

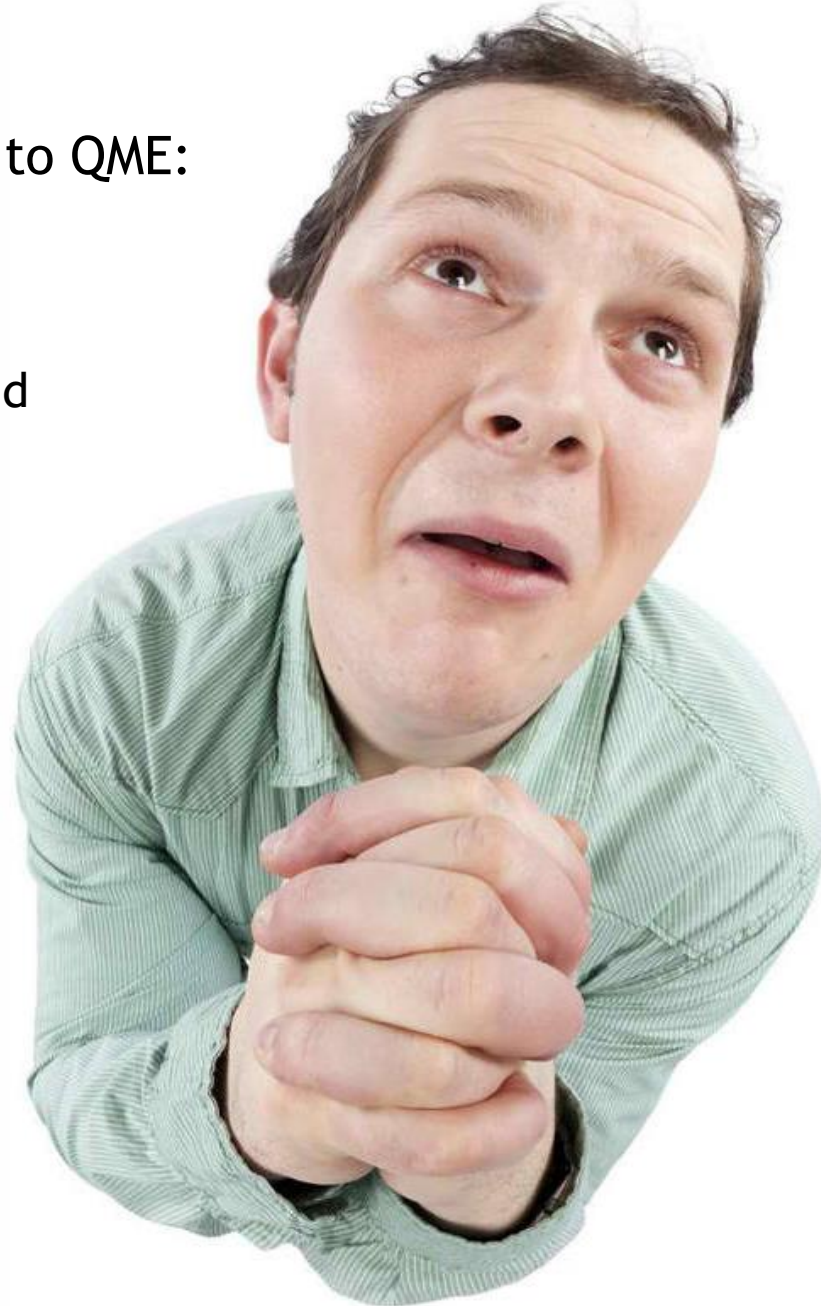


SANTA CLARA COUNTY ATTORNEY'S ASSOCIATION FALL ZOOMINAR SERIES

- [EZ ATTORNEY MCLE.COM](http://EZATTORNEY.MCLE.COM)
- PERRY J. CARPENTER DC QME
- 800-676-8127

Applicant/Defense Attorney to QME:

Would you please please pretty
please read my Cover Letter and
answer the questions? I'm
begging you!"



