**Perry Carpenter QME 2022 SUMMER ZOOMINAR SERIES**

**“THE QME REPORT WRITING MASTERY CLASS”**

**THE QME REPORT WRITER’S SURVIVAL KIT**

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his Survival Kit accompanies Session 1 – “The 10 Keys to the High Quality QME Report.” This Kit is designed to help provide you with the information and materials that you need to immediately begin to improve the content and quality of your very next QME Report. The Survival Kit consists of:

* **DWC Report Quality Committee Findings – these are the combined findings of over 2 years of Committee study on the most common problems in QME Reports that add delay, and unnecessary costs to the resolution of claims and cases. Correct these problems in YOUR Report and your business will EXPLODE!**
* **Findings Of 329 QME Report Complaints - low quality Reports that come under investigation by the DWC have common and recurring themes. If you know what these QME Report Writing faux pas are, you can eliminate them from your own Reports.**
* **DWC Report Quality Checksheet - These are the elements identified by the QME Report Quality Committees that comprise the "minimum" standards that MUST be present in each and every QME Report. How does YOUR Report stack up against this list?**
* **Report Templates - Install these paragraphs immediately in YOUR Report to demonstrate your compliance with LC4628, CCR 40, CCR 34 (b) and CCR 35.5 (b), CCR 40, and CCR 35.5 (c)(1). WOW! Your Report is better already!**

**DWC Report Quality Committee Findings**

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hat we do with the findings:

The committee’s review is included in an annual report to the Executive Medical Director and the Administrative Director in accordance with Labor Code section 139.2.

* In 2021 reviewed 101 reports with an average rating of 6.2.
* Nov 2020 – Nov 2021: DWC identified 81 reports that were rejected by WCAB.
* Reviewed timeliness of reports (through replacement panel process and through random selection of reports received).

PROBLEM AREAS IDENTIFIED:

**HISTORY**

* Relies on records not on interview of injured worker.
* Not clear on work history and periods of disability.
* Mechanism of injury not clearly stated.
* No medical records received so deferred all findings until receipt of medical records.
* History of injury was weaved into review of records – needs separate sections.
* If no records are received then physician should state that.
* Limited knowledge of treatment and whether the treatment received was helpful.
* Record summary was brief, would have liked more detail

**PHYSICAL EXAMINATION**

* ROM Rating not included – states normal.
* ROM Unclear
* Grip strength and motor strength not done correctly.
* Does not state: if did warm up exercises, how many measurements were done, how the measurements were done.
* Diagnosis is not consistent with exam/history: (6 body parts diagnosed which appears excessive for type of injury – no explanation as to why).
* Diagnosis not provided.
* Diagnosis is not explained.

**CAUSATION (AOE/COE)**

* Causation is not clearly stated
* Combined with apportionment.
* When more than one date of injury the report is not clear on MMI status for the DOI and resulting disability for each DOI.
* *Rolda* analysis – lacking detail that could help the parties. Provides percentages that are not unreasonable but additional detail would be beneficial.
  + Did not completely address work related stressors and the specific percentage of those contributed to causation of injury.
* Physician does not mention the specific body parts in the causation section nor the job duties in order to connect the injury to the job.

**DISABILITY STATUS**

* Not consistent with findings (requested MRI but found IW MMI – what if the MRI shows severe stenosis)
* Apportionment and Causation were intertwined
* Did not provide work restrictions.
* Did not even mention TD periods.
* Apportionment: Did not explain why there was no apportionment to degenerative changes.
* Not MMI – but report felt purposely incomplete.
  + Be clear on disability period – if not MMI then why not TD?
  + If not MMI then provide projected rating.
  + If not MMI providing work restrictions would be helpful.
  + MMI status was delayed until additional trials of treatment; however, given treatment history and time of TD finding IW MMI would appear reasonable. Poor analysis on impairment determination.

