

CALIFORNIA CODE OF REGULATIONS, TITLE 8
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 1. DIVISION OF WORKERS' COMPENSATION
QUALIFIED MEDICAL EVALUATOR REGULATIONS
ARTICLE 3. ASSIGNMENT OF QUALIFIED MEDICAL EVALUATORS, EVALUATION
PROCEDURE

§ 30. QME Panel Requests

(a) Unrepresented cases. Whenever an ~~injured worker~~ employee is not represented by an attorney and either the employee or the claims administrator requests a QME panel pursuant to Labor Code section 4062.1, the request shall be submitted on the Request for Qualified Medical Evaluator Form (Unrepresented Employee), QME Form 105, the form in section 105. ~~(Request for QME Panel under Labor Code Section 4062.1)(Sec. 8 Cal. Code Regs. § 105).~~ The party requesting a QME panel shall:

1) ~~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 determination that requires a comprehensive medical-legal report to resolve, or attach a request for an examination to determine compensability for disputes covered by Labor Code section 4060; and~~

For disputes covered by Labor Code section 4060, the requesting party shall attach the claims administrator's notice that the claim was denied or a copy of the claims administrator's request for an examination to determine compensability to the QME Form 105;

2) ~~designate a specialty for the QME panel requested. For disputes covered by Labor Code section 4061 or 4062, if the requesting party is the claims administrator, the claims administrator 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 determination that requires a comprehensive medical-legal report to resolve, to the QME Form 105.~~

3) The claims administrator (or if none the employer) shall provide QME Form 105 to the unrepresented employee pursuant to Labor Code section 4060, 4061, and 4062, by means of personal delivery or by first class or certified mailing.

4) ~~In the event a request~~ If the form is incomplete, or improperly completed, so that a QME panel selection cannot properly be made, the request form shall be returned to the requesting party with an explanation of why the QME panel selection could not be made. The Medical Director also may delay issuing a new QME panel, ~~if necessary,~~ until the Medical Director receives additional reasonable information requested from a party or both parties, needed to resolve the panel request. ~~Reasonable information as used in this subdivision includes but is not limited to whether a QME panel previously issued to the injured worker was used.~~

(b) Represented cases. Requests for an initial QME panel in a represented case, for all cases with a date of injury on or after January 1, 2005, ~~and for all other cases where represented parties agree to obtain a panel of Qualified Medical Evaluators pursuant to the process in Labor Code section 4062.2,~~ shall be submitted electronically utilizing the Division of Workers' Compensation internet site at [www.dwc.ca.gov /XXX](http://www.dwc.ca.gov/XXX), Online QME eForm 106. ~~on the form in section 106 (Request for a QME Panel under Labor Code Section 4062.2)(See, 8 Cal. Code Regs. § 106).~~ The party requesting a QME panel shall:

1) Identify the following elements in the appropriate sections:

Panel Request Information Section

- Date of Injury
- Claim Number
- Requesting Party
- Reason QME Panel is being Requested
- Dispute type
- Name of primary treating physician
- Date of report being objected to
- Date of objection communication
- Specialty of treating physician
- QME Specialty Requested

Employee Information Section

- Employee First Name
- Employee Middle Name
- Employee Last Name
- Mailing Address
- City
- Zip Code
- State

Applicant's Attorney Information Section

- First Name
- Last Name
- Address
- City
- State Zip
- Phone Number
- Electronic Adjudication Management System (EAMS) Uniform Assigned Names (UAN)
- Firm Name

Employee and Claims Administrator Information Section

- Employer Name
- Claims Administrator First Name
- Claims Administrator Last Name
- Claims Administrator Company Name
- Address
- City
- State
- Zip
- Phone Number
- Electronic Adjudication Management System (EAMS) Uniform Assigned Names (UAN)

~~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 determination that requires a comprehensive medical - legal report to resolve, or attach a request for an examination to determine the compensability under Labor Code section 4060;~~

2) Scan and upload the following supporting documentation when prompted; designate a specialty for the QME panel requested;

(a) a written request for an examination to determine compensability for disputes covered by Labor Code section 4060; or

(b) 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 determination that requires a comprehensive medical - legal report to resolve, for disputes covered by Labor Code sections 4061 and 4062;

3) state the specialty preferred by the opposing party, if known; and designate a specialty for the QME panel requested;

3) Serve a paper copy of the Online QME eForm 106, the panel list, and a copy of any supporting documentation that was submitted online, upon the opposing party with a proof of service, within 1 working day of generating the QME panel list. state the specialty of the treating physician.