HOW TO GET THE REPORT YOU NEED FROM THE QME



- Today's Topics:
 - The Atrocious Condition of QME Reports....(and Attorney Cover Letters)
 - The DWC's QME Report Quality Checksheet - Important Codes/Regulations Governing the QME Report
 - The Hidden Goldmine of CCR 35.5
 - How to Squeeze Blood ("Substantial Opinions") from The Stone ("The QME")
- Benefits:
 - Finally, finally, finally **Get the Report You Need** from the QME with opinions and conclusions that qualify as Substantial Medical Evidence – Ding ding ding ding!

PERRY J. CARPENTER DC QME



- 1983 - UC Santa Cruz: BA Cell Biology
- 1988 - Palmer West College of Chiropractic - DC
- 1995 - Qualified Medical Evaluator
- 2011 - DWC Continuing Education Provider
- 2013 - State Bar Board of Legal Specialization
Workers Compensation Law Provider
- 2018 - President, QME Data Works QME Management
Services
- 2021 - California Chiropractic Evaluators

HOW TO GET THE REPORT YOU NEED FROM THE QME



- The *Sine Qua Non* of the High Quality and Persuasive QME Report
- Sine Qua Non - an essential condition; a thing that is absolutely necessary..... When something is described as *sine qua non*, it is a necessary or indispensable requirement. The phrase represents an essential element, component, or condition of something else....synonyms..... **necessity, requirement, requisite, essential condition, essential, must, need, prerequisite, necessary, condition and precondition**
- The 2019 State Auditor's Report



HOW TO GET THE REPORT YOU NEED FROM THE QME



- 80/20 Rule of Report “Cover Letter Hacks”
 - Hack #1 - If it is to be....it is up to me....William Johnson. Write the Report for the Audience it is Intended.
 - Hack #2 - Provide the Labor Code under which the evaluation was ordered - LC4060, 4061, 4062. Describe the disputed issue and request that the evaluator resolve the disputed issue.

HOW TO GET THE REPORT YOU NEED FROM THE QME



- 80/20 Rule of Report “Cover Letter Hacks”
 - Hack #3 -
 - Use the **DWC QME Report Quality Checklist**:
 - CCR 40 The Disclosure Requirements
 - CCR 41 C (2) Review of Records
 - Permanent Impairment Rating/Alternative Impairment Rating – with substantial medical evidence
 - LC 4663 & LC 4664 Apportionment Determination – with substantial medical evidence
 - Hack #4 - CCR 35.5 - Impose Your Questions



HOW TO GET THE REPORT YOU NEED FROM THE QME



- The QME Report Quality Checklist – What’s Really Required?
 - CCR 40 The Disclosure Requirements
 - CCR 41 C (2) Review of Records
 - Permanent Impairment Rating/Alternative Impairment Rating – with substantial medical evidence
 - LC 4663 & LC 4664 Apportionment Determination – with substantial medical evidence

HOW TO GET THE REPORT YOU NEED FROM THE QME



- Squeeze Blood (“Substantial Opinions”) from The Stone (“The QME”)
- Cover Letters:
 - The Hidden Goldmine of 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 scope of 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 as provided in subdivision 35(a)(3).**
- Poor Quality Questions = Poor Quality Reports



HOW TO GET THE REPORT YOU NEED FROM THE QME



- Example of a Good Question:
 - Causation:
 - “Is it more likely than not that the work injury/injuries caused, contributed to, aggravated, accelerated, triggered, or lit up the disability?”
 - Why or why not?

