

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
Division of Workers' Compensation**

**NOTICE OF RULEMAKING AFTER EMERGENCY ADOPTION**

**Subject Matter of Regulations:  
Qualified Medical Evaluator Regulations  
Disability Evaluation Unit**

**CALIFORNIA CODE OF REGULATIONS,  
TITLE 8, ARTICLES 1, 2, 2.6, 3, AND 10.5 OF CHAPTER 1  
AND SUBCHAPTER 1.6 OF CHAPTER 4.5**

**NOTICE IS HEREBY GIVEN** that the Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Acting Administrative Director") pursuant to the authority vested in her by Labor Code sections 53, 111, 122, 133, 139, 4060, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.3, 4062.5, 5307.3, 5307.4 and 5703.5 has adopted regulations on an emergency basis to implement provisions of Labor Code sections 139.2, 4061, 4062, 4062.2, 4062.3, 4063, 4064, 4066 and 5502 as implemented by Senate Bill 863 (Chapter 363, stats. of 2012, effective January 1, 2013).

The regulations amend section 10160 and adopt section 10159 in Subchapter 1.6 of Chapter 4.5, of Title 8, California Code of Regulations and amend sections 1, 11, 11.5, 14, 17, 30, 31.2, 31.7, 33, 35, 35.5, 36, 38, 100, 105, and 106 and adopt section 37 in Articles 1, 2, 3, and 10.5 of Chapter 1, of Title 8, California Code of Regulations.

This rulemaking also seeks to amend sections 31.3, 31.5, 32, 34, 104, 109, 110, 112 and 117 in Articles 1, 2, 3, and 10.5 of Chapter 1, of Title 8, California Code of Regulations and adopt Article 2.6, section 26 of Title 8, California Code of Regulations which were not adopted as part of the emergency regulations that became effective on January 1, 2013.

The emergency regulations became effective on January 1, 2013, and will remain in effect for a period of 180 days from January 1, 2013. The purpose of this rulemaking is to adopt the emergency regulations on a permanent basis.

**FORMAT OF REGULATORY TEXT**

**Text of Emergency Regulations Effective January 1, 2013:**

Deletions from the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single strike-through: ~~deleted language~~.

Additions to the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single underlining: added language.

**Additional Proposed Text Noticed for 45-Day Comment Period:**

Deletions from the emergency regulatory text noticed for the 45-day comment period are indicated by strike-through underlining: ~~deleted language~~.

Additions to the original codified regulatory text and emergency regulatory text noticed for the 45-day comment period are indicated by double underlining: added language.

Newly proposed deletions from the original codified regulatory text noticed for the 45-day comment period are indicated by double strike-through: ~~~~deleted language~~~~.

For sections that were not included in the adoption of the emergency regulatory text, deletions and additions from the original codified regulatory text are indicated by single strike-through and single underlining, respectively.

**PROPOSED REGULATORY ACTION**

The Division of Workers' Compensation has adopted regulations on an emergency basis that amend section 10160 and adopt section 10159 in Subchapter 1.6 of Chapter 4.5, of Title 8, California Code of Regulations and amend sections 1, 11, 11.5, 14, 17, 26, 30, 31.2, 31.7, 32, 33, 34, 35, 35.5, 36, 38, 100, 105, and 106 and adopt section 37 in Articles 1, 2, 3, and 10.5 of Chapter 1, of Title 8, California Code of Regulations.

- Section 10159 Time Period for Issuing a Summary Rating Determination Pursuant to Labor Code §4061(e)
- Section 10160 Summary Rating Determinations. Comprehensive Medical Evaluation of Unrepresented Employee
- Section 1 Definitions
- Section 11 Eligibility Requirements for Initial Appointments as a QME
- Section 11.5 Disability Evaluation Report for Writing Course
- Section 14 Doctors of Chiropractic: Certification in Workers' Compensation Evaluation
- Section 17 Fee Schedule for QME
- Section 26 QME Office Locations and Changes of Office Locations
- Section 30 QME Panel Requests
- Section 31.2 QME Office Locations
- Section 31.3 Scheduling Appointment with Panel QME
- Section 31.5 QME Replacement Requests
- Section 31.7 Obtaining Additional QME Panel in a Different Specialty
- Section 32 Consultations
- Section 33 Unavailability of QME

