

Independent medical exams and examiners

In the last two articles, I discussed the types of claims and coverage available and some aspects of injury claims management from a medical perspective. Generally, medical information is obtained from the treating practitioner; however, there are situations where an independent medical examination may be requested and obtained (at their own expense) by ICBC or by lawyers involved in the litigation of the claim.

Independent medical examination

An independent medical examination (IME) is performed when a confirmation or clarification of a diagnosis, disability prognosis, or need for therapy or treatment is required. The requester of the IME should provide factual material and medical information about the person to be examined. Usually, specific questions are asked for the examiner to answer.

When a person makes a claim for accident benefits or for damages arising out of personal injuries, ICBC and the defendant (liable party) have a right under Section 99 Insurance (Vehicle) Regulation or Rule 30 of the Supreme Court Rules to apply for the injured person to submit to an examination by a medical practitioner (or other qualified person), and that a written report of the results of the examination be made available to ICBC.

Usually the examinations are conducted with the consent of the injured person/claimant, although court order for attendance at an IME may be obtained.

An IME is generally conducted by a third-party medical specialist specific to the type of injury or illness involved and within his or her field of expertise. The IME is typically a comprehensive interview and examination

(as appropriate) and a review of file documentation. In rare cases, a medical examiner may be asked to provide a medical-legal opinion based on just a review of medical records and other relevant information.

There are provisions in the Supreme Court Rules that allow a medical-legal report to be tendered as evidence without the necessity of the doctor appearing in court.

In the conduct of an independent medical examination, the medical examiner is expected to be unbiased, objective, and professional both in the examination and in the written report. The College of Physicians and Surgeons of British Columbia has guidelines for the independent medical examination.

Most personal injury litigation cases are settled without a trial taking place but, if the parties are not able to reach an out-of-court settlement, the matter will proceed to trial. Even if the matter proceeds to trial, it is not always necessary for the medical examiner to attend trial. There are provisions in the Supreme Court Rules that allow a medical-legal report to be tendered as evidence without the necessity of the doctor appearing in court.

Independent medical examination can be a necessary aspect of injury claims management.

Medical-legal report

A medical-legal report is not a consultation report used for the treatment of a patient. It is a legal document for the purpose of assisting the insurance claims handler or the court in making findings of facts that are outside the expertise of a layperson.

Properly formulated, the medical-legal report should help to expedite a settlement of the medical and legal issues for both parties. A biased report may encourage the plaintiff to pursue unrealistic compensation or the defence to deny legitimate claims. In either case, justice is not served, and the cost to society is increased. A good medical-legal report should assist both parties in coming to a fair and equitable resolution.

Contact us

ICBC is seeking to expand its panel of independent medical examiners. If you would like to become an independent medical examiner, please download and complete the forms at <http://partners.icbc.com/pdf/200909-ime-questionnaire.pdf>. Please mail your completed forms and curriculum vitae to: Manager, Knowledge Management and Technical Support, ICBC—Claims Technical Services Department, 208–808 Nelson St. Vancouver, BC V6Z 2H2.

If you have any questions, please contact me at DrLara.Jensen@icbc.com.

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The opinions expressed in this article are those of the author and do not necessarily represent the position of the Insurance Corporation of British Columbia.