



# QME UPDATE

DWC 22<sup>ND</sup> Annual Educational Conference  
February 9 & 10, 2015 - Los Angeles  
February 19 & 20, 2015 - Oakland

**Panel Members:**

Ray Meister, MD, MPH, DWC Associate Medical Director  
Winslow West, Karen Pak, DWC Counsel

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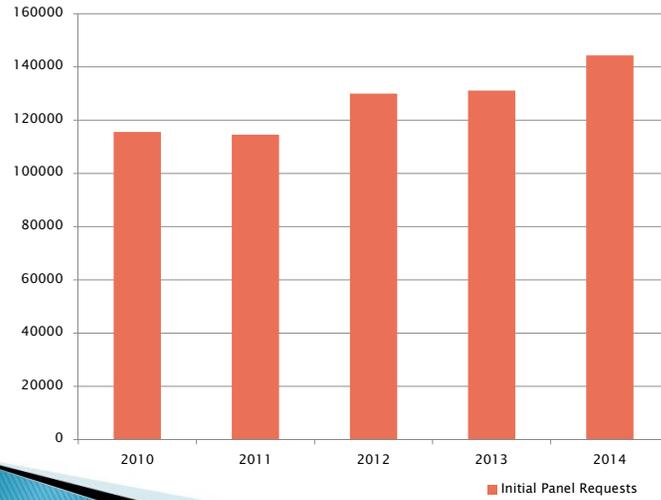
## OUTLINE

- Introduction
- QME Panel Production
- Basis for QME Panel Requests
- Additional QME Specialty
- QME Evaluation and Report Quality
- QME Specialties
- Questions

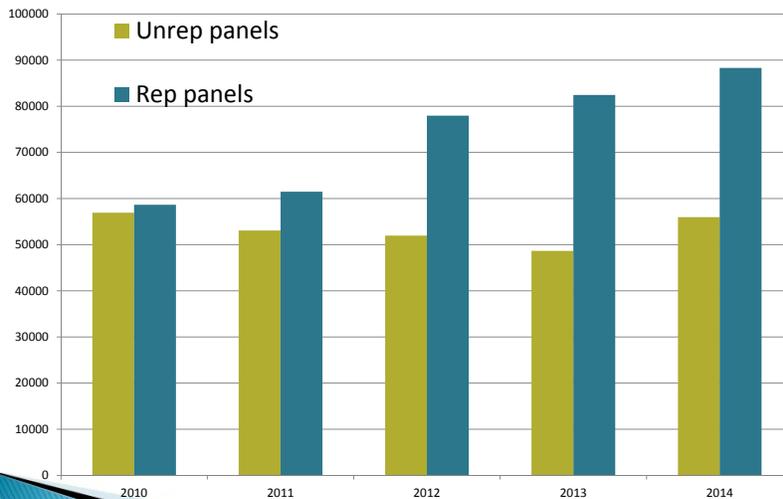


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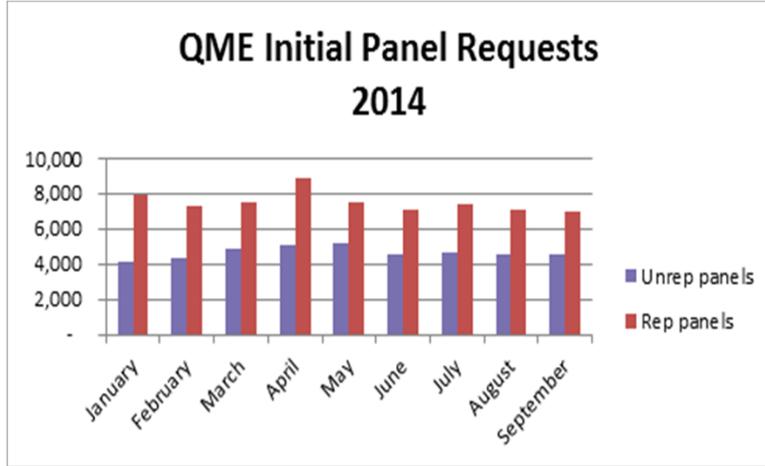
## Total QME Initial Panel Requests 2010-2014



