

Guideline:
**Independent
Medical Examinations**



Please note

These guidelines are issued under section 11 of the *Workers Rehabilitation and Compensation Act 1988* (the Act).

This information is for guidance only and is not to be taken as an expression of the law. It should be read in conjunction with the *Workers Rehabilitation and Compensation Act 1988*, the *Workers Rehabilitation and Compensation Regulations 2011* (the Regulations) and any other relevant legislation.

This Guide should also be read in conjunction with the Code of Conduct for Doctors in Australia (March 2014) (Code of Conduct).

If there is any conflict between this Guide and the Code of Conduct for Doctors in Australia and the law, the law takes precedence.

This guide was produced by staff from WorkSafe Tasmania.

We welcome your feedback on this guide via workcover@justice.tas.gov.au

Definitions

Disease means any ailment, disorder, defect, or morbid condition, whether of sudden or gradual development.

Employer means the person with whom a worker has entered into a contract of service or training contract and may include:

- (a) the Crown; and
- (b) the employer of any person or class of persons taken to be a worker for the purposes of the Act; and
- (c) the legal personal representative of a deceased employer.

Health Practitioner Regulation National Law means:

- (a) the Health Practitioner Regulation National Law:
 - (i) as in force from time to time, set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland; and
 - (ii) as it applies as a law of Tasmania or another State or a Territory; and
- (b) the law of another State or a Territory that substantially corresponds to the law referred to in paragraph (a).

Independent medical examination (IME) means a medical assessment conducted by an independent medical practitioner with appropriate qualifications.

Injury includes:

- (a) a disease; and
- (b) the recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease where the employment was the major or most significant contributing factor to that recurrence, aggravation, acceleration, exacerbation or deterioration – but does not, except for the purposes of [section 97\(1\)\(b\)](#) and [\(c\)](#) of the Act, include an asbestos-related disease within the meaning of the [Asbestos-Related Diseases \(Occupational Exposure\) Compensation Act 2011](#).

Injury management means the management of an injured worker intended to provide the worker with a timely, safe and durable return to work following an injury.

Insurer means a body corporate authorized under the [Insurance Act 1973](#) of the Commonwealth to carry on insurance business and includes a person who, at the time a relevant policy of insurance or indemnity was taken out, was so authorized.

Medical panel means a medical panel formed under [section 50](#) of the Act.

Medical practitioner means:

- (a) a person registered under the Health Practitioner Regulation National Law in the medical profession; and
- (b) a person who is authorised under a law of another country to carry out all of the functions in respect of which the person would, if they were carried out in Australia, be required to be registered under the Health Practitioner Regulation National Law in the medical profession.

Medical question means a question relating to:

- (a) the existence, nature or extent of an injury; or
- (b) whether an injury is, or is likely to be, permanent or temporary; or
- (c) a worker's capacity for work or specific work duties; or
- (d) the loss, or the degree of loss, of any of the parts or faculties of the body; or
- (e) the permanent loss of the effective use of a part of the body; or
- (f) the assessment of the degree of permanent impairment, including whether the impairment is permanent;
- (g) a medical service provided or to be provided to a worker for an injury, including the adequacy, appropriateness or frequency of that service.

Primary treating medical practitioner, in relation to a worker, means the medical practitioner referred to in a notice given by the worker in accordance with section 143G(1) of the Act.

Psychiatric impairment means an illness of the mind or a disorder of the mind.

Report requester means the person, or organisation that requested and arranged the independent medical examination (IME).

Self-insurer means an employer who is the holder of a permit granted by the WorkCover Tasmania Board to self-insure their workers compensations liabilities and responsibilities.

Worker means a person who has been requested to attend an independent medical examination.

Workplace injury, in relation to a worker, means an injury for which the worker's employer is or may be liable to pay compensation under the Act.

Purpose and Scope

This guide has been developed to assist medical practitioners conducting independent medical examinations (IMEs) understand their role and responsibilities in the Tasmanian workers compensation scheme.

