

Summary of Text

The proposed amendments to section 300.2 of 12 NYCRR modify the rules governing independent medical examinations (IME), independent medical examiners, IME entities and reports made without physical examination.

Paragraphs (1) and (2) of subdivision (b) of section 300.2 of 12 NYCRR are amended to clarify that a physician or provider who has examined the claimant for the sole purpose of a consultation or diagnostic examination or test is not an attending physician or provider within the meaning of the Workers' Compensation Law, and to clarify that a physician or provider who conducts a records review must be authorized by the Chair or the Workers' Compensation Board (Board).

Paragraph (6) of subdivision (b) of section 300.2 of Title 12 NYCRR is repealed and a new paragraph (6) is added to provide a definition for an IME entity.

Paragraphs (9) and (11) of subdivision (b) are amended. Paragraph (9) requires that when an authorized provider is not available for a records review, then a qualified provider must be selected. Paragraph (11) has been amended to clarify that a "substantive communication" for the purposes of determining whether a request for information must be filed with the Board does not include documents that are already part of the Board's file.

Paragraph (12) of subdivision (b) has been added to supply a definition for "Reports made without physical examination" or "Records review."

Paragraph (3) of subdivision (c) sets forth the procedures for retaining authorization privileges and removal of a provider from the list of authorized examiners.

Paragraph (1) of subdivision (d) is amended to provide that notice of an independent medical examination must be mailed to the Board on the same day it is mailed to the claimant, that an overnight delivery service may be used, and sets forth rules for use of an overnight delivery service.

Paragraph (3) of subdivision (d) is repealed and new paragraphs (3), (4), (5) and (6) are added. Paragraphs (4) and following are renumbered. Paragraph (3) of subdivision (d) requires that information, as that term is defined, that is supplied to an independent medical examiner must be part of the Board file. The information must be submitted to the Board no later than the day that information is first sent to an independent medical examiner or IME entity. Paragraph (4) of subdivision (d) sets forth the requirements for the contents and service of the report of independent medical examination. Paragraph (5) of subdivision (d) sets for the requirements for service of requests for information. Paragraph (6) of subdivision (d) sets forth the requirement for reports filed by an IME entity, as well as stating what services may be supplied by an IME entity.

Newly renumbered paragraphs (7), (8), (10), (12) and (14) of subdivision (d) of Title 12 NYCRR are amended. Paragraph (7) of subdivision (d) clarifies the process for videotaping an examination. Paragraph (8) of subdivision (d) addresses the limited patient-physician or provider relationship that exists between a claimant and the examiner. Paragraph (10) of subdivision (d) clarifies that the reasons for use of a qualified provider are also applicable to records reviews. Paragraph (12) of subdivision (d) is amended to require that an objection that a report does not substantially comply with Workers' Compensation Law section 137 or this section must be raised in a timely manner. Paragraph (14) states that a report must be filed within 10 business days of the examination and that a report is filed with the Board when it has been received by the Board.

Paragraph (1) of subdivision (e) is repealed and a new paragraph (1) added that describes the mandatory registration process for IME entities. Mandatory registration must occur every three years. Paragraphs (2), (3), (4) and (5) of subdivision (e) have been amended. The changes are minor and include a requirement in Paragraph (3) that an IME entity comply fully with any investigation by the Chair. New paragraph (6) has been added to subdivision (e). It describes the basis and procedures for removal of a registered IME entity. New paragraph (7) provides for imposition of a \$10,000 penalty and revocation of an IME entity's registration when the Chair finds that an IME entity has materially altered an IME report or caused a material alteration.