

## INSTRUCTIONS FOR QME FORM 123

### To the Evaluator:

A QME or AME who knows, or should know, that he or she has a disqualifying conflict of interest as defined in section 41.5 of Title 8 of the California Code of Regulations, with any person or entity listed in subdivision 41.5(c), that also is involved in the case the evaluator is handling, **must** notify the parties in writing of the conflict of interest. Use this form to do so. A QME or AME may disqualify himself or herself also for conflict of interest whenever the evaluator has a relationship with a person or entity in the case that causes the evaluator to decide it would be unethical to perform a comprehensive medical-legal evaluation in the case. (8 Cal. Code Regs. § 41.5(e).)

Notice of a disqualifying conflict of interest is given by an evaluator by signing and mailing QME Form 123 (QME/AME Conflict of Interest Disclosure and Objection or Waiver by Represented Parties Form) to the parties. (8 Cal. Code Regs. §§ 41.5 and 123.) The evaluator's notice must be sent within five (5) business days of becoming aware of the conflict. If the injured employee is not represented, the evaluator also must fax a copy of this form to the Medical Unit of the Division of Workers' Compensation at 510-622-3467. (8 Cal. Code Regs. § 41.5(f).)

Upon notice from any party in a case that the party believes the evaluator has a disqualifying conflict of interest, the evaluator **must** review the information submitted and advise the parties within five (5) business days of receipt of the notice whether the evaluator believes that a conflict of interest exists. Use this form to either disclose any conflict or to indicate no conflict exists.

As used in section 41.5 of Title 8 of the California Code of Regulations, the following definitions apply:

**Persons and entities considered:**

- Injured employee and his or her attorney, if any
- Employer and employer's attorney, if any
- Claims adjuster, insurer or third party administrator, and their attorney, respectively
- Any primary treating physician or secondary physician, only if treatment by that physician is disputed
- Utilization review physician reviewer or expert reviewer, or utilization review organization, only if the UR decision is disputed
- Surgical center where surgery performed or is proposed, only if the need for surgery is disputed
- Other purveyor of medical goods or medical services, only if the medical necessity for using such goods/services is disputed

**"Disqualifying Conflict of Interest" which must be disclosed means:**

A familial relationship (parent, child, grandparent, grandchild, sibling, uncle, aunt, niece, nephew, spouse, fiancée or cohabitant)

**Significant financial interest including**

- Employment or a promise of employment
- An interest of five (5) % or more in the fair market value of any form of business entity involved in workers' compensation matters, or of private real property or personal property, or in a leasehold interest
- Five (5) % or more of income of the undersigned is received from direct referrals by or from one or more contracts with a person or entity listed above, except that contracts to participate in an MPN are excluded
- A financial interest as defined in Labor Code section 139.3 that would preclude referral by the evaluator to such a person or entity;
- A financial interest as defined under the Physician ownership and Referral Act of 1993 (PORA) set out in Business and Professions Code sections 650.01 and 650.02 that would preclude referral by the evaluator to such a person or entity

Professional affiliation which means the undersigned performs services in the same medical group or other business entity comprised of medical evaluators who specialize in workers' compensation medical-legal evaluations

Any other relationship or interest not addressed above which would cause a person aware of the facts to reasonably entertain a doubt that the evaluator would be able to act with integrity and impartiality

### To Parties in a Represented Case:

Within five (5) business days of receipt of a notice of conflict from an evaluator on QME Form 123, each party must complete the bottom of the form to indicate whether the party objects to the evaluator or wishes to waive the disclosed conflict and use the evaluator. **Serve the completed form on the evaluator and the opposing party. If you are objecting to the evaluator, also mail this form to the Medical Unit of the Division of Workers' Compensation with a request for a replacement QME.**