## QME Initial Panel Requests 2010-2014

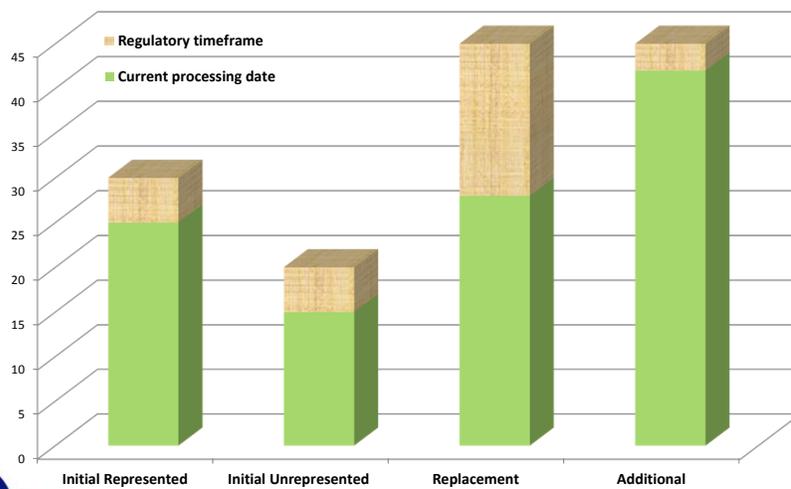


# QME Initial Panel Requests 2014



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# QME Panel Timeframes



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## Basis for requesting QME panels: Labor Code §§ 4060, 4061, 4062

- Labor Code § 4060: Disputes on AOE/COE or compensability  
or
- Labor Code § 4061: Disputes over permanent disability and future medical care  
or
- Labor Code § 4062: Disputes over medical issues not covered by Labor Code §§ 4060 or 4061 and not subject to Labor Code § 4610

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## Identification of a dispute

- Both Labor Code sections 4061 and 4062 require there be an objection to a medical determination made by a primary treating physician.
- Labor Code section 4061 was amended in 2012 to require an objection. (Applies to represented and unrepresented cases)
- Labor Code §§ 4061, 4062: Must include copy of written dispute letter (8 CCR 30(b)); specify the dispute



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## Written Objection Letter

- Rule 30 requires the parties to “attach a request for an examination to determine the compensability under Labor Code section 4060;...” (Cal. Code of Regs. § 30 (a)(1).)
- Identify of the primary treating physician
- Date of the report
- Description of the medical dispute
- Denial letters are ok to attach to the form 105.



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## Timeliness of Panel Request

When can the Represented QME Panel Request be submitted to the Medical Unit?

- Parties must wait 10 days after written objection to a medical dispute pursuant to one of the sections (Labor Code § 4061–62)
- An additional 5 days for mailing is required (Messele v. Pitco Foods, Inc. (76 CCC 956))



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## Timeliness of Panel request

WCAB Rule 10508

The act or response may be performed or exercised upon the next business day, if the last day for exercising or performing any right or duty to act or respond falls on a weekend or holiday for which the WCAB offices are closed.

If the 15<sup>th</sup> day falls on a weekend, the next business day counts as the 15<sup>th</sup> day and a panel may be requested on the following 16<sup>th</sup> day.

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## Unrepresented employee

Labor Code section 4062.1

- Either party can submit the form for a panel QME.
- Employer may not submit unless the employee has not submitted the form within 10 days after the employer has furnished the form to the employee and requested the employee to submit the form.
- Extended for mailing.



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## Unrepresented employee

- Within 10 days of issuance of panel, the employee shall select a physician from the panel.
- If the employee does not inform the employer of the selection within 10 days of the assignment of panel, the employer may select the physician.