~~(c)(1) In the event a request form is incomplete, or improperly completed, so that a QME panel selection cannot properly be generated made, the request form shall be returned to the requesting party with an explanation of why the QME panel selection could not be made. The Medical Director also may delay issuing a new QME panel, if necessary, until the Medical Director receives additional reasonable information requested from a party or both parties, needed to resolve the panel request. Reasonable information as used in this subdivision includes but is not limited to whether a QME panel previously issued to the injured worker was used.~~

4) Requests may be made twenty-four hours a day, seven days a week. Requests made

on Saturday, Sunday or a holiday will be deemed to have been made the next business day. Requests made Monday through Friday after 5:00 p.m. and before 12:00 a.m. will be deemed to have been made the next business day and requests made between 12:00 a.m. and 8:00 a.m. will be deemed to have been made 8:00 a.m. of the same business day.

5) In the event of technical difficulties, such that a panel QME selection cannot be generated on-line, the requesting party may contact the Medical Unit and shall reference the error code or message.

~~(2) If after the issuance of a panel it appears to the satisfaction of the Medical Director that the panel was issued by mistake, misrepresentation of fact contained in the forms or document filed in support of the request, or the parties have agreed to resolve their dispute using an AME or by other agreement, the issued panel may be revoked. Notice of the revocation shall be sent to parties listed on the panel request.~~

~~(d)(1) After a claim form has been filed, the claims administrator, or if none the employer, may request a panel of Qualified Medical Evaluators only as provided in Labor Code section 4060, to determine whether to accept or reject a claim within the ninety (90) day period for rejecting liability in Labor Code section 5402(b), and only after providing evidence of compliance with Labor Code Section 4062.1 or 4062.2.~~

~~(d)(2) Once the claims administrator, or if none, the employer, has accepted as compensable injury to any body part in the claim, a request for a panel QME may only be filed based on a dispute arising under Labor Code section 4061 or 4062.~~

~~(e) (c) If the form is submitted request is submitted~~ by or on behalf of an employee who does not reside within the state of California, the geographic area of the QME panel selection within the state shall be determined by agreement between the claims administrator, or if none the employer, and the employee. If no agreement can be reached, the geographic area of the QME panel selection shall be determined for an unrepresented employee by the employee's former residence within the state or, if the employee never resided in the state, by the geographic location of the employer's place of business where the employee was employed, and for a represented employee by the office of the employee's attorney.

~~(f) (d)~~ To compile a panel list of three (3) independent QMEs randomly selected from the specialty designated by the party holding the legal right to request a QME panel, the Medical Director shall exclude from the panel, to the extent feasible, any QME who is listed by another QME as a business partner or as having a shared specified financial interest, as those terms are defined in sections 1 and 29 of Title 8 of the California Code of Regulations.

~~(g) The panel request in a represented case must be sent to the Medical Unit address on the QME Form 106 by means of first class mail delivered by the United States postal service. The Medical Unit will not accept panel requests in represented cases that are delivered in person by a party, the party's attorney, any other person or by other commercial courier or delivery services.~~

~~(h) The time periods specified in Labor Code sections 4062.1(e) and 4062.2(e), respectively, for selecting an evaluator from a QME panel and for scheduling an appointment, shall be tolled whenever the Medical Director asks a party for additional information needed to resolve the panel request. These time periods shall remain tolled until the date the Medical Director issues either a new QME panel or a decision on the panel request.~~

§30.5 Specialist Designation

The Medical Director shall utilize in the QME panel selection process the type of specialist(s) indicated by the requestor on the Request for Qualified Medical Evaluator Form 105 or on the Online QME eForm 106. ~~106 of Title 8 of the California Code of Regulations unless otherwise provided in these regulations.~~

§ 31.1. QME Panel Selection Disputes in Represented Cases

~~(a) When the Medical Director receives two or more panel selection forms pursuant to Labor Code section 4062.2 on the same day and the forms designate different physician specialties for the QME panel, the Medical Director shall use the following procedures:~~

~~1) If one party requests the same specialty as that of the treating physician, the panel shall be issued in the specialty of the treating physician unless the Medical Director is persuaded by supporting documentation provided by the requestor that explains the medical basis for the requested specialty;~~

~~2) If no party requests a panel in the specialty of the treating physician, the Medical Director shall select a specialty appropriate for the medical issue in dispute and issue a panel in that specialty.~~

~~3) Upon request by the Medical Director, the party requesting the panel shall provide additional medical records to assist the Medical Director in determining the appropriate specialty.~~

~~(b) In the event a party in a represented case wishes to request a QME panel pursuant to Labor Code section 4062.2 in a specialty other than the specialty of the treating physician, the party shall submit with the panel request form any relevant documentation supporting the reason for requesting a different specialty.~~

~~(c) In the event the Medical Director is unable to issue a QME panel in a represented case within thirty (30) calendar days of receiving the request, either party may seek an order from a Workers' Compensation Administrative Law Judge that a QME panel be issued. Any such order shall specify the specialty of the QME panel or the party to be designated to select the specialty.~~

(a) Any disputes regarding the validity of the panel QME selection list or disputes regarding the appropriateness of the specialty designation may be resolved at the Workers' Compensation

§ 31.5. QME Replacement Requests

(a) A replacement QME to a panel, or at the discretion of the Medical Director a replacement of an entire panel of QMEs, shall be selected at random by the Medical Director and provided upon request whenever any of the following occurs:

(1) A QME on the panel issued does not practice in the specialty requested by the party holding the legal right to request the panel.

