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Welcome to the WOEMA WINDOW. This e-newsletter is sent to members by email on a monthly basis. The e-newsletter provides links to this page. Below are the items that appeared in the July 2019 issue.

Latest News

Upcoming Events

No events

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- [The IME Handbook – Part 2 in a New Series by Dr. Steven Feinberg](#)
- [FREE CME Webinar – Thursday, August 29, 12:00 PM PDT](#)
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THE IME HANDBOOK – PART 2

PART 2 IN A NEW SERIES BY DR. STEVEN FEINBERG

Dear fellow WOEMA members, some of you may be interested in performing independent medical legal evaluations (referred to as an IME) in addition to evaluations done within the workers' compensation system. WOEMA presented a symposium at the WOHC 2017 Maui annual meeting in which Dr. Christopher Brigham and I provided a copy of our book, The IME Handbook. This is installment part 2 from that book. As always, I am personally available to you via email to answer any questions (stevenfeinberg@hotmail.com). This 2nd installment will cover quality IME reporting, potential pitfalls, report writing techniques, IME report quality issues, pre-evaluation issues and interactions with the examinee.

Dr. Brigham has a [web site devoted to IME education](#). While you will have access through the WOEMA Newsletter to the full IME Handbook in installments, the full IME Handbook PDF is [available on his web site as well](#). There is a cost associated with Dr. Brigham's materials.

The Unbiased IME

There has been much criticism in the medical literature (and on the Internet) about the quality of independent medical examinations (IMEs) basically suggesting that they are not "independent" or "neutral" and suggesting that they are often biased.

Many physicians are known for being "defense" or "plaintiff" oriented/directed. There are physicians though that do both plaintiff and defense IMEs.

The quality IME physician does not pander to the referral source. In fact, the smart referral source recognizes the importance of an honest and truly independent opinion. Whether it is the plaintiff or defense attorney, the IME physician who provides erroneous or seriously flawed opinions, may either be discredited by the opposing attorney during trial and/or is not believable to the jury. Further, providing information that is erroneous or not credible, may be very costly with an unfavorable settlement/award.

The approaches and perspectives of evaluators may be perceived as more favorable to defense or plaintiff. For example, in assessing causation, if an evaluator uses a rigorous scientific approach, this is more likely to be perceived as favorable to defense counsel than another evaluator who opines that certain events caused or aggravated a condition based on a temporal relationship. In a similar way, physicians who provide more weight to objective findings, use evidence-based medicine as the basis for their opinions versus personal opinions, assess permanent impairment more strictly following applicable guidelines, are less likely to restrict patients from working, and are more conservative on treatments, may be perceived as defense oriented; however, the physician may be totally unbiased, yet have opinions that are typically found more acceptable to defense counsel.

Some IME referrers sometime select the doctor knowing the examiner will make opinions that will benefit their position. While that may be the case, highly biased IMEs undermine the integrity of the process.

Potential Pitfalls

The referral source will often ask whether the potential IME physician has any possible conflicts of interest. It is important to make sure that the claimant has never been seen in the IME's office previously for any reason; the referral source should be notified of any involvement with other physicians or attorneys in the case.

An IME should not be performed on a former or active patient but you can choose to write a report and testify as an ongoing or former treater. In the alternative, you can make a full disclosure and have a signed agreement with the patient and his or her attorney to proceed with an evaluation; however, it will not be a true IME.

Stay within your area of expertise. No good comes out of providing opinions outside the scope of your training and expertise. For instance, it is perfectly legitimate to state that while the non-radiologist IME physician can review imaging studies, that he or she defers to a radiologist. A non-surgeon such as a psychiatrist or neurologist may have an opinion about surgery but defer on the specifics regarding back surgery to a spine surgeon.

Do not be pressured by the referral source to change or modify a report to meet the "needs" of the client.

Physicians who come up with outlandish or ridiculous opinions will not be respected by the judge or jury.

It is critically important to have the referral source make it very clear what areas of opinions are being requested; for example, if causation is not at issue, there is no need to address it.

IME Report Quality Issues

While the quality of the physician's testimony at a deposition, arbitration or trial may be critical; the initial written report is typically most important. This report is relied upon in any settlement negotiation and often becomes part of the evidence. The well-written and defensible report must be valid, defensible and readable.

A well-written report will assist the IME physician during deposition cross examination and may even discourage the opposing attorney from going to trial; thus, the report itself may lead to early case settlement or resolution. The physician will be judged by the quality of the written report. A poorly written report reflects negatively on the IME physician and may damage the underlying case. A well-written report enhances the reputation of the IME physician and leads to further referrals.

