



**DEPOSITIONS OF PANEL
QUALIFIED MEDICAL
EXAMINERS OR AGREED
MEDICAL EXAMINERS**

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§ 35.5 Compliance by AMEs and QMEs with Administrative Director Evaluation and Reporting Guidelines

(f) Unless the Appeals Board or a Workers' Compensation Administrative Law Judge orders otherwise or the parties agree otherwise, whenever a party is legally entitled to depose the evaluator, the evaluator shall make himself or herself available for deposition within at least one hundred twenty (120) days of the notice of deposition and, upon the request of the unrepresented injured worker and whenever consistent with Labor Code section 5710, the deposition shall be held at the location at which the evaluation examination was performed, or at a facility or office chosen by the deposing party that is not more than 20 miles from the location of the evaluation examination.

8 CCR 9795 ML-105

- ML105 5 Fees for medical-legal testimony. The physician shall be reimbursed at the rate of RV 5, or his or her usual and customary fee, whichever is less, for each quarter hour or portion thereof, rounded to the nearest quarter hour, spent by the physician. The physician shall be entitled to fees for all itemized reasonable and necessary time spent related to the testimony, including reasonable preparation and travel time. The physician shall be paid a minimum of one hour for a scheduled deposition.

Was the Deposition Set by Defense Attorney or Applicant Attorney

- Review the Medical-Legal Report and attempt to determine why one side or the other has an issue with your report.
- Upon review, is there anything you would change?

- The Defense will generally want:
 1. Less whole person impairment;
 2. More non-industrial apportionment;
 3. A shorter period of temporary total disability; and
 4. Less future medical treatment, durable medical equipment and compounded medications.
 5. Short of success above, they will try to marginalize your report or attempt to get you to testify that you should re-evaluate the Applicant.

- The Applicant Attorney will want:
 1. More whole person impairment or permanent total disability;
 2. Less or no non-industrial apportionment;
 3. A longer period of TTD;
 4. More future medical treatment with each body part with attempts at home health care or custodial care;
 5. Attempts to have you testify other specialty evaluations are necessary and why; and
 6. Attempt to marginalize your report or obtain testimony that would allow them to seek a replacement panel.

Know Who The Players Are

- State Bar Information:
 1. How long in practice? Certified Specialist?

- Past History with the Attorney:
 1. Was he/she knowledgeable about the medicine?
 2. Was he/she prepared? Did they do a good job?

Know Your File and Report

- Be open minded even if you are being asked stupid questions. Do not become aggressive or angry.
- Take a break if you need to.

If additional records are provided to you at the deposition, and you are given pages to review, please cooperate but then indicate you would like to review the entire set of records and issue a summary for the parties.

If, at the end of the deposition, questions have been raised that concern you with respect to any conclusions in your report, you may request to re-examine the applicant.