(2) A QME on the panel issued cannot schedule an examination for the employee within sixty (60) days of the initial request for an appointment, or if the 60 day scheduling limit has been waived pursuant to section 33(e) of Title 8 of the California Code of Regulations, the QME cannot schedule the examination within ninety (90) days of the date of the initial request for an appointment.

(3) The injured worker has changed his or her residence address since the QME panel was issued and prior to date of the initial evaluation of the injured worker.

(4) A physician on the QME panel is a member of the same group practice as defined by Labor Code section 139.3 as another QME on the panel.

(5) The QME is unavailable pursuant to section 33 (Unavailability of the QME).

(6) The evaluator who previously reported in the case is no longer available.

(7) A QME named on the panel is currently, or has been, the employee's primary treating physician or secondary physician as described in section 9785 of Title 8 of the California Code of Regulations for the injury currently in dispute.

(8) The claims administrator, or if none the employer, and the employee agree in writing, for the employee's convenience only, that a new panel may be issued in the geographic area of the employee's work place and a copy of the employee's agreement is submitted with the panel replacement request.

(9) The Medical Director, upon written request, finds good cause that a replacement QME or a replacement panel is appropriate for reasons related to the medical nature of the injury. ~~For purposes of this subsection, "good cause" is defined as a documented medical or psychological impairment.~~

(10) The Medical Director, upon written request, filed with a copy of the Doctor's First Report of Occupational Injury or Illness (Form DLSR 5021 [see 8 Cal. Code Regs. §§ 14006 and 14007]) and the most recent DWC Form PR-2 ("Primary Treating Physician's Progress Report" [See 8 Cal. Code Regs. § 9785.2]) or narrative report filed in lieu of the PR-2, determines after a review of all appropriate records that the specialty chosen by the party holding the legal right to designate a specialty is medically or otherwise inappropriate for the disputed medical issue(s). The Medical Director may request either party to provide additional information or records

necessary for the determination.

(11) The evaluator has violated section 34 (Appointment Notification and Cancellation) of Title 8 of the California Code of Regulations, except that the evaluator will not be replaced for this reason whenever the request for a replacement by a party is made more than fifteen (15) calendar days from either the date the party became aware of the violation of section 34 of Title 8 of the California Code of Regulations or the date the report was served by the evaluator, whichever is earlier.

(12) The evaluator failed to meet the deadlines specified in Labor Code section 4062.5 and section 38 (Medical Evaluation Time Frames) of Title 8 of the California Code of Regulations and the party requesting the replacement objected to the report on the grounds of lateness prior to the date the evaluator served the report. A party requesting a replacement on this ground shall attach to the request for a replacement a copy of the party's objection to the untimely report.

(13) The QME has a disqualifying conflict of interest as defined in section 41.5 of Title 8 of the California Code of Regulations.

(14) The Administrative Director has issued an order pursuant to section 10164(c) of Title 8 of the California Code of Regulations (order for additional QME evaluation).

(15) The selected medical evaluator, who otherwise appears to be qualified and competent to address all disputed medical issues refuses to provide, when requested by a party or by the Medical Director, either: A) a complete medical evaluation as provided in Labor Code sections 4062.3(j) and 4062.3(k), or B) a written statement that explains why the evaluator believes he or she is not medically qualified or medically competent to address one or more issues in dispute in the case.

(16) The QME panel list was issued more than twenty four (24) months prior to the date the request for a replacement is received by the Medical Unit, and none of the QMEs on the panel list have examined the injured worker.

(b) Whenever the Medical Director determines that a request made pursuant to subdivision 31.5(a) for a QME replacement or QME panel replacement is valid, the time limit for an unrepresented employee to select a QME and schedule an appointment under section Labor Code section 4062.1(c) and the time limit for a represented employee to strike a QME name from the QME panel under Labor Code section 4062.2(c), shall be tolled until the date the replacement QME name or QME panel is issued.

(c) In the event the parties in a represented case have struck two QME names from a panel and subsequently a valid ground under subdivision 31.5 arises to replace the remaining QME, none of the QMEs whose names appeared on the earlier QME panel shall be included in the replacement QME panel.

(d) Form 31.5 shall be used to request a replacement QME.

[Please print form here]

NOTE: Forms referred to above are available at no charge by downloading from the web at <http://www.dir.ca.gov/dwc/forms.html> or by requesting at 1-800-794-6900.

~~§ 106. The Request for Qualified Medical Evaluator Panel—represented Form
[QME Form 1060~~