

Guidance for IMEs on Health Assessments

Reading time:

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Independent Medical Examiners (IMEs) have a crucial role to play in ensuring individuals receive a fair and unbiased health assessment in cases of injury or illness. As registered healthcare practitioners, IMEs are bound to AHPRA's Code of Conduct and the various State or Territory judicial expert witness codes, and statutory compensation scheme requirements.

If you currently act as an IME or are considering expanding your role, ensure you understand what is required and how you can protect yourself from complaints or claims.

Understanding the role of healthcare practitioners as an IME

Injuries and illness are significant public health concerns. An assessment by a healthcare practitioner is often required when individuals make a claim on a variety of insurance policies covering items such as accidents, illnesses, disability or loss of income. To facilitate the recovery of workers or those injured in transport accidents, governments provide various statutory workers' and transport accident compensation systems which also require a similar assessment.

Within this context, healthcare practitioners may offer their expertise for two different purposes – treatment and assessment. In the first, they deliver care to those injured or unwell. In the second, they conduct health assessments, thus performing the role of IMEs. IMEs assess individuals who are not their regular patients, and their expert reports help claim management entities, courts of law and tribunals, to make informed and fair decisions on issues affecting these individuals.

MIPS coverage

The definition of healthcare under the [MIPS Medical Indemnity Insurance Policy](#) indemnifies members in respect of writing IME reports. The relevant section of the current wording is 14.4.2:

- 14. Definitions in this policy:
 - 14.4 Healthcare means:

- 14.4.2 any report or opinion provided by You (and any examination for the purpose of preparing such report), other than for the purposes of treatment, which has been requested by a third party such as a lawyer, insurer or statutory body;

and

for which You hold appropriate AHPRA registration, qualifications, training and experience.

AHPRA Codes of conduct

References include the [Medical Board of Australia code of conduct](#) at 10.8 and 10.9. Similar references occur in the [Dental Board code of conduct](#) at 8.7 and 8.8.

10.8 Medico-legal, insurance and other assessments

When you are contracted by a third party to provide a medico-legal, insurance or other assessment of a person who is not your patient, the usual therapeutic doctor-patient relationship does not exist. In this situation, good medical practice involves:

- 10.8.1 Applying the standards of professional behaviour described in this code to the assessment. Being courteous, alert to the concerns of the person, and ensuring that you have the person's consent for the assessment and any necessary physical examination.
- 10.8.2 Explaining to the person your area of medical practice, your role, and the purpose, nature and extent of the assessment to be conducted.
- 10.8.3 Anticipating and seeking to correct any misunderstandings the person may have about the nature and purpose of your assessment and report.
- 10.8.4 Providing an impartial report (see section 10.9).
- 10.8.5 Recognising that, if you discover an unrecognised serious medical problem during your assessment, you have a duty of care to inform the patient and/or their treating doctor.

10.9 Medical reports, certificates and giving evidence

The community places a great deal of trust in healthcare practitioners. Consequently, healthcare practitioners have been given the authority to sign a variety of documents on the assumption they will only sign statements that they know, or reasonably believe, to be true. Good medical practice involves:

- 10.9.1 Being honest and not misleading when writing reports and certificates, and only signing documents you believe to be accurate.
- 10.9.2 Taking reasonable steps to verify the content before you sign a report or certificate, and not omitting relevant information deliberately.
- 10.9.3 Preparing or signing documents and reports if you have agreed to do so, within a reasonable and justifiable timeframe.
- 10.9.4 Making clear the limits of your knowledge and not giving opinion beyond those limits when providing evidence.

What are the risks?

AHPRA complaints arising out of clinico-legal, insurance or other assessments are not uncommon. Many arise from individuals' who haven't obtained the assessment they desired. Others may arise from alleged boundary transgressions, lack of informed consent and/or allegations of unprofessional behaviour. Any complaint must be taken seriously as any deviation from the required standard of conduct may result in an AHPRA investigation and undesirable outcome for members. Always contact MIPS for advice and support.

You may be aware of recent Government enquiries which heard allegations of insurers attempting to influence IMEs on claim assessment outcomes and providing incentives. Any agreement by a practitioner to do so, poses a serious risk of AHPRA investigation and punitive action.

Code and immunity

Most States and Territories have an Expert Witness Code of Conduct or set of guidelines to outline the requirements for expert

evidence. You need to obtain a copy of the relevant codes when preparing a report. Experts should be guided by Expert Witness Guide of Conduct in their respective jurisdiction.

All jurisdictions provide an immunity to suit in negligence for expert witness providing both a protection and incentive to provide the assessment.

In summary, what is expected of you as an IME?

As an AHPRA registered professional, your role is to provide accurate and unbiased health assessments of individuals drawing upon your clinical expertise and to recommend the best course of action.

The critical points to remember are to keep an unbiased approach and to practice within your area of expertise, and to assess the situation from an independent standpoint. The fairness of your report can be compromised by the referring parties' vested interest in the outcome of the evaluation. You should always be mindful of this conflict and strive for impartiality.¹

Becoming the best IME you can be

WorkSafe Vic has published guidelines to help you craft your recommendations². Here is a summary of Do's and Don'ts to consider.

DO

- **Use a checklist:** Develop a template with all the report's standard sections and tailor each one individually.
- **Make sure you have everything you need:** Contacting a claimant after an examination is not recommended. Ensure that all paperwork is available early on.
- **Have the end goal in mind:** Before starting an assessment, ensure you understand the questions you have been asked and use them to collect the necessary information.
- **Clarify any inappropriate, irrelevant or repetitive questions:** If unable to clarify these with the requesting party, highlight the question, explain your concerns and describe how you've chosen to proceed.
- **Avoid professional bias:** This may stem from your specialty training, or unconscious mechanism.
- **Be consistent and well-organised:** Good writing matters. To improve clarity, you may:
 - Use plain English and active voice to make it easier to act upon the information.
 - Use simple words and sentence structures.
 - Ensure your writing is cohesive and follows a well-articulated train of thought.
- **Format your report in sections:** The following structure may help you organise your writing:
 - Introduction:**
 - Aim of the examination and identity of the requesting party
 - Affected individual personal information
 - List of all materials provided to you and sighted by you
 - Body:**
 - Comprehensive list of events leading up to the injury.
 - All relevant findings, from your physical (and/or mental) health assessment.
 - Results of any relevant tests, investigations provided or requested.
 - Nature and significance of any other opinions/reports/assessments made available to you.
 - Specific answers to each of the questions asked by the requesting party.
 - Conclusion:**
 - Succinct summary of findings. Ensure these are evidence-based.

DON'T

- **Take either the 'claimant' or the 'requesting party' side:** The opinions you provide must be fully independent of the Authority, authorised agents, or self- insurers.
- **Provide conclusions where there is insufficient evidence to form a reasonable belief:** Refrain from making recommendations if you're unable to support them with clinical findings.
- **Include opinions on clinical evidence outside your area of expertise:** You may simply note them as particular factors, and acknowledge the matter is outside your area of expertise.
- **Use any form of poignant or derogative language:** Always remain respectful in your communications.

¹ Busse, J. W., Bruun-Meyer, S. E., Ebrahim, S., & Kunz, R. (2014). A 45-year-old woman referred for an independent medical evaluation by her insurer. *CMAJ*, 186(16), E627-E630.

²[Guide for independent medical examination reports - WorkSafe](#) (2020). Retrieved 3 November 2020