An IME is a medical assessment conducted by an appropriately qualified medical practitioner. Examinations are based on the best available evidence and a thorough examination of injured workers. An IME may be requested by a worker, worker's solicitor, an employer or their insurer.

A medical practitioner, who is willing, may also be requested to participate in a medical panel at the request of the Workers Rehabilitation and Compensation Tribunal (the Tribunal).

1. Introduction

There are a number of reasons why an employer or insurer may require a worker to undergo an IME. These could include, but are not limited to:

- determining whether a claim for a work-related injury or illness arose out of or in the course of a worker's employment
- determining whether a worker's employment is the major or most significant contributing factor to a condition
- determining the need for surgery or other treatment
- determining capacity or incapacity for work
- assessing whole person impairment. Note that medical practitioners must be accredited by the WorkCover Tasmania Board if they wish to assess the degree of a workers whole person impairment. See WorkCover Tasmania's website www.workcover.tas.gov.au for more information about becoming accredited.

2. Employer/Insurer obligations

If an employer or insurer intends to arrange an IME they must:

- discuss the reasons for the review with the worker's primary treating medical practitioner
- inform the worker in writing of the reasons why the review is required.

A worker must not be required to attend more than one IME in any three month period unless the worker has suffered multiple injuries or the worker's injury requires the consideration of medical practitioners who are specialists in different fields.

Upon receipt of a report following an IME an employer or their insurer must:

- provide a copy of the report within seven days to the worker's primary treating medical practitioner. The primary treating medical practitioner will discuss the report with the worker and provide the worker with a copy
- provide a copy of the report to the injury management co-ordinator appointed to the worker within seven days.

3. Worker obligations

A worker must attend an IME if the employer/insurer has discussed the reasons why the review is required with the worker's primary treating medical practitioner and has advised the worker in writing the reasons the examination is required.

A worker is taken to have given consent to the provision of any medical reports that relate to the injury, to a medical practitioner nominated by the employer or insurer.

A worker is not required to attend more than one IME in any three month period unless the worker has suffered multiple injuries requiring assessment by medical practitioners practising in different fields; or the worker's injury requires the consideration of medical practitioners who are specialists in different fields.

4. Worker's failure to attend an appointment

If a worker fails to attend an appointment, the medical practitioner should notify the report requester as soon as possible.

If a worker fails without reasonable excuse to attend an appointment or obstructs an examination, a referral by the worker, employer or insurer may be made to the Workers Rehabilitation and Compensation Tribunal. A worker's right to compensation and to take any proceedings under the Act may be suspended until the matter can be determined by the Tribunal.

5. IME availability/cancellation/re-scheduling of appointments

If an appointment requires cancellation or rescheduling, contact should be made as soon as possible with the report requester and the worker. You should be aware that on occasion a worker may be travelling some distance and incurring costs to attend appointments. Early notification of cancellation/re-scheduling will avoid incurring unnecessary costs.

6. Service provision/standards

Appointments should be made as soon as practicable after receiving a request for an appointment.

Waiting times for injured workers on the day of appointments should be kept to a minimum, as far as practicable. Should a lengthy delay be expected, attempts should be made to notify the worker.

The time allocated for the examination should be sufficient to ensure a comprehensive examination of the worker is undertaken.

Reports should be completed and provided to the report requester as soon as practicable but no later than 14 days following your examination of the worker.

It is important to note that the report requester may be waiting on your report in order to make decisions about issues such as responding to requests for treatment, ongoing injury management, claims settlement, or payment of lump sums for whole person impairment.

Examinations should be conducted at locations that provide appropriate privacy, security and access for workers. Hotel rooms and private residences, unless they are a designated consulting room, are not appropriate venues.

7. Before the examination

If you are performing IMEs on a regular basis, you might wish to use a report checklist. This would normally include all standard components of your report, such as preamble, history and examination findings.

