



College of Physicians and Surgeons of British Columbia

Practice Standard

Independent Medical Examinations

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Related topic(s):	Boundary Violations in the Patient-Physician Relationship , Physical Examinations and Procedures , Conflict of Interest , Medical Certificates and Other Third Party Reports

A **practice standard** reflects the minimum standard of professional behaviour and ethical conduct on a specific topic or issue expected by the College of all physicians in British Columbia. Standards also reflect relevant legal requirements and are enforceable under the [Health Professions Act](#), RSBC 1996, c.183 (*HPA*) and College [Bylaws](#) under the *HPA*.

Registrants may seek advice on these issues by contacting the College and asking to speak with a member of the registrar staff, or by seeking medical legal advice from the CMPA.

PREAMBLE

This document is a practice standard of the Board of the College of Physicians and Surgeons of British Columbia.

An independent medical examination (IME) is intended to offer a medical practitioner's perspective of the medical needs or condition of the examinee (individual being evaluated), in circumstances such as when benefits, compensation, disability issues, custody access or further treatment are being considered or requested by a third party. When a registrant is conducting an IME, a therapeutic relationship does not exist. The role of the registrant is to provide a medical opinion to a third party, not to provide treatment.

In the context of such evaluations, it is important to ensure that both the examinee as well as the party referring the examinee (e.g. a lawyer, insurance representative, Crown counsel etc.), are treated impartially. IMEs have been a frequent source of complaints to the College, and in some circumstances, have resulted in legal challenges. Effective communication by registrants and enhanced understanding by the examinee reduces the potential for a complaint.

COLLEGE'S POSITION

When relating to the third party who is requesting the IME, a registrant must:

- Clearly, and preferably in writing, address any real or perceived conflict(s) of interest that may be present before agreeing to complete the IME.
- Agree, in advance, on the fee structure for the IME.
- Determine if any limitations exist regarding sharing the IME results with the examinee or their treating physician following the completion of the examination (see *Providing access to IME findings* below).

When relating to the examinee, a registrant must:

- Explain the purpose and scope of the examination, including how it differs from a usual patient-treating physician interaction, the areas and systems that will be examined, and why they will be examined.
- Obtain signed and witnessed consent from the examinee prior to proceeding with the IME, to be included in the medical record. The examinee's counsel may assert the right of the examinee to decline to consent. Registrants are not compelled to provide an IME in any event; if the examinee declines to consent, a registrant may decide not to proceed.
- Explain that the report must go to the third party ordering the examination and whether and how the examinee may obtain a copy of the report (see below under *Providing access to IME findings*). If the examinee does not agree, consider whether it is appropriate to proceed with the IME.
- If the examinee attempts to set limits upon the examination (e.g. regarding past history or the extent of the physical examination), explain why the information or examination is necessary. If the examinee chooses not to cooperate, consider whether it is appropriate to proceed with the IME in view of the limits set by the examinee. If not, record this fact and terminate the examination.

- Use an independent interpreter if the examinee does not speak English, and/or if the registrant does not speak the examinee's language fluently. This is particularly important in immigration examinations.
- Use their discretion as to whether a chaperone should be present when conducting the IME.
- Obtain consent from the examinee to have a chaperone or translator present. If the examinee declines to consent to the presence of a chaperone or translator in circumstances where the registrant is in the belief that one is required, it is the decision of the registrant whether they wish to terminate the examination.
- Document all findings. Include in the documentation the presence and name of any interpreter and/or chaperone, as well as the start and end time of the IME.
- Disclose to the examinee any business relationship with any other health-care provider or agency (such as counselling or biological monitoring agency) with which a referral may be made in relation to the IME.
- Inform the examinee and refer them back to their treating physician for further care if another medical condition is discovered during the IME. Necessary care must be provided if the situation is emergent or urgent and no other registrant is available, until care is transferred.

Providing access to IME findings

While medical records and IME files serve different purposes, they both contain personal information. An examinee has the right to access parts of the registrant's notes made in the context of an IME that include their personal information. The right to access personal information contained in an IME report is established in BC's *Personal Information Protection Act (PIPA)*, with the general rule that a registrant must provide an examinee with access to his or her personal information contained in the IME report upon written request.

PIPA includes exceptions that may limit what an examinee can access within the IME file. Information that may be withheld includes information that is subject to solicitor client privilege; confidential commercial information that if disclosed could, in the opinion of a reasonable person, harm the competitive position of the registrant. Information that must be withheld includes personal information of other individuals; information that could reasonably be expected to threaten the safety, physical or mental health of a third party or information that could cause immediate or grave harm to the examinee who made the request. If a registrant conducts the IME for a federally regulated organization or an organization or government in another jurisdiction, other privacy laws may apply, as outlined in the *PIPA*.

Before providing an examinee or the treating physician with access to information contained in the IME file, the registrant should consult with the third party who requested the IME, and with the Canadian Medical Protective Association (CMPA), to discuss the specific circumstances of the case and determine whether there may be grounds to redact information from the records (e.g. contractual obligations).

Retention of IME records

Requirements relating to the retention of reports, notes and documents will vary depending on the context in which a registrant has provided an IME and may be specified in legislation.

Registrants are expected to retain IME reports and related documents in accordance with their legal obligations. The College recommends that registrants familiarize themselves with the specific

obligations that are applicable to their circumstances and seek independent medical legal advice from the CMPA where necessary.

RESOURCES

Canadian Medical Protective Association. Treating physician reports, IME reports, and expert opinions: The way forward [Internet]. Ottawa: Canadian Medical Protective Association; 2019. [cited 2019 Sep 12]; 3 p. Available from: <https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2019/treating-physician-reports-ime-reports-and-expert-opinions>

Canadian Medical Protective Association. Independent medical evaluations: be prepared [Internet]. Ottawa: Canadian Medical Protective Association; 2011. [cited 2019 Sep 12]; 3 p. Available from: <https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2000/independent-medical-evaluations-be-prepared>

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Government of British Columbia. Court rules act - supreme court civil rules. Part 7 - procedures for ascertaining facts: rule 7-6 - physical examination and inspection [Internet]. Victoria: Queen's Printer; 2019. [cited 2019 Sep 12]; 94 p. Available from: http://www.bclaws.ca/civix/document/id/complete/statreg/168_2009_01