Section 34	Appointment Notification and Cancellation
Section 35	Exchange of Information and Ex Parte Communication
Section 35.5	Compliance by AMEs and QMEs with Administrative Director Evaluation and Reporting Guidelines
Section 36	Service of Comprehensive Medical-Legal Evaluation Reports by Medical Evaluators Including Reports Under Labor Code section 4061
Section 37	Request for Factual Correction of a Comprehensive Medical-Legal Report
Section 38	Medical Evaluation Time Frames; Extension for QMEs and AMEs
Section 100	The Application for Appointment as Qualified Medical Evaluator Form
Section 104	The Reappointment Application as Qualified Medical Evaluator Form
Section 105	The Request for Qualified Medical Evaluator Panel – Unrepresented Form and Attachment to Form 105 (How to Request a QME If You Do Not Have an Attorney) and Form 105a for dates of injury on or after Jan. 1, 2013
Section 106	The Request for Qualified Medical Evaluator Panel – Represented Form and Attachment to Form 106 (How to Request a QME in a Represented Case) and Form 106a for dates of injury on or after Jan. 1, 2013.
Section 109	The Qualified Medical Evaluator Notice of Unavailability Form
Section 110	The Appointment Notification Form
Section 112	The QME/AME Time Frame Extension Request Form
Section 117	Qualified Medical Evaluator Course Evaluation Form

### **TIME AND PLACE OF PUBLIC HEARING**

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the proposed regulatory action, on the follow date:

**Date: April 4, 2013**  
**Time: 10:00 a.m. to 5:00 p.m., or until conclusion of business**  
**Place: Elihu Harris State office Building – Auditorium**  
**1515 Clay Street**  
**Oakland, CA 94612**

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the State Wide Disability Accommodation Coordinator, Kathleen Estrada, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

**Please note that public comment will begin promptly at 10:00 A.M. and will conclude when**

**the last speaker has finished his or her presentation or 5:00 P.M., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.**

The Acting Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 P.M., on April 4, 2013.** The Division of Workers' Compensation will only consider comments received at the Department of Industrial Relations, Division of Workers' Compensation by that time. Equal weight will be accorded to oral comments presented at the hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
P.O. Box 420603  
San Francisco, CA 94612

Written comments may be submitted via facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (vial e-mail) using the following e-mail address: [dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov).

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than **5:00 P.M., on April 4, 2013.**

### **AUTHORITY AND REFERENCE**

Labor Code sections 53, 111, 122, 133, 139, 4060, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.3, 4062.5, 5307.3, 5307.4, and 5703.5 authorize the Acting Administrative Director to adopt, amend and repeal these proposed regulations. The proposed regulations implement, interpret, and make specific sections 139.2, 4061, 4062, 4062.2, 4062.3, 4063, 4064, 4066 and 5502.

Reference is to Labor Code sections 124, 139.2, 139.31, 139.4, 139.43, 3716, 4060, 4062.1, 4062.5, 4064.5, 4067, 4600, 4660, 4662, 4660-4664, 5307, and 5307.3.

### **INFORMATIVE DIGEST/POLICY OVERVIEW**

Senate Bill 863 has created substantial changes in procedure regarding injured workers' medical treatment disputes. Qualified Medical Evaluators (hereinafter "QME") will no longer be asked to comment on specific medical treatment disputes as of January 1, 2013 for injuries occurring on or after that date, and as of July 1, 2013, for all dates of injury. All disagreements regarding the necessity or appropriateness of a particular treatment request will be addressed through the Independent Medical Review (hereinafter "IMR") process.

The regulations are mandated by Labor Code sections 133, 139.2, 4061, 4062, 4062.2, 4062.3, 4063, 4064, and 5502. Labor Codes section 133 provides that "The Division of Workers' Compensation, including the administrative director and the appeals board, shall have power and jurisdiction to do all things necessary or convenient in the exercise of any power or jurisdiction conferred upon it under this code. Labor Code section 4062.2(c) provides that "The administrative director may prescribe the form, the manner, or both, by which the parties shall conduct the selection [of panel Qualified Medical Evaluators]."