**PERMANENT IMPAIRMENT RATING**

* AMA Rating: Not substantial evidence. No basis for the rating or rationale as to rating.
* Almaraz Guzman: Not used.
* Finding not consistent with the record – no disability but treatment records and ROM finings is not consistent with no disability.
* No Impairment Rating but gave an apportionment determination.
* No citation to the Guides – almost like they picked the rating out of thin air.

**RATIONALE/DISCUSSION OF FINDINGS**

* Missing “how” and “why.”
* Apportionment opinion is “conclusory” – physician should point to the medical entries and diagnostics that support the apportionment determination - not simply state “25% to pre-existing degenerative changes.”
* Physicians conclusions were reasonable but no connecting of the dots (no rationale or explanation)
* Did not address all alleged injuries from the cover letters.
* Deferred EVERYTHING
* Rambling
* Don’t explain why the person has a problem with a particular activity – why is the ADL reduced – Causation?
* Multiple dates of injury are not always properly addressed; takes a history of two dates of injury then by the end of the report only discussing one date of injury but never resolved the other date.

**EVIDENCE OF BIAS**

* Obesity
* Age (30 years old - degenerative changes that were not consistent with age)

**GENERAL REPORT**

* Would benefit from having clear sections (Headings)
* Instead of referring back to prior reports, the QME should include the findings in this report (no shortcuts!).
* Did not address all body parts requested in cover letter – state why not addressing if appropriate.
* Excessive record review.
  + Record review in an organized and chronological listing would be helpful.
* Template format – seems like a long report that could be much shorter.
  + Form language (credibility of physician, discussion of what is an injury and a CT) this language makes the report unnecessarily long and difficult to find the relevant information.
* Supplemental Reports were required because the physician was not clear and made confusing statements.
* Grammatical Errors (page numbers off)
* Only addressed issues presented – did not go through CCR 10682 issues which makes the report incomplete.
* In consistencies – subjective complaints and ADLS.
* Research section appeared excessive.
* Did not discuss Cover Letters and provides a history but reader not told what records were reviewed – no list.
* Does not state location of examination (LC4628 violation)

**WORST OF ALL**

* **No statement under regulation 40**

**Findings Of 329 QME Report Complaints**

**2021 QME Complaints Received**

**(total 329)**

|  |  |
| --- | --- |
| **Complaint** | **Number** |
| EE Not Treated Professionally/Rude Treatment | 42 |
| Did not like Report/QME Bias | 31 |
| Ghostwriting | 1 |
| Financial Conflict | 1 |
| Billing Issues | 17 |
| Late Report | 16 |
| Did not follow Evaluation Guidelines | 4 |
| Unratable Report Referred by DEU | 5 |
| Discrimination | 6 |
| Other Violations | 77 |
| Appt Notification Form 110 Violation | 4 |
| Waiting Time Violation | 5 |
| Unnecessary Exam or Procedure | 2 |
| Ex-Parte Communication | 3 |
| Face-to-Face time Infraction | 18 |
| Alleged Physician Hard, False Imprisonment | 6 |
| Untrue Statements in Report | 28 |
| Sexual Misconduct | 7 |
| Location Switch | 5 |
| Criminal Acts (Forgery, Larceny, Fraud) | 7 |
| Solicitation, Treatment, Referral For Treatment | 5 |
| Late Supplemental Report | 20 |
| Violation of Ethical Requirements | 3 |
| Lic Bd Citation/Enforcement Agreement/Stipulation | 4 |
| QME Failed to notify DWC of unavailability | 2 |
| Fail to Display QME certificate | 2 |
| Refuse to evaluate | 8 |

Status of Regulations:

Website: [State of California Division of Workers' Compensation forums](https://www.dir.ca.gov/dwc/dwcwcabforum/1.asp)

Education and other process regulations: Public Hearing coming.