Ensure that letters, results and reports are available before starting the interview and the examination of the worker. It is recommended that you read these documents before starting to ensure you develop an initial understanding of the case. In some circumstances it may be your preference to “start fresh” with no preconceived ideas, in which case you will need to read the documents after the examination. However, if practicable, this should be done before the worker leaves in case you need to corroborate any information or findings contained in the documentation.

You should ensure you have read the report requester’s questions prior to the examination. This will ensure you obtain the information necessary during the course of the examination to answer the questions asked.

8. During the examination/conduct of examinations

Injured workers should be interviewed with care, consideration and courtesy.

Findings and observations should be documented throughout the examination, including specific key positive and negative observations, as well as any contradictory findings, which could influence your assessment and conclusions. Comprehensive notes will assist you when writing your report and also ensure that if there is a delay between the examination and writing your report you have a contemporaneous record of your key findings.

Although examination findings are to be reported to the party requesting the IME, not the worker directly, if a serious health threatening issue is identified during the examination you should bring it to the attention of the worker and advise them to seek treatment/advice from their primary treating medical practitioner, who you should also notify.

9. Additional tests/information

You should gather all necessary and relevant information before and during the examination. However, if additional tests or further information is required the following should apply:

Additional tests required

Additional tests (for example, radiology/pathology) should only be conducted when the findings of an IME would otherwise be unreliable and the tests are reasonable and necessary. Approval from the report requester should be sought before initiating referrals for any additional tests. The report requester must ensure that a copy of any additional test results are provided to the worker's treating medical practitioner at the time of providing a copy of the medical practitioner's report.

Contact with the worker's treating medical practitioner

An IME is a process normally conducted independent of treating medical practitioners. If a treating medical practitioner contacts the medical practitioner conducting the IME to provide clinical background, the medical practitioner should refer them to the report requester.

If a medical practitioner does not have sufficient clinical information available to answer the questions posed by the report requester, contact should be made with the report requester to determine the most appropriate manner to obtain that information.

If the medical practitioner is provided with approval from the report requester and the worker consents to the contact, only then may they contact the treating medical practitioner.

Seeking additional information from the worker

Should additional information be required from the worker after the examination, it should only be sought with the consent of the report requester within seven days after the examination.

Contact with the worker should only be made:

- with the consent of the report requester
- with the consent of the worker
- via a method, time and place convenient to the worker.

You might like to consider obtaining this consent during the examination if you believe you may require additional information following the examination.

10. Format of the report

Consistent report format is essential to ensure maximum clarity and usability of the information being provided for anyone reading your report, to understand the sources of information you were provided and those sources which assisted you in reaching your conclusions and making any recommendations. This is particularly important if this information is subsequently scrutinised in a medical panel, dispute, conciliation, the Tribunal or Court of law.

Poor format and language can impede communication and lead to oversight of important advice, misinterpretation, or unnecessary follow-up requests.

To enhance clarity for all potential users of your report, it is strongly recommended that it is structured and written in a manner easily understood by non-medical readers. While it may be necessary to use medical terminology in reporting findings and medical conditions, plain English is strongly recommended for commentary, explanations, conclusions and summaries.

In the introductory section of your report you should:

- state the date and place of the examination
- detail the purpose of the examination
- state the identity of the report requester
- state the employer's name, insurer name if applicable and claim number

- detail information about the injured worker such as full name, date of birth, general description
- include details of any other person present; for example, a worker's support person or an interpreter
- document anything that arose during the course of the examination that was unusual including any difficulties encountered
- list the materials provided; for example, test results, reports of other medical practitioners, video evidence or statements from relevant parties. While this list should be stated in the request for report by the report requester, it should be confirmed by you. This enables anyone reading your report to understand the sources of information you used in reaching your conclusions and making any recommendations.

If the worker provides additional information at the time of the examination this information should be noted in the report.

The body of the report should:

- contain a clear, concise but comprehensive history of the events leading up to and including the injury/ies and the subsequent work and medical history
- include relevant personal, occupational and medical history
- document the relevant findings, both positive and negative from the physical (and/or mental state) examination
- state the results of any relevant investigations provided by the report requester, or organised by you subsequently after consultation with the report requester
- document the nature and significance of any other opinions/reports/assessments that have been provided to you
- include specific answers to each of the questions asked by the report requester. A short explanation should be provided if a question is not answered on the basis it is believed to be inappropriate, irrelevant, answered elsewhere in the report or outside the report writer's expertise or insufficient information is available to enable an answer.