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## Represented Employee

- Labor Code section 4062.2
- Within 10 days of assignment, each party may strike one name from the panel.
- Timeframe to strike is/is not extended for mailing?
- *Messelle v. Pitco Foods Inc.*, citing *Alvarado v. WCAB*, 72 CCC 1142 (writ den.)
- *Razo v. Las Posas Club (2014 Cal. Wrk.Comp.P.D. LEXIS 12)*



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## What the future holds

- ▶ Simpler QME Form 105
- ▶ Online initial represented panel request



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**REPLACEMENT PANELS  
ADDITIONAL PANELS**

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## REPLACEMENT PANELS

- Form 31.5 for replacement panel requests
- Grounds for replacement:
  - QME does not practice in specialty requested
  - Cannot schedule within 60 days
  - Change of residence
  - Same practice group
  - QME is unavailable
  - PTP is on the same panel
  - Agreement for the convenience of employee in geographic area of employee's work place
  - Specialty dispute - refer to MU
  - Violation of Appointment Notification and Cancellation
  - Failure to meet report service deadline
  - Disqualifying Conflict of Interest



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## Additional Panel in Different Specialty

- Form 31.7 for additional specialty
- To extent possible, if a new medical dispute arises, follow up from the same evaluator
- Grounds for an additional QME panel in a different specialty
  - Written agreement
  - Acupuncturist referral
  - Order by WCJ
  - Unrepresented - conferred with I&A, agreement reached



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## ENSURING QME QUALITY

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## Ensuring QME Quality

- Refinement of specialty designation
  - Completion of residency
  - Board certification
- Recruitment of quality candidates
- Close scrutiny of QME certification courses

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## Ensuring QME Quality

- Labor Code section 139.2(i)

The medical director shall continuously review the quality of comprehensive medical evaluations and reports prepared by agreed and qualified medical evaluators and the timeliness.

- Review/Audit of QME reports

Random selection

Targeted due to poor quality/other deficiencies

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## Physician Specialty Requirement

- Board certification
- Postgraduate specialty training (MD, DO)
- Held appointment as QME in that specialty on June 30, 2000
- Licensing board must recognize the specialty board and applicant must provide documentation of qualification.

8 CCR 13 (2013); Labor Code Section 139.2

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# QME Report Evaluation

- **Ratability:** DEU Ratings
- **Timeliness:** Submitted Timely
- **Overall Quality:**  
Face to face time, apportionment,  
exam date, mandatory declaration,  
financial interest regarding referrals,  
county & date of declaration.
- **In Depth Reviews**

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## QME DISCIPLINE ISSUES

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## QME Reports

- 8 CCR section 54
- Denial of reappointment
- More than five evaluations rejected by a WCJ or Appeals Board
- Rejection based on failure to prove or disprove a contested issue or compliance with guidelines
- Final finding and time for appeal must have expired (8 CCR section 10631)

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## QME Reports– Referrals

### Basis for Rejection of Report

- Labor Code §4628
- 8 CCR 35.5
- 8 CCR 9793(h)
- CCR 10606

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## Referrals by Practitioners

- Violation of ethical duty under 8 CCR 41
- Violation of any QME duty under the regulations



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**QME SPECIALTIES**

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## QME Specialties: MD/DO

MMG Internal Medicine	MOG Obstetrics and Gynecology
MMH Internal Medicine–Hematology	MPO Occupational Medicine
MMI Internal Med–Infectious Disease	MMO Oncology– Internal Medicine
MMN Internal Medicine–Nephrology	MOP Ophthalmology
MMP Internal Medicine–Pulmonary	MOS Orthopaedic Surgery ( <i>not Spine/Hand</i> )
MMR Internal Medicine–Rheumatology	MTO Otolaryngology
MNB Spine	MHA Pathology
MPN Neurology	MTT Toxicology
MNS Neurological Surgery ( <i>not Spine</i> )	MUU Urology



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## QME Specialties: Non MD/DO