A quality IME report is responsive to the specific questions asked by the referral source. The report should be understandable by non-medical individuals. In some contexts, a verbal report is provided prior to submission of a written report thus giving the referrer the opportunity to further direct specific questions or concerns or to even defer on receiving a written report. The physician should always maintain integrity but should remember that there is no traditional doctor-patient relationship and the payer is the client.

Whether the referral source is an insurance carrier, defense or plaintiff attorney, they are much better off with an honest opinion before wading further into the subject case.

IME Report Writing Techniques

Some IME third party intermediaries ask the IME physician to answer specific questions and “fill in the blanks.” For the most part, IME physicians will use their own system of report writing.

Evaluation reports should be without spelling errors and should be grammatically correct. The report structure should include appropriate formatting with headings and categories. Bold lettering, italics, underlining, numbering and bullet points can be used for clarity and emphasis. All material and records reviewed should be listed. Paragraphs should be kept relatively short and separate ideas should be put in distinct categories. Unnecessary repetition should be avoided. Use unambiguous language that can be easily understood by the referral source. When reporting, superfluous information should be left out. The claimant as well as past treating and evaluating physicians should not be disparaged. List the time spent with the claimant face-to-face, reviewing the records and preparing the report. The report should contain all opinions to be expressed at a hearing or trial.

IME Pre-Evaluation Issues

Prior to examining the claimant, the physician’s office will receive a IME request by the referral source. A chart is established which will contain all notes, emails and written correspondence. Telephone calls and meetings can be documented but the referring attorney may purposely not be committing comments in writing so the IME should be sensitive to what is documented in the medical record.

It is important to provide documentation regarding charges and usually a curriculum vitae will be requested. Some physicians insist on a pre-payment advance prior to reviewing records, providing an examination report or attending a deposition, arbitration or trial. Charges should include costs for late cancellations, records review, the actual examination, report writing, research, meeting time with the referral source, deposition, arbitration and trial testimony time. It is important to identify who will be notifying the examinee of the appointment date and time.

It is appropriate to review records in advance to assure that all historical items are reviewed with the examinee. Many physicians will prepare the medical record summary in advance and prepare a template for their report. This is very important particularly for defense examinations where the IME physician will only have one chance to examine the claimant. There may be issues found in the medical records that need to be addressed.

Interactions with the Examinee

If the evaluation is being accomplished at the request of the examinee’s attorney, there is an implied understanding that the physician is serving in that individual’s best interest. When examining for the defense (the “other side”), it is not uncommon to find an examinee who is, at a minimum, suspicious and maybe even hostile.

For a defense IME, there may be limitations set ahead of time by the plaintiff attorney on what questions can be asked and what body parts can be examined. These issues should be discussed with the referring defense attorney prior to the examination.

Depending on the jurisdiction, the claimant’s attorney or representative and sometimes even a court reporter or videographer may attend the evaluation. This may or may not be permissible, depending on the setting/jurisdiction. Any other individual attending the appointment should remain silent and not provide information except for significant

others if they are specifically asked to provide information. If the plaintiff attorney is present, that individual may limit the claimant from answering certain questions. The claimant may request to tape record the examination, however whether this is permissible is dependent on the jurisdiction.

It is important in any scenario to carefully explain your role including the fact that the evaluation is not meant to be a comprehensive medical evaluation covering all possible problems and that no doctor-patient relationship is implied. Risk is reduced by having the examinee signed an informed consent form. There is usually no confidentiality. Typically, the physician's opinions and any recommendations are not discussed with the examinee unless specifically requested by the referral source.

The examinee is told to not perform any maneuver that her or she feels will be harmful to them. Adequate gown coverage is important and a chaperone, from the physician's staff, is recommended. In some jurisdictions, for a defense IME, the claimant may have the right and choose to have another party present during the physical examination portion of the evaluation. Request a picture ID such as a driver's license to make sure you are examining the correct individual.

The next installment (part 3) in the upcoming WOEMA Newsletter will cover IME history and physical examination and report writing.

[\[READ PART 1\]](#)



FREE CME WEBINAR

THURSDAY, AUGUST 29 • 12:00 PM PDT

WEBINAR TOPIC: HOW TO BE CHOSEN AS A QME/AME

Speaker: Steven Feinberg, MD, MPH

This Webinar will address how to be chosen/selected as a QME and how to reach AME status. Issues discussed will include quality, timeliness, combining versus adding (The Kite case), and how to address complex issues of causation, apportionment and providing the most accurate impairment rating (Almaraz Guzman analysis).