The concluding section of the report should:

- contain a concise summary or concluding comments highlighting the most important issues in your report, if not addressed elsewhere, particularly in the case of extensive and/or complex reports
- include your personal signature. This is essential to verify that you have read and checked your report and certified its accuracy.

11. Report content

History

The history is available from materials provided by the report requester and the injured worker's own responses during examination. Where independent corroborating or conflicting information exists or is elicited, this should be reported.

For most reports the following history is essential:

- occupational history; that is, pre-injury employment and work capacity
- details of the events leading up to and causing the reported injury
- the injury itself: mechanism, nature, severity and so on
- subsequent medical attention, care, investigations, treatment, procedures, complications
- effects of the injury/ies on capacity for work (current functional status) including current work status
- current symptoms and/or disabilities
- current treatment.

The following history may be relevant in certain circumstances:

- pre and post injury personal work or medical factors which may have had or may be having an impact on the injury and/or on the consequences of the injury
- handedness (usually in the event of limb or shoulder girdle injuries)
- level of education, other training, previous work history.

Details of the examination

An IME report must be based upon an actual medical assessment of the patient.

In the case of psychiatry, every IME must include a mental state examination.

The physical and/or mental state examination serves a number of purposes:

- documents the nature, extent and consequences of the injury
- documents functional capacity and the nature and magnitude of any impairment/disability
- corroborates or raises questions about the accuracy and/or completeness of the history
- assesses whether other medical conditions exist and if so, determines in what way they may relate to the claimed injury/impairment/disability.

Examinations must be conducted in accordance with recognised professional standards and applicable laws.

Examinations must have been of sufficient length to ensure a fair and comprehensive examination that enables you to answer the questions asked by the report requester.

The nature and extent of the physical and/or mental state examination/s should be concisely reported.

All abnormal findings and any relevant normal findings should be documented. Any abnormal, inappropriate or excessive pain or other relevant behavioural observations should also be documented.

Ensure you re-read your report prior to providing it. When re-reading your report you should consider the following:

- is it accurate and does it contain an accurate medical diagnosis based on the clinical examination and an evidence-based approach to evaluating symptoms and findings?
- is it independent, impartial, limited to information and does not disclose personal information except where it bears on the work injury?
- are you satisfied that the medical opinion provided is consistent with your clinical findings?

12. Answering the questions asked

When answering the report requester's specific questions, best practice is to re-state the question in your report and then proceed to answer that question, and only that question.

For example:

Question: *Was employment the major or most significant contributing factor to the injury?*

Answer: *I consider that this worker's employment has not been the major or most significant contributing factor to her injury. I have reached this conclusion having regard to the sedentary nature of her work, the duration of her symptoms, examination and X-ray findings demonstrating osteoarthritis consistent with her age. That is, it is my considered opinion that the changes are age-related degenerative changes which would have occurred whether or not she had undertaken this employment.*

You should not need to provide any separate assessment, opinion or conclusion if you have answered the questions asked. However you may feel there are circumstances in which one or more unsolicited responses may be appropriate. If you wish to provide unsolicited conclusions or recommendations you may feel it more appropriate to contact the report requester to seek direction.

If the report requester's questions seem inappropriate, irrelevant or repetitive or contain ambiguous terms, it may cause misunderstanding. If this is the case you should contact the report requester to clarify the questions and/or advise how you have chosen to respond to the questions.

13. Providing the report

After an IME the medical practitioner must prepare the report as soon as practicable but no later than 14 days, and provide it to the report requester.

Where the report has been requested by an employer or insurer, the report must not be provided to the worker. The report will be provided to the worker's treating medical practitioner and the injury management co-ordinator assigned to the worker by the employer/insurer within 7 days of receiving it. The worker's treating medical practitioner will discuss the report with the worker and provide them with a copy.