The proposed regulations will ensure that the independent medical review process is the sole process for resolving disputes regarding ongoing or continuing medical treatment issues. The regulations also include implementing Senate Bill 863's limitation of 10 QME offices for conducting comprehensive medical-legal evaluations, eliminating the option for a chiropractor to provide a certificate of completion of a post-graduate specialty program to obtain a QME certificate, amending the panel selection forms 105 and 106 for injuries on or after Jan. 1, 2013, providing a procedure and form to request a factual correction for an unrepresented panel QME, requiring the QME to complete the Physician's Return-to-Work & Voucher Report if the evaluator declares the injured worker permanent and stationary, and prohibiting an Agreed Medical Evaluator (AME) or QME from providing an opinion on any disputed medical treatment but allowing opinions about whether the injured worker will need future medical care.

The application for appointment as QME has been changed to make the form more user-friendly and reflects statutory changes regarding QMEs who are chiropractors.

The described regulations were adopted as emergency regulations, effective January 1, 2013. This rulemaking would make the regulations permanent. Changes made to the regulations after the adoption of the emergency regulations are indicated by italics. These regulations implement, interpret, and make specific sections 139.2, 4061, 4062, 4062.2, 4062.3, 4063, 4064, 4066 and 5502 of the Labor Code as follows:

**Item 1 – Section 10159. Time Period for Issuing a Summary Rating Determination Pursuant to Labor Code § 4061(e).**

- The administrative time frame to issue a summary rating determination is updated to allow for factual corrections.

**Item 2 - Section 10160. Summary Rating Determinations, Comprehensive Medical Evaluation of Unrepresented Employee.**

- Administrative procedures are updated to allow for factual corrections.

**Item 3 - Section 1. Definitions**

- This section provides definitions for key terms regarding qualified medical evaluators.
- “Request for factual correction” and “future medical care” are added to ensure that its meaning, as used in the regulations, will be clear to the regulated public.
- Outdated terms are deleted.

**Item 4 - Section 11. Eligibility Requirements for Initial Appointment as a QME**

- This section is amended to conform with amendments to Labor Code section 139.2(b) (4) (a) which amended the requirements for chiropractors to become QMEs. The option to complete a chiropractic postgraduate specialty program has been eliminated.

**Item 5 - Section 11.5. Disability Evaluation Report Writing Course**

- This section is amended to conform to changes to Labor Code section 4061(b) and (c) which now state that objections “to a medical determination made by the treating physician concerning the existence or extent of permanent impairment and limitations or the need for *future* medical care”; previously the statutes discussed “the need for *continuing* medical care.” These changes reflect that future medical care issues must be resolved by the independent medical review (IMR) process.
- Outdated terms are deleted.

**Item 6 - Section 14. Doctors of Chiropractic: Certification in Workers' Compensation Evaluation**

- This section is amended to conform to changes to Labor Code section 4061(b) and (c) which now state that objections “to a medical determination made by the treating physician concerning the existence or extent of permanent impairment and limitations or the need for *future* medical care”; previously the statutes discussed “the need for *continuing* medical care.” These changes reflect that continuing medical care issues must be resolved by the independent medical review (IMR) process.

**Item 7 - Section 17. Fee Schedule for QME**

- This section is amended to reflect the limitation of 10 QME offices for conducting comprehensive medical-legal evaluations.
- *To provide clarity, subdivision 17(b) is deleted and moved to Section 26 under Article 2.6 “QME Office Locations.”*

**Item 8 - Section 26. QME Office Locations and Changes of Office Locations.**

- *This section implements Labor Code section 139.2 by limiting QMEs to 10 offices for conducting medical-legal evaluations.*
- *This section sets forth the procedure for changing office locations.*

**Item 9 - Section 30. QME Panel Requests**

- This section is amended to state that the party requesting a QME panel shall “attach a written objection indicating the identity of the primary treating physician, the date of the primary treating physician’s report that is the subject of the objection and a description of the medical dispute that requires a comprehensive medical/legal report to resolve” instead of “identify the disputed issue.”
- Subdivisions (d) (3) and (d) (4) are deleted.
- *To provide clarity, subdivision (a) is divided into subdivisions (a)(1) and (2).*
- *Subdivisions (a)(1) and (b)(1) include language that allow the parties to attach a request for examination to determine compensability under Labor Code section 4060.*
- *Subdivision (e) is amended to include the employer’s place of business in determining the geographic area of the QME panel selection when an employee does not reside in California.*

**Item 10 - Section 31.2. QME Office Locations.**

- *This section is deleted.*

**Item 11 - Section 31.3. Scheduling Appointment with Panel QME**

- *The word “conferring” has been deleted in subdivision (d).*

- *Subdivision (e) has been added and sets forth the procedure for obtaining a replacement panel when the QME is unable to schedule an appointment within the required timeframe. Subdivision (e) was previously Section 33 (e).*

