

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

**FINAL STATEMENT OF REASONS
Subject Matter of Regulations: Qualified Medical Evaluators**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 30, 30.5, 31.1, 100, 104, 105, 106, and 109**

The Administrative Director of the Division of Workers' Compensation (hereinafter "Administrative Director") pursuant to the authority vested in her by Labor Code sections 53, 133, 139.2, 4060, 4061, 4062, 4062.1, 4062.2, 4062.3, 4064, 5307.3, and 5307.4, has amended the following regulations:

Section 30	QME Panel Requests
Section 30.5	Specialist Designation
Section 31.1	QME Panel Selection Disputes in Represented Cases
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
Section 106	The Request for Qualified Medical Evaluator Panel – Represented Form
Section 109	The Qualified Medical Evaluator Notice of Unavailability Form

UPDATE OF INITIAL STATEMENT OF REASONS AND INFORMATIVE DIGEST

As authorized by Government Code §11346.9(d), the Administrative Director hereby incorporates by reference the entire Initial Statement of Reasons prepared in this matter. Unless a specific basis is stated below for any modification to the regulations as initially proposed, the necessity for the amendments to existing regulations and for the adoption of new regulations as set forth in the Initial Statement of Reasons continues to apply to the regulations as now adopted.

All modifications from the initially proposed text of the regulations are summarized below.

REQUEST AND GOOD CAUSE FOR EFFECTIVE DATE OF SEPTEMBER 1, 2015.

It is important that these regulations are effective September 1, 2015 so that there is clarity and consistency for the public and prevent any delays in obtaining panel lists. The Division of Worker's Compensation is transitioning from a manual process to an online process. An effective date of September 1, 2015 will allow for this transition without any delays to the public and provide ample notice before the online process is implemented.

THE FOLLOWING SECTIONS WERE AMENDED FOLLOWING THE PUBLIC HEARING AND CIRCULATED FOR A 15-DAY COMMENT PERIOD (JUNE 5, 2015 – MAY 22, 2015):

1. Section 30. QME Panel Requests

Subdivision (b) was amended to show the effective date of the online panel process and to specify the last day for receipt of paper panel requests by the Medical Unit. This will ensure that there is no overlap in the paper and electronic system. All paper submissions will be processed before the online system is in effect. Subdivision (b)(4) is renumbered and amended to clarify that the time frames specified for submission is for the sole purpose of determining timeliness of requests pursuant to Labor Code section 4062.2 and not for the purpose of resolving specialty designation disputes. This section is amended to allow either party to strike a doctor after service of the panel list to ensure each party is given equal time to strike a doctor. Non-substantive grammatical changes were made with the addition of the word “on” instead of “of.”

2. Section 31.1. QME Panel Selection Disputes in Represented Cases

This section is amended to replace “may” with “shall” for resolving disputes with a Workers’ Compensation Administrative Law Judge to clarify any ambiguities as to where the dispute is to be resolved. This section is also amended to add that either party may appeal the Medical Director’s decision as to the appropriateness of the specialty designation with a Workers’ Compensation Administrative Law Judge.

3. Section 100. The Application for Appointment as Qualified Medical Evaluator Form

This form is amended to add MAA Anesthesiology as a specialty category. Anesthesiologists who are not board certified in Pain Management will not have a specialty listing. MPA is amended to clarify that it is Pain Management.

4. Section 104. The Reappointment Application as Qualified Medical Evaluator Form

This form is amended to add MAA Anesthesiology as a specialty category. Anesthesiologists who are not board certified in Pain Management will not have a specialty listing. MPA is amended to clarify that it is Pain Management.

5. Section 105. The Request for Qualified Medical Evaluator Panel –Unrepresented Form

This form is amended to add MAA Anesthesiology as a specialty category. Anesthesiologists who are not board certified in Pain Management will not have a specialty listing. MPA is amended to clarify that it is Pain Management.

6. Section 106. The Request for Qualified Medical Evaluator Panel – represented Form - for injuries occurring prior to January 1, 2005

This form is amended to add MAA Anesthesiology as a specialty category. Anesthesiologists who are not board certified in Pain Management will not have a specialty listing. MPA is amended to clarify that it is Pain Management.

THE FOLLOWING ADDITIONAL NON-SUBSTANTIVE/CORRECTIONS WITHOUT REGULATORY EFFECT WERE MADE TO THE TEXT OF THE REGULATIONS AFTER THE CLOSE OF THE FINAL COMMENT PERIOD

1. Section 30. QME Panel Selection Disputes in Represented Cases

(b): amend to delete an inadvertent error “on the form in section 106” and to correct an inadvertent omission “shall be submitted on the form 106.”

(e): amend to delete a typographical error “-“ in the middle of the sentence.

(b)(1)(C): amend to replace “of” with “after” to clarify the time for service.

2. Section 30.5. Specialist Designation

Amend to correct an inadvertent omission and add “regulations” at the end of the sentence.

3. Section 100. The Application for Appointment as Qualified Medical Evaluator Form

Amend to add a new revision date of 9/2015. Amend to delete a duplicative “MPA Pain Medicine” in the specialty code listing.

4. Section 105. The Request for Qualified Medical Evaluator Form

Amend to add a new revision date of 9/2015. Amend to delete a duplicative “MPA Pain Medicine” in the specialty code listing.

5. Section 106. The Request for Qualified Medical Evaluator Panel - represented Form – for injuries occurring prior to January 1, 2005.

Amend to add a new revision date of 9/2015. Amend to delete a duplicative “MPA Pain Medicine” in the specialty code listing.

6. Section 109. The Qualified Medical Evaluator Notice of Unavailability Form

Qualified Medical Evaluators
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Amend to add a new revision date of 9/2015

UPDATE OF MATERIAL RELIED UPON / DOCUMENTS ADDED TO RULEMAKING FILE

In addition to the documents identified in the Initial Statement of Reasons, the following documents were relied upon by the Division and were made available to the public as required by Government Code Section 11347.1.

Title of Document Added to Rulemaking File Dates of Availability for Public Comment

Pre-Notice comments from DWC Forum	September 12, 2014 through September 22, 2014
Comments received by the Division of Workers' Compensation concerning the Division's proposed changes.	April 3, 2015 through May 22, 2015 June 5, 2015 through June 20, 2015.
Memo to File with Attachments, Neuropsychology Board member listing dated June 3, 2015	June 5, 2015 through June 20, 2015

LOCAL MANDATES DETERMINATION

- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The proposed amendments do not apply to any local agency or school district.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. The proposed amendments do not apply to any local agency or school district.
- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed amendments do not apply to any local agency or school district.

CONSIDERATION OF ALTERNATIVES

The Division considered all comments submitted during the public comment periods, and made modifications based on those comments to the regulations as initially proposed. The Administrative Director has now determined that no alternatives proposed by the regulated public or otherwise considered by the Division of Workers' Compensation would be more effective in carrying out the purpose for which these regulations were proposed, nor would they be as effective and less burdensome to affected private persons and businesses than the

regulations that were adopted or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

**SUMMARY OF COMMENTS RECEIVED AND RESPONSES THERETO
CONCERNING THE REGULATIONS ADOPTED**

The comments of each organization or individual are addressed in the following charts.

The public comment period was as follows:

Initial 45-day comment period on proposed regulations:

April 3, 2015 through May 22, 2015

First 15-day comment period on modifications to proposed text:

June 5, 2015 through June 20, 2015.