14. Corrections/updating reports/supplementary reports

Where a report contains an obvious error, the report requester may request the medical practitioner to clarify and correct the report. Correction of medical practitioner errors should occur at no additional cost to the report requester.

Where the report requester requests further information/opinion not originally sought in the initial report request, the medical practitioner should supply a supplementary report to which reasonable reporting fees should apply.

15. Treatment recommendations

If the medical practitioner conducting the IME is of the opinion that any medical or surgical treatment will terminate or shorten the worker's incapacity for work, this should be detailed in the report. If the report requester believes that the treatment should be undertaken, the Act requires that:

- the worker must submit to the treatment; or
- if the worker does not agree with the opinion, they must notify the employer within 14 days of being provided with the report. Another examination by a medical practitioner selected by the worker will be arranged. The insurer or employer must pay for this examination.

If the second medical practitioner agrees with the original recommendations, the worker must submit to the treatment, or refer the matter to the Tribunal.

16. Evidence based findings and conclusions

Conclusions and recommendations are the most important aspect of any IME.

A thorough and relevant history should have been obtained and a thorough examination should have occurred. The medical practitioner's role is to use specialised medical knowledge, experience and expertise, in conjunction with the information obtained and the examination performed, to formulate an understanding of the worker, the injury and its consequences.

Inconsistent information can mislead the reader, prompt unnecessary supplementary report requests and bring the capabilities of the medical practitioner into doubt when the report is scrutinised. Where inconsistent information or non-substantiated information is included in a report, it should be documented as such.

Medical practitioners should demonstrate the consistency of answers to the questions asked by the report requester, with examination findings and their basis in evidence by referring specifically to the relevant findings and the appropriate evidence. This will support the conclusions and recommendations noted in the answers to the questions asked.

For example: Compare the following three increasingly higher quality/more detailed responses to the report requester's question "Has the worker sustained an injury?". Clearly, answer three provides more detailed information.

Answer 1. Yes.

Answer 2. *Yes (history of predisposing activities, typical examination findings, confirmatory ultrasound).*

Answer 3. *Based on the history of duties at work known to predispose rotator cuff damage, examination findings typical of this condition, and a confirmatory shoulder ultrasound, it is my opinion that this man is suffering from a right rotator cuff tendonitis.*

Insufficient evidence to provide a clinical opinion

If conclusions or recommendations cannot be supported by findings or are not consistent with current medical knowledge and evidence, serious consideration should be given as to whether they should be made at all. It is better to note that you are unable to answer a question, or that there is insufficient information available to provide an answer, rather than provide an opinion which is unsupported.

Presenting symptoms or signs outside your field

If at any time you consider there are symptoms or signs that are beyond your area of expertise, you should not include an opinion in your report in respect to that matter. You should note them as another particular factor, with a comment to the effect that you are unable to provide an independent medical opinion on that matter as it is outside your area of expertise.

Before submitting your report, confirm for yourself that the key service you have agreed to provide – a sound, independent, evidence-based professional opinion – is not compromised by missing information, unsustainable links between evidence and opinion, or internal inconsistencies.

Presenting symptoms or signs not related to the referral

If, during an examination, you find a condition that does not relate to the request, normal ethical requirements still apply. If the condition clearly does not relate to the worker's claim for compensation, the matter should be raised with the injured worker, and the injured worker encouraged to raise the matter with their treating medical practitioner. If you think you need to discuss the matter with the treating medical practitioner, obtain the worker's consent in writing to do so.

Treatment should not be discussed with the worker. You should not raise the condition with the report requester or include it in your report.

17. Conflict of interest

As an independent medical practitioner you should have systems in place to ensure that at the time of accepting a referral, you identify if you have examined or treated the worker in the past. If you have, you must disclose this to the requester.

If you make a recommendation about future treatment or ongoing management of a worker's injury you should avoid any real or perceived conflict of interest. Except in exceptional circumstances, you should not accept referrals of the worker to your care for future treatment or ongoing management of the injury.