**Item 12 - Section 31.5. QME Replacement Requests**

- This section sets forth the basis for issuing a replacement QME.
- *Subdivision (d) has been added to include mandatory Form 31.5.*

**Item 13 - Section 31.7. Obtaining Additional QME Panel in a Different Specialty**

- In represented cases, parties no longer need to attempt to agree upon an AME to obtain a subsequent panel. The parties can either obtain an order from a Workers' Compensation Judge or request a subsequent panel by written agreement request.
- *Subdivision (2) has been amended to allow for an additional panel when an acupuncturist refers the parties to the additional panel because disability is in dispute.*
- *Subdivision (c) has been added to include mandatory Form 31.7.*

**Item 14 - Section 32. Acupuncture Referrals**

- This section is amended to require that the acupuncturist notify the parties that another specialty is required to determine disability and refer the parties to the Medical Unit.
- Subdivisions (e) through (g) are deleted.

**Item 15 - Section 33. Unavailability of QME**

- Subdivision (h) is added to state that the Medical Director shall designate a QME to be unavailable if on or after January 1, 2013 the QME has not notified the Medical Director of the 10 or fewer office locations where qualified medical evaluations will be conducted.
- *For clarity and consistency, subdivision (e) is moved to Section 31.3(e) and this section re-lettered.*
- *For consistency, subdivision (d) is amended to reflect that the 90 days of unavailability is for the calendar year and not fee period.*
- *Subdivision (h) is deleted.*

**Item 16 - Section 34. Appointment and Cancellation.**

- This section is amended to require the first medical-legal evaluation to take place only at the medical office listed on the panel selection form.
- This section is amended to allow subsequent evaluations to be performed at a different location if certain conditions are met.

**Item 17 - Section 35. Exchange of Information and Ex Parte Communications**

- Subdivision (a)(4) is amended to limit the subdivision to evaluations conducted on or before June 30, 2013, for dates of injury prior to January 1, 2013.
- Subdivision (b) clarifies that Labor Code section 4062.3(f) allows oral or written communications with an AME physician or the physician's staff relative to nonsubstantive matters such as the scheduling of appointments, missed appointments, the furnishing of records and reports, and the availability of the report, unless the appeals board has made a specific finding of an impermissible ex parte communication.
- *Subdivision (4) is amended to reflect that QMES can comment on medical treatment disputes communicated to the requesting physician before June 30, 2013 for injuries that occurred before January 1, 2013.*

**Item 18 - Section 35.5. Compliance by AMEs and QMEs with Administrative Director Evaluation and Reporting Guidelines**

- Subdivision (c) (2) is added to provide that if the evaluator declares the injured worker permanent and stationary for all conditions and that the injury has caused permanent partial disability, the evaluator shall complete the Physician's Return-to-Work & Voucher Report (DWC-AD Form 10133.36) [this new form is part of the Supplemental Job Displacement Voucher emergency regulations] and serve it on the claims administrator together with the medical report.
- Subdivision (g) (1) is amended to limit the subdivision to evaluations performed on or before June 30, 2013, for dates of injury prior to January 1, 2013.
- Subdivision (g) (2) is added to state for any evaluation performed on or after July 1, 2013, pursuant to Labor Code Section 4061, and regardless of the date of injury, an Agreed Medical Evaluator or Qualified Medical Evaluator shall not provide an opinion on any disputed medical treatment issue, but shall provide an opinion about whether the injured worker will need future medical care to cure or relieve the effects of an industrial injury.

- *Subdivision (g)(1) is amended to address issues concerning injuries that occurred before January 1, 2013 regarding a dispute over a utilization review decision if the decision is communicated to the requesting physician on or before June 30, 2013.*

**Item 19 - Section 36. Service of Comprehensive Medical-Legal Evaluation Reports by Medical Evaluators Including Reports under Labor Code section 4061**

- Administrative procedures are updated for factual corrections.
- *For clarity, this section is divided into subdivisions (a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2). This section is amended to require service and filing of documents with a separator sheet and simultaneous service on all parties.*