Emergency Regulations:

* 36.7 Electronic Service – Permanent Regulation.
* Emergency Regulation 46.3 Remote Health, Office Flexibility with initial evaluation, timeframe for scheduling evaluations 60/90 days to 90/120 days. Expires July 17, 2022 (extension?)
  + Permanent? Currently under review at DIR – there will be a public hearing.
    - Why are we considering to make these permanent:
      * Favorable feedback from community
      * Reduce delays in WC claims: Reduction in panel replacements:
        + 2019: 100,431
        + 2021: 57,986
* No time frame extensions on issuing a report (expired on January 10, 2022 and we will not see that with any pending packages).

**DWC Report Quality Checksheet**

|  |  |  |  |
| --- | --- | --- | --- |
| **Included** | **Yes** | **No** | **Comment** |
| Was history of injury taken (by medical records, through injured work) |  |  |  |
| Does it contain a list of all information received and relied upon in making of the report? |  |  |  |
| Is the examination described? Does it appear appropriate? |  |  |  |
| Was the diagnostic testing appropriate? |  |  |  |
| Does the diagnosis appear consistent with examination and medical history? |  |  |  |
| Did physician provide an opinion as to the nature, extent, and duration of disability and work limitations (if any)? |  |  |  |
| Does it contain a statement about causation of injury? |  |  |  |
| Did the physician comment on future medical treatment? |  |  |  |
| Did the physician comment on current or past medical treatment? |  |  |  |
| Was there a finding of MMI? |  |  |  |
| If no finding of MMI, does this finding appear reasonable? |  |  |  |
| Was there a finding of permanent disability? |  |  |  |
| Is the report ratable under the AMA Guides? (standard approach) |  |  | If not, what are the problems with the disability finding. |
| Did the report provide a rating under Almaraz Guzman Analysis? (did this appear reasonable) |  |  |  |
| Is causation of disability addressed? (apportionment determination per LC §§ 4663 & 4664) |  |  |  |
| Did the physician address ADLs? |  |  |  |
| Did the physician address work restrictions? |  |  |  |
| Was there any sign of bias in the report? |  |  |  |
| Does it set forth an appropriate rationale to support the medical opinion? (how & why) |  |  |  |
| Overall rating of Report 1-10 (1 being very poor report - not substantial medical evidence, and 10 being report is substantial medical evidence, well-reasoned and should be used as an example in training QMEs) |  |  |  |

**Report Templates**

**Install this language into your Report Template to demonstrate compliance with the following Labor Codes, and Codes of Regulation:**

* **LC 4628 (a):** I conducted every part of the evaluation personally including 1) reviewing and summarizing the medical records, 2) taking a complete history, and 3) composing and drafting the conclusions of the Report. Office Assistant Mary James excerpted the Review of Records. I then made additional inquiries as necessary and appropriate to identify and determine the relevant medical issues. Historian Tyler Revel obtained the initial outline of Ms. Smith’s history. I then made additional inquiries as necessary and appropriate to identify and determine the relevant medical issues.
* **CCR 40:** Prior to the evaluation, I provided Ms. Smith with a copy of the complete text of Title 8 CCR 40. I gave her the opportunity to ask questions. I answered all questions prior to proceeding with the evaluation.
* **CCR 34 (b) and CCR 35.5(b):** Ms. Smith was scheduled for an examination on 5/18/2022 at 10:00 a.m. at 1234 Main Street St. 111 Anytown, Ca. 98765 (input address of examination).
* **CCR 35.5 (c)(1):** According to CCR 35.5 (c)(1) “The evaluator shall address all contested medical issues arising from all injuries reported on one or more claim forms prior to the date of the employee’s appointment with the medical evaluator that are issues within the evaluator’s or practice and areas of clinical competence. The reporting evaluator shall attempt to address each question raised by each party in the issue Cover Letter sent to the evaluator….” For this evaluation, I received Cover Letters from both Applicant Attorney Jones, and Defense Attorney Williams.

Herein below I address each of the questions raised in each of the Cover Letters that I received.