Learning Objectives – After this webinar, participants will be able to:

- Understand how to get selected as the QME or being chosen as the AME
- Address complex issues of causation and apportionment
- Provide the most accurate impairment rating

Dr. Steven Feinberg is a physiatrist and pain medicine specialist practicing in Palo Alto. He is an Adjunct Clinical Professor and teaches at the Stanford University Pain Service. Dr. Feinberg is a past president (1996) of the American Academy of Pain Medicine (AAPM). He is lead author of the 2019 American Chronic Pain Association Resource Guide to Chronic Pain Treatment. Dr. Feinberg served as the ACOEM Chronic Pain Guideline Panel Chair. He is a member of the DWC Pharmacy and Therapeutics Committee.

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WESTERN OCCUPATIONAL HEALTH CONFERENCE 2019

Register by August 1 to save \$50! Early-bird registration fees end on July 31 and increase by \$50 starting on August 1, so if you haven't registered yet, do so today!

[\[REGISTER NOW\]](#)

Be sure to reserve your hotel room! Room rates at the Sheraton San Diego Hotel & Marina, Bay Tower start at \$219/night+tax. To receive the conference rate, [reserve online](#) or by calling the hotel directly at **619-291-2900** and mention that you are with WOEMA.

[\[RESERVE YOUR ROOM\]](#)

Attention Residents! Apply for a scholarship to attend WOHC 2019.

WOEMA is inviting resident physicians to WOHC 2019 to present posters on occupational and environmental medicine research or projects that have been conducted. A review panel will award a first prize (\$250) and a second prize (\$125) to the presenters.

A limited number of scholarships* are available to residents. Those awarded scholarships will be requested to assist with speaker introductions and other activities to facilitate the conference.

**WOEMA members given priority.*

[\[GET MORE INFO & APPLY TODAY\]](#)



OCCMED BOARD CERTIFICATION EXAM PREP COURSE NOW OFFERED AT WOHC!

New this year, WOEMA is offering a one-day, condensed eight-hour refresher course to prepare graduating and current residents to take the ABPM Occupational Medicine Board Examination, as well as for established Occupational Medicine physicians to update their knowledge ahead of the recertification exam. The course is prior to the Western Occupational Health Conference (WOHC) on **Wednesday, September 11, at the Sheraton San Diego Hotel and Marina. John Meyer, MD and Nimisha Kalia, MD** will provide a teaching session and review on clinical, administrative, and programmatic aspects of occupational medicine that appear on the ABPM examination, and offer you the chance to assess your familiarity with the major areas of occupational medicine practice. Whether you are taking the exam for the first time, or are updating for your ten-year re-certification, this course can provide you with the right material to enable you to feel confident in your OM expertise. Fees cover course materials, breaks, and CME/MOC credits. ACOEM/WOEMA Members: \$495; Non-Member: \$695; Residents/Student Members: \$295

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WOEMA MEMBER SPOTLIGHT

Many of you are already familiar with WOEMA member, Legislative Affairs committee member, Education committee member, and WOHC planning committee member, Tony Biascan. Tony is one of our most well-recognized WOEMA members as he has a contagious enthusiasm for our specialty and our membership. In his continued support for WOEMA education, Tony has recently agreed to serve as 2020 WOHC Chair.

A native San Diegan, Tony made two enormous life changes on the same day: He committed to Creighton University Medical School and proposed to his wife, Myla. Tony attended Creighton on a Navy scholarship and went on to complete his internship in Pensacola. Tony served as an Navy flight surgeon for seven years prior to beginning residency training in Internal Medicine. One year into his training, Tony had the good fortune of receiving some timely career coaching from WOEMA member, Francis Hall. Fran advised Tony to consider a residency at in occupational medicine, and Tony was soon accepted at UC Irvine. Upon completing his training in occ med at UC Irvine, Tony was deployed to Sigonella, Sicily, for three years. It was there that Tony developed his enthusiasm for pasta with pesto sauce. Myla and Tony welcomed daughters, Allison and Isabella, along their journey. The family returned stateside, where Lieutenant Commander Biascan currently serves as the sole occupational medicine physician at U.S. Naval Hospital Twentynine Palms. In addition to his WOEMA activities, Tony enjoys playing golf in his spare time. Tony is most inspired Dr. Paul Papanek, who works passionately on the Legislative Affairs Committee.



NEWS YOU CAN USE

The Expanding Use of Cannabis

In the new Wild West of medical practice clinicians would be well advised to [stay up to date on how cannabis use is expanding](#).

The Blockchain is for more than buying things

In today's world of automation there is an expectation of instant access to all the information a person might need. Why limit that to consumer products? [Could your medical information end up on the distributed ledger?](#)

WOEMA is a regional component of the American College of Occupational and Environmental Medicine (ACOEM) and is dedicated to high-quality medical care and ethical principles governing the practice of occupational medicine.

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