounded by the parties.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

5. Medical findings; fees. The independent medical examiner shall submit a written report to the board, the employer and the employee stating the examiner's medical findings on the issues raised by that case and providing a description of findings sufficient to explain the basis of those findings. It is presumed that the employer and employee received the report 3 working days after mailing. The fee for the examination and report must be paid by the employer.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

6. Subsequent medical evidence. All subsequent medical evidence from the treating health care provider must be forwarded to the independent medical examiner no later than 14 days prior to the hearing. The independent medical examiner must be notified of the hearing and shall make a supplemental report if the subsequent medical evidence affects the medical findings of the independent medical examiner. If the independent medical examiner prepares a supplemental report, the report must be submitted to the board and the parties at least 3 days prior to the hearing.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

7. Weight. The board shall adopt the medical findings of the independent medical examiner unless there is clear and convincing evidence to the contrary in the record that does not support the medical findings. Contrary evidence does not include medical evidence not considered by the independent medical examiner. The board shall state in writing the reasons for not accepting the medical findings of the independent medical examiner.

[PL 2005, c. 24, §2 (AMD).]

8. Immunity. Any health care provider acting without malice and within the scope of the provider's duties as an independent medical examiner is immune from civil liability for making any report or other information available to the board or for assisting in the origination, investigation or preparation of the report or other information so provided.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

9. Annual review. The board shall create a review process to oversee on an annual basis the quality of performance and the timeliness of the submission of medical findings by the independent medical examiners and shall develop rules in relation to timeliness and procedures applicable to this section.

[PL 2015, c. 297, §11 (AMD).]

SECTION HISTORY

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). PL 2005, c. 24, §§1,2 (AMD). PL 2011, c. 215, §§1, 2 (AMD). PL 2013, c. 63, §9 (AMD). PL 2015, c. 297, §11 (AMD).

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