HOW TO GET THE REPORT YOU NEED FROM THE QME



- **Example of a Better Question:**
 - **Causation:**
 - **“In this case there is a dispute over industrial causation – or compensability. To assist in resolving this dispute, please provide your opinion as to whether it is more likely than not that the work injury/injuries either 1) caused, 2) contributed to, 3) aggravated, 4) accelerated, 5) triggered, or 5) lit up the disability?”**
 - **If your opinion to the above question (“whether it is more likely than not”) is “Yes” please explain how and why arrived at that conclusion so that your opinion can rise to the level of “substantial medical evidence.**
 - **If your opinion to the above question (“whether it is more likely than not”) is “No” please explain “how” and “why” you arrived at that conclusion so that your opinion can rise to the level of “substantial medical evidence.**
 - **Please provide your opinion as to whether the work injury/injuries (select one) 1) caused, 2) contributed to, 3) aggravated, 4) accelerated, 5) triggered, or 5) lit up the disability**

HOW TO GET THE REPORT YOU NEED FROM THE QME



- Permanent Impairment:
- Primary Impairments – Please address all primary impairments due to the injury under the *strict* application of the AMA Guides
- Secondary Impairments – Please address all secondary impairments due to medical treatment - Skin/Range of Motion/Muscle Strength/Neurologic/Medications to treat/Radiation/Medications long term (i.e.) pain meds/Pain

HOW TO GET THE REPORT YOU NEED FROM THE QME



- **Secondary Impairments:**
 - Does Ms. Smith have any secondary skin impairment as a result of the medical treatment for the industrial injury?
 - If she does....what is the Impairment rating?
 - If you do not feel that there is skin impairment – please explain “how” and “why” you came to that conclusion.
 - Does Ms. Smith have any secondary ROM/Loss of Strength/Neurologic/Medication Related/Pain Related/Gait Derangement - Chapter 13 vs. Chapter 17/Mobility Issues (Dyspnea Table 5-1)/Functional Limitations - i.e. loss of lifting capacity, loss of weight bearing activities....???

HOW TO GET THE REPORT YOU NEED FROM THE QME



- IN CONCLUSION - BETTER COVER LETTERS -
- The Sine Qua Non of the High Quality QME Report:
 - Hack #1: Make it Happen/Take Control through Your Clear Cover Letter
 - Hack #2: Cite the Labor Code - 4060/4061/4062
 - Hack #3: Ask the QME Whether they Complied with the DWC Report Quality Checksheet
 - Hack #4: Ask open ended “how and “why” questions - invoke the power of CCR 35.5 C (1)



HOW TO GET THE REPORT YOU NEED FROM THE QME



- Secondary Permanent Impairment Considerations in the War Against Bias
 - Gait Derangement - Chapter 13 vs. Chapter 17
 - Dyspnea Table 5-1 - Mobility Issues
 - Functional Limitations:
 - Loss of Lifting Capacity
 - Gait Disorder Tables
 - Direct Estimate of Loss of Function of each injury body part or system
 - Pain Related Impairment:
- Others: Insist on Discussion of Activities of Daily Living

HOW TO GET THE REPORT YOU NEED FROM THE QME



- How to Handle Low Quality Reports (CCR 10683)

The Sin Qua Non of the High Quality and Persuasive QME Report

Determine The Disputed Issue – LC4060,4061, 4062

- QME Forms 105/106
- LC 4060 – The Compensability Evaluation - (a) This section shall apply to disputes over the compensability of any injury. This section shall not apply where injury to any part or parts of the body is accepted as compensable by the employer.
- LC 4061 – Permanent & Stationary, Permanent or Temporary Disability, Need for Future Medical Care
- LC 4062 – All other issues (i.e. Apportionment) - (a) If either the employee or employer objects to a medical determination made by the treating physician concerning any medical issues not covered by Section 4060 or 4061

HOW TO GET THE REPORT YOU NEED FROM THE QME



- Codes and Regulations Governing the QME Report
 - CCR 40 – Disclosure Requirements
 - CCR 41 (C)(2) – Summary of Medical Records
 - LC4663/4664 – Causation of Disability
 - CCR 35.5

HOW TO GET THE REPORT YOU NEED FROM THE QME



- The QME Report Quality Checklist:

HOW TO GET THE REPORT YOU NEED FROM THE QME



- The Hidden Goldmine of CCR 35.5

HOW TO GET THE REPORT YOU NEED FROM THE QME



- Squeeze Blood (“Substantial Opinions”) from The Stone (“The QME”)

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- How to Handle Low Quality Reports (CCR 10683)