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- Take Note
- Milestones

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DWCNewsline

Division of Workers' Compensation
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Internet Web Page: <http://www.dir.ca.gov>

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Division of Workers' Compensation proposes changes to qualified medical evaluator regulations

The Division of Workers' Compensation (DWC) has proposed changes to the qualified medical evaluator (QME) regulations. The proposed changes include regulation sections one through 159 of Title 8 of the California Code of Regulations, which govern the examination, appointment, reappointment, evaluation report procedures and disciplinary procedures for physicians who are QMEs.

The proposed regulations are posted on DWC's Web site, and have been forwarded to the Office of Administrative Law for publication in the California Notice Registry. DWC has set two public hearings on the proposed regulations. The hearings will be held at the following times and places:

Date: Monday, Jan. 14, 2008

Time: 10 a.m. to 5 p.m., or until conclusion of business

**Place: Ronald Reagan State Office Building – auditorium
300 South Spring Street
Los Angeles, CA 90013**

Date: Thursday, Jan. 17, 2008

Time: 10 a.m. to 5 p.m., or until conclusion of business

**Place: Elihu Harris State Office Building – auditorium
1515 Clay Street
Oakland, CA 94612**

Members of the public may comment on the proposed regulations until 5 p.m. on Jan. 17, 2008.

Many of the sections in this rulemaking are 'changes without regulatory effect', due to the elimination of the Industrial Medical Council. The substantive changes include:

- **Psyche cases:** Proposed section 36(c) and the related QME form proposed in section 120 provide that an employer may incur the cost of an office visit with a physician, designated by an unrepresented injured employee, for the purpose of reviewing a comprehensive medical-legal report with the employee that was written by a QME, in a case involving a disputed injury to the psyche.
- **Disclosure of financial conflicts of interest:** The administrative director is required by Labor Code section 139.2(o) to develop regulations to prevent agreed medical evaluators (AMEs) and QMEs from requesting or accepting any compensation or other thing of value that does or could create a conflict with the physician's duties as an evaluator. Proposed regulation 41.5 will require AMEs and QMEs who know of a disqualifying conflict of interest, as defined in section 41.5(d), with any of the persons or entities listed in section 41.5(c), to send a written notification to the injured employee and the employer or insurer, or their respective attorneys if any, within five business days of the evaluator becoming aware of the conflict. However, if a conflict does arise, if either party objects to the evaluator on that ground, the parties are entitled to select a new evaluator.
- **Prevention of QMEs on same panel with shared business interest:** The proposed regulations require QMEs to report the existence of specified financial interests, only if the QME is a limited or full partner, or holds a 5 percent or greater interest in, or is entitled to receive 5 percent or more of the profits from, a medical practice, medical group, or other business entity engaged in medical treatment or medical evaluations in the workers' compensation system. In such cases, the QME must report the business name of the entity, business address and list other physicians with the same or greater interests. The information will be used by the administrative director to avoid assigning QMEs with shared financial interest to the same QME panel.
- **QME specialty list:** The regulation proposes a change in the list of physician specialties including merging some specialties to reduce travel by injured workers.
- **Primary practice location:** A new definition for "primary practice location" is added. Proposed regulations 17(c) and 30(f) state that a QME may designate up to four primary office locations and that the administrative director in compiling QME panels will weight primary office locations at 1.5 when compiling the list of QMEs for a given panel.
- **Reporting requirements:** Subdivision 35.5(d) requires an AME or QME, when providing an opinion on a disputed medical treatment issue, to apply and be consistent with the standards of evidence-based medicine set out in the medical treatment utilization schedule.

The proposed regulations, as filed with the Office of Administrative Law, can be found on the DWC Web site at http://www.dir.ca.gov/dwc/DWCPropRegs/qme_regulations/qme_regulations.htm.

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