ACA Acupuncture

DCH Chiropractic

DEN Dentistry

OPT Optometry

POD Podiatry

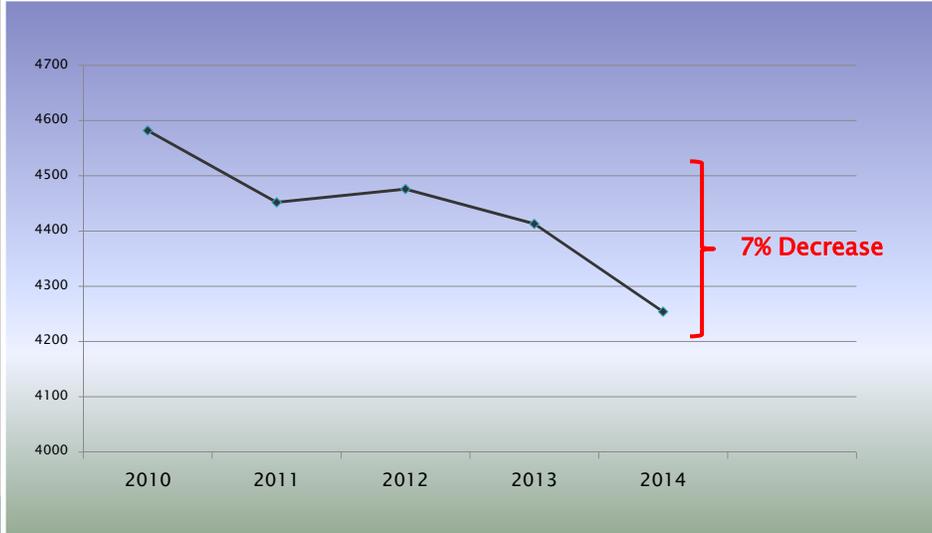
PSY Psychology

PSN Psychology (Clinical Neuropsychology)



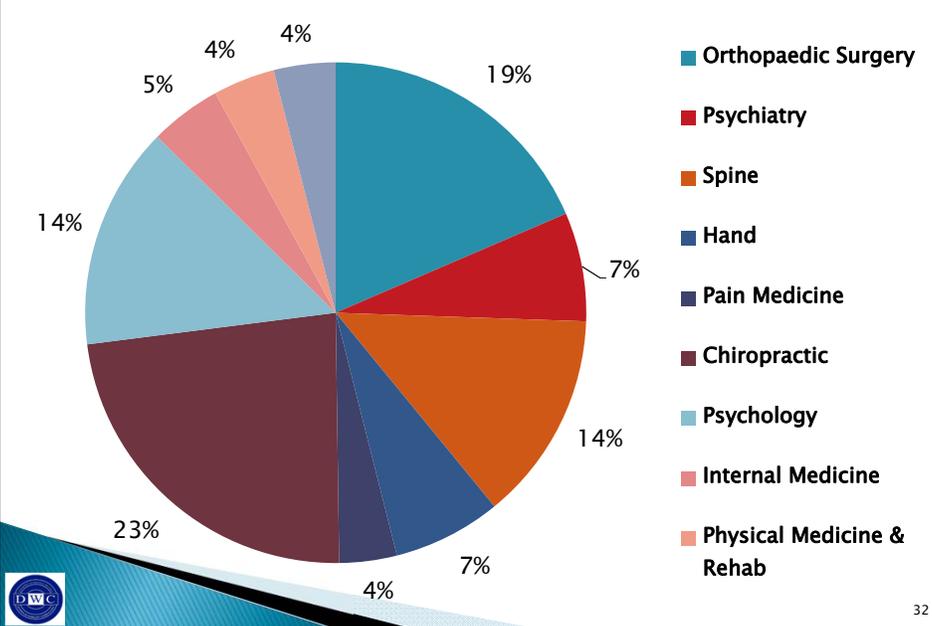
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## Small Drop in QMEs 2010-2014