**Item 20 - Section 37. Request for Factual Correction of a Comprehensive Medical Report From a Panel QME.**

- This section is added to provide a procedure to request a factual correction of a comprehensive medical-legal report from a panel QME. An unrepresented employee or the claims administrator may request the factual correction of a comprehensive medical-legal report within 30 days of the receipt of a comprehensive medical report from a panel Qualified Medical Evaluator.
- A request for factual correction using the form in section 37(g) of title 8 of the California Code of Regulations shall be served on the panel Qualified Medical Evaluator who examined the injured worker, the party who did not file the request and the Disability Evaluation Unit office where the comprehensive medical-legal report was served. If the request for factual correction is served by the claims administrator, the injured worker shall have five (5) days after the service of the request for factual correction to respond to the corrections mentioned in the request. The injured workers' response shall be served on the panel Qualified Medical Evaluator and the claims administrator. The statute specifies that either party may request a supplemental report within 30 days.
- If the request for factual correction is filed by the injured worker the panel Qualified Medical Evaluator shall have ten days after service of the request to review the corrections requested in the form and determine if factual corrections are necessary to ensure the factual accuracy of the comprehensive medical-legal report. If the request for factual correction is filed by the claims administrator or by both parties, the time to review the request for correction shall be extended to 15 days after the service of the request for correction.
- At the end of the period for the panel QME to review the request for factual correction, the panel QME shall file a supplemental report with the DEU office where the original comprehensive medical-legal report was filed indicating whether the factual correction of

the comprehensive medical-legal report is necessary to ensure the factual accuracy of the report and, where factual corrections are necessary, if the factual changes affect the opinions of the panel QME stated in the report.

- The form is also provided in this section.

**Item 21 - Section 38. Medical Evaluation Time Frames; Extensions for QMEs and AMEs**

- Administrative procedures are updated to allow for factual corrections.

**Item 22 – Section 100. The Application for Appointment as Qualified Medical Evaluator Form.**

- This section is the form to apply for appointment as a QME. The affirmation section was clarified. The form’s formatting was changed to make the form more user-friendly. Non-substantive grammatical and other changes were made.
- *Section 1 has been amended to require the QME to use the physician’s licensing board address as the contact address used by the Medical Unit.*

**Item 23 - Section 104. The Reappointment Application Qualified Medical Form**

- This section is the form to be used by a QME for reappointment. The affirmation section was clarified. The form’s formatting was changed to make the form more user-friendly.
- *Section 1 has been amended to require the QME to use the physician’s licensing board address as the contact address used by the Medical Unit.*

**Item 24 - Section 105. The Request for Qualified Medical Evaluator Panel - Unrepresented Form and Attachment to Form 105 (How to Request a QME If You Do Not Have an Attorney).**

- This section is the form to request a QME Panel for unrepresented injured workers. Form 105a is added for injuries on or after January 1, 2013.
- *“a” is deleted from Form 105a and this form will replace the current Form 105 with an effective date of July 1, 2013.*

**Item 25 - Section 106. The Request for Qualified Medical Evaluator Panel – Represented Form and Attachment to Form 106 (How to Request a QME in a Represented Case).**

- This section is the form to request a QME Panel for represented injured workers. Form 106a is added for injuries on or after January 1, 2013.
- *“a” is deleted from Form 106a and this form will replace the current Form 106 with an effective date of July 1, 2013.*

**Item 26 - Section 109. The Qualified Medical Evaluator Notice of Unavailability Form.**

- This section is the form used by QMEs to advise the Medical Unit of his or her unavailability.
- *This form is revised to include a list of the status of all scheduled medical-legal evaluations and a list of offices that are unavailable if the QME chooses partial unavailability. Moved instructions to the top of the form.*

**Item 27 - Section 110. The Appointment Notification Form.**

- This section is the form used by QMEs to notify the parties of the scheduled evaluation date.
- *This form is revised to include an address where records may be sent to, attached a proof of service and made other minor changes. Moved instructions to the top of the form.*

**Item 28 – Section 112. The AME/QME Time Frame Extension Form.**

- This section is the form to be used when a QME or AME seeks an extension of time to serve the comprehensive medical-legal report.
- *Nonsubstantive formatting changes have been made to be more user-friendly. Eliminated a box for supplemental reports because it does not comply with the rule 38. Moved instructions to the top of the form.*

**Item 29 – Section 117. Qualified Medical Evaluator Course Evaluation Form.**

- *This form is amended to require postage when mailing the form back to the Administrative Director.*

