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PERRY J. CARPENTER DC QME

800-676-8127



QME REPORT WRITING

- AUTHORITY FOR QME REPORT WRITING:

- LABOR CODE 4628 (Medical Legal Expenses)
- 8 CCR 35.5
- 8 CCR 41 (C) (5) Ethical Requirements
- 8 CCR 9793 (Definitions - Med Legal Expense)
- 8 CCR 10682 - Minimum Standards
- 8 CCR 10683 - Rejection of Report
- LABOR CODE 139.2 (Reappointment)



QME REPORT WRITING

- LABOR CODE 4628 (a) Except as provided in subdivision (c), no person, other than the physician who signs the medical-legal report, except a nurse performing those functions routinely performed by a nurse, such as taking blood pressure, shall examine the injured employee or participate in the nonclerical preparation of the report, including all of the following:
 - (1) Taking a complete history.
 - (2) Reviewing and summarizing prior medical records.
 - (3) Composing and drafting the conclusions of the report.



QME REPORT WRITING

- LABOR CODE 4628 (b) The report shall disclose the date when and location where the evaluation was performed; that the physician or physicians signing the report actually performed the evaluation; whether the evaluation performed and the time spent performing the evaluation was in compliance with the guidelines established by the administrative directorand shall disclose the name and qualifications of each person who performed any services in connection with the report, including diagnostic studies, other than its clerical preparation.



QME REPORT WRITING

- LABOR CODE 4628
(c) If the initial outline of a patient's history or excerpting of prior medical records is not done by the physician, the physician shall review the excerpts and the entire outline and shall make additional inquiries and examinations as are necessary and appropriate to identify and determine the relevant medical issues.
- Therefore, the opinions and conclusions of the Report must be those of the Physician (anti-ghostwriting statute)



INTRODUCTION

On 9/1/2021 my office received a telephone call from Law Office of AB Thomas. Thomas requested an evaluation for client Ms. Jones. Thomas indicated that I was the “last man standing” after a strike:strike process. My role therefore for this evaluation is of the Panel Qualified Medical Evaluator.

Ms. Jones was scheduled for an examination on 11/30/2021 at 9:00 a.m. at 123 Main Street, Anytown, Ca. 98765. Ms. Jones identified himself with a California Driver's License. Also present during the evaluation was Maria Ortega (Spanish Interpreter) of Eloquent Translations (Certification # 123456, phone number 800-234-4567).

Prior to the evaluation, I provided Ms. Jones with a copy of the complete text of Labor Code 4062.3 (e-h) and Title 8 CCR 40. I gave her the opportunity to ask questions. I answered all questions prior to proceeding with the evaluation.

I conducted every part of the evaluation personally, and face to face requirements were met in compliance with Labor Code 139.2(j), (5), and 5307.6. Total face - to - face time with Ms. Jones was 85 minutes.

QME REPORT WRITING

- CCR 9793 (n) "Record Review" means the review by a physician of documents sent to the physician in connection with a medical-legal evaluation or request for report. The documents may consist of medical records, legal transcripts, medical test results, and or other relevant documents. For purposes of record review, a page is defined as an 8 1/2 by 11 single-sided document, chart or paper, whether in physical or electronic form. Multiple condensed pages or documents displayed on a single page shall be charged as separate pages.



QME REPORT WRITING

- CCR 9793 (n) "Record Review"Any documents sent to the physician for record review must be accompanied by a declaration under penalty of perjury that the provider of the documents has complied with the provisions of Labor Code section 4062.3 before providing the documents to the physician. The declaration must also contain an attestation as to the total page count of the documents provided. A physician may not bill for review of documents that are not provided with this accompanying required declaration from the document provider.



QME REPORT WRITING

- CCR 9793 (n) Any documents or records that are sent to the physician without the required declaration and attestation shall not be considered available to the physician or received by the physician for purposes of any regulatory or statutory duty of the physician regarding records and report writing.



REVIEW OF RECORDS

I, Perry J. Carpenter DC QME declare under penalty of perjury that, pursuant to Labor Code section 4628 and Title 8, California Code of Regulations section 9793(n), I reviewed [REDACTED] number of pages of 8 ½ X 11 single sided documents, chart or paper, whether in physical or electronic form records in connection with my examination of Ms. Smith. I received the following documents:

- Applicant Attorney: [REDACTED] pages
- Defense Attorney: [REDACTED] pages
- Claims Administrator: [REDACTED] pages
- Total: [REDACTED] pages

Attached to this Report are the declarations and attestations that I received from the parties.

In compliance with Labor Codes 4062.3 (d), 4628 (a) (2), and Title 8 CCR 10606 and Title 8 CCR 41 (b)(2), below is a listing and summary of the records that I received, reviewed, and relied upon in the preparation of this report.

QME REPORT WRITING

- 8 CCR 35.5 and 41 c (5) :
- (b) Each reporting evaluator shall state in the body of the comprehensive medical-legal report the **date** the examination was completed and the **street address at which the examination was performed**. If the evaluator signs the report on any date other than the date the examination was completed, **the evaluator shall enter the date the report is signed next to or near the signature on the report.**



QME REPORT WRITING

- 8 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.....



QME REPORT WRITING

- 8 CCR 41 (c)(5):
- Present a report that addresses all relevant and contested medical issues as presented on one or more claim forms, is ratable by the DEU, if applicable, and complies with all relevant guidelines of the Administrative Director.



DISCUSSION

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 Defense Attorney Jones, and from Applicant Attorney Thomas. (Or, For this evaluation, I received a Cover Letter from Defense Attorney Jones. I did not receive a Cover Letter from Applicant Attorney Thomas.....or, For this evaluation, I did not receive any Cover Letters from either Defense Attorney Jones, or Applicant Attorney Thomas).

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

CAUSATION

QME REPORT WRITING

- Labor Code 139.2 (d) (2) - (d) The qualified medical evaluator, upon request, shall be reappointed if he or she meets the qualifications of subdivision (b) and meets all of the following criteria:

(2) Has not had more than five of his or her evaluations that were considered by a workers' compensation administrative law judge at a contested hearing rejected by the workers' compensation administrative law judge or the appeals board pursuant to this section during the most recent two-year period during which the physician served as a qualified medical evaluator.