As an independent medical practitioner, appropriate systems should also be in place to address any real or perceived conflict of interest arising from examinations conducted previously by other members of the same or co-located practices.

18. Avoiding bias

As an independent medical practitioner you are being engaged to provide a fully independent professional medical assessment of the case. You are not the report requester's agent even though they are paying you.

It is very important that an IME and its associated report are just that, **independent and impartial**. It is not your role to determine or comment on liability, but to provide a medical opinion to assist others in their determination of liability.

Bias, either consciously or subconsciously, most often arises from:

Taking the worker's "side"

This may occur because you feel sympathetic to the worker's circumstances or because you accept at face value what the worker tells you about their workplace, their accident and the consequences of the accident or because of your professional commitment to act in the best interests of your patient.

Taking the report requester's "side"

This may result from a tendency to provide a sympathetic report to the person or organisation paying for the service, or it may be due to a suspicion about particular workers and the nature of their injuries and claims.

The opinions you provide must be independent of any agreement with the report requester.

Professional bias

This may be demonstrated through certain diagnoses, models of causation and/or treatments, either as a result of your particular specialty training or that may arise from an idiosyncratic view of some aspects of medical practice or law.

The best defence against unconscious bias is a deliberate, conscious awareness of the issue of bias, its types and its origins, and a determination to minimise its effects on your work.

The best defence against conscious bias is to write your report and subsequently to read it through, asking yourself these questions:

- could what I have written be biased in any way?
- could what I have written create a belief or perception of bias in others who might read it, even if no such bias exists?
- if the answer to either of these questions is "yes" or "maybe", can I rewrite it in such a way as to remove the bias or perception of bias?

You should notify WorkCover Tasmania immediately in the event of any real or perceived attempt by any party to influence your opinion/report in any way.

19. Fees for reports

WorkCover Tasmania does not prescribe fees for IMEs and reports. Fees should be negotiated and agreed with the report requester at the time of the referral, and include information about fees for non-attendance or late cancellation of appointments.

Where interpreter services are required, these should be arranged by the report requester in consultation with the medical practitioner.

20. Disputes regarding opinions/content of reports

If, following an IME, a worker disagrees with the content of your report (other than about treatment) they should contact the report requester to discuss options.

21. Giving evidence

If the opinion provided following your examination of the worker and your report forms the basis of part or all of a referral to the Tribunal, medical practitioners may be required to give evidence in a formal hearing.

If attendance at a hearing is required you will be requested to attend. In some instances a “Notice to Attend” may be issued by the Tribunal.

The Notice will specify the date, time and location you are required to attend.

If the date, time and location are unable to be accommodated you should contact the referring party immediately who will liaise with the Tribunal.

The party requesting a medical practitioner to give evidence is responsible for the reasonable fees associated with attendance at the Tribunal. Fees should be discussed with the referring party.

More detailed information about attendance and the Tribunal and its procedures should be obtained from the party requesting your attendance or the Tribunal. The Tribunal can be contacted on (03) 6166 4750 or via its website at www.workerscomp.tas.gov.au.

If a matter is referred to the Supreme Court of Tasmania you may also be required to attend before that Court as an expert witness. Information about giving evidence before the Supreme Court can be found at www.supremecourt.tas.gov.au under the “Going To Court” tab.

22. Complaints about IMEs

Medical practitioners are encouraged to implement mechanisms to seek feedback from workers as to the conduct of the examination.

If a worker raises concerns about the conduct of the medical practitioner during the examination, the medical practitioner should record the concern and forward this to the report requester with their report.

Complaints about the conduct of medical practitioners may be made to appropriate registering bodies. More information is available at the Australian Health Practitioner Regulation Agency website at www.ahpra.gov.au.

Complaints about the IME process in general may also be referred to the WorkCover Tasmania Board.

1300 366 322
www.workcover.tas.gov.au

For more information contact
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(03) 6166 4600 (outside Tasmania)
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