Objective and Anticipated Benefits of the Proposed Regulations:

The objective of the proposed regulations is to ensure that the IMR process is the sole process for resolving disputes regarding ongoing or continuing medical treatment issues. Pursuant to Senate Bill 863, the reasonableness and necessity of all medical treatment is the exclusive domain of the

IMR process. AMEs and QMEs will be prohibited from providing an opinion on any disputed medical treatment but will be allowed to provide opinions about whether the injured worker will need further medical care. The regulations also ensure that there is a limitation of ten QME offices for conducting comprehensive medical-legal evaluations. The regulations also update forms and create new forms. The panel selection forms will be amended for injuries on or after January 1, 2013, providing a procedure and form to request a factual correction for an unrepresented QME.

The proposed regulations will be beneficial to the health and welfare of California residents, worker safety, and the state's environment by ensuring injured workers with dates of injury on or after, of receiving quality medical care in the most efficient and effective manner possible. These regulations provide injured workers injured on or after January 1, 2013 procedures that conform to Senate Bill 863's changes regarding QME's changed roles and the issues to be handled by the IMR process.

#### Determination of Inconsistency/Incompatibility with Existing State Regulations

The Acting Administrative Director has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Acting Administrative Director has concluded that these are the only regulations that concern Qualified Medical Evaluators.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Acting Administrative Director has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business: The Administrative Director is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Statewide adverse economic impact directly affecting businesses and individuals: None. The proposed regulation changes are amended to conform to changes made by Senate Bill 863. QMEs will continue to issue reports to address causation determination and to evaluate an injured worker's permanent disability. The limit on the number of QME offices should encourage more physicians to become QMEs, as the limited should make

the panel selection process more equitable.

- Significant effect on housing costs: None.

#### Results of the Economic Impact Analysis/Assessment

The Acting Administrative Director concludes that it is (1) unlikely the proposal will create any jobs within the State of California, (2) unlikely that the proposal will eliminate any jobs within the State of California, (3) unlikely that the proposal will create any new businesses within the State of California, (4) unlikely that the proposal will eliminate any existing businesses within the State of California, and (5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Action: The benefit anticipated from the regulations is to provide quality medical care in the most efficient and effective manner possible.

Small Business Determination: The Acting Administrative Director has determined that the proposed regulations affect small business.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Acting Administrative Director must determine that no reasonable alternative considered or brought to the attention of the Acting Administrative Director's attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Acting Administrative Director invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period, or at the public hearing.

### **CONTACT PERSON FOR GENERAL QUESTIONS**

Non-substantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation

P.O. Box 420603  
San Francisco, CA 94612  
E-mail: mgray@dir.ca.gov  
Telephone: (510) 286-7100

### **CONTACT PERSON FOR SUBSTANTIVE QUESTIONS**

In the event the contact person is unavailable, or for questions regarding the substance of the proposed regulations, inquiries should be directed to:

James D. Fisher  
Division of Workers' Compensation  
P.O. Box 420603  
San Francisco, CA 94142  
Email: jfisher @dir.ca.gov  
Telephone: (510) 286-7100

### **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this Notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, proposed text of the regulations, pre-rulemaking comments and the Economic Impact Statement (Form STD 399). Also included are studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of the regulations being proposed may be accessed and downloaded from the Division's website at [www.dir.ca.gov](http://www.dir.ca.gov). To access them, click on the "Proposed Regulations – Rulemaking" link and scroll down the list of rulemaking proceedings to find the Qualified Medical Evaluator Regulations.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 17<sup>th</sup> Floor, Oakland, California 94612, between 9:00 A.M. and 4:30 P.M., Monday through Friday. Copies of the proposed regulations, Initial Statement of Reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Acting Administrative Director may adopt the proposed regulations substantially as described in this notice. If the Acting Administrative Director makes modifications which are sufficiently related to the originally proposed text, the Acting Administrative Director will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Administrative Director adopts the regulations as received.

### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

Upon its completion, the final Statement of Reasons will be available and copies may be requested from the contact person named in this Notice or may be accessed on the Division's website at [www.dir.ca.gov](http://www.dir.ca.gov).

### **AUTOMATIC MAILING**

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted, the regulations as amended, will appear in California Code of Regulations, Title 8, commencing with section 1. The text of the final regulations also may be available through the website of the Office of Administrative Law at [www.oal.ca.gov](http://www.oal.ca.gov).