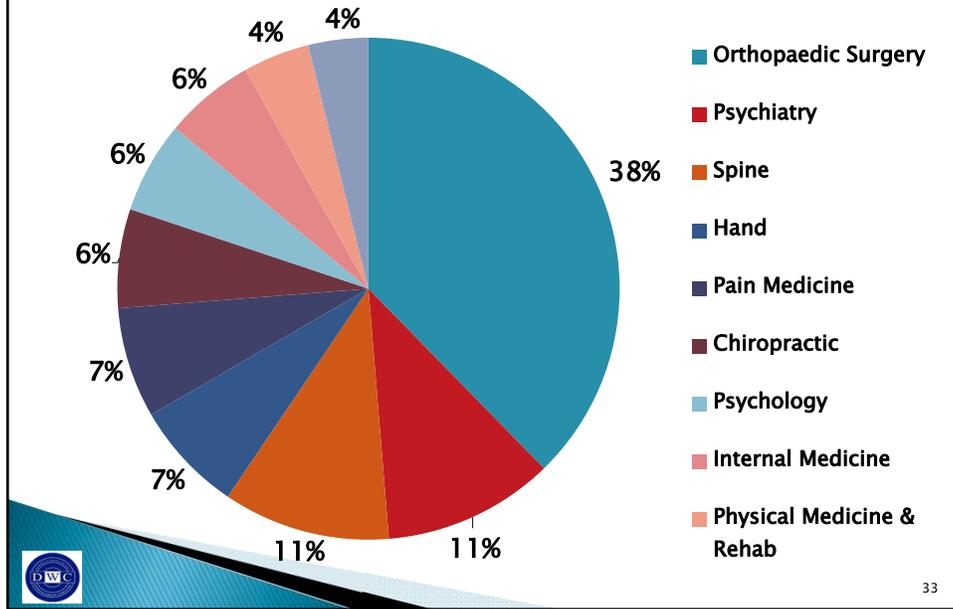
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## QMEs (%) in Top Ten Specialties

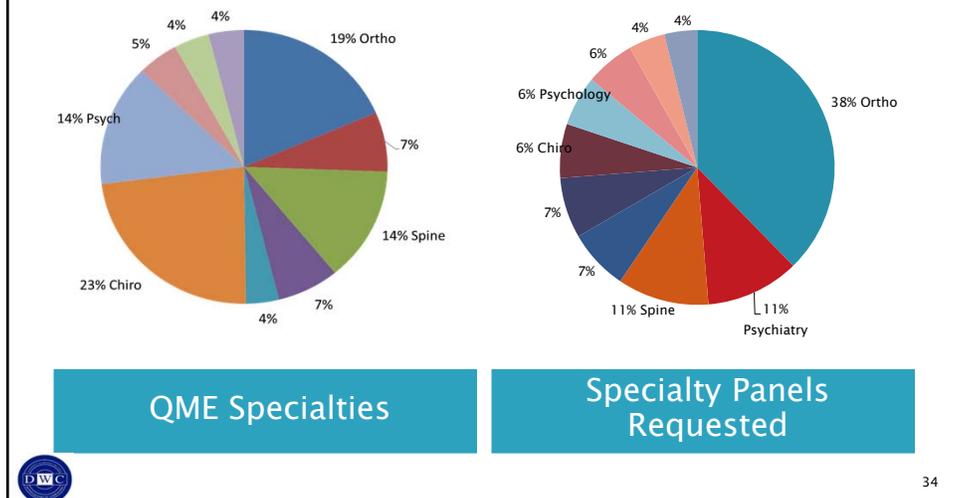


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## Top Ten Specialties Requested



## Specialty Distribution Does Not Reflect Panels Requested



## QME Specialties with the most Exams per year\*

\*estimate

Specialty	Exams per year	Exams per month
Pain Medicine	73	6
Orthopedic Surgery	63	5
Urology	39	3
Psychiatry	35	3
Dermatology	34	3
Internal Medicine	33	3
Gastroenterology	27	2

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## Popular Specialties with few QMEs available\*

\*estimate

Specialty	# Available	Exams per year
Urology	16	39
Dermatology	13	34
Gastroenterology	21	27
Oncology	10	20
Surgery	18	17
Infectious Disease	14	15
Vascular Surgery	11	11

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# QUESTIONS ?



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