

Independent Medical Examinations

An independent medical examination (IME) is an evaluation performed by a qualified professional to address specific issues that arise in the context of a legal case. Since the issues vary considerably depending on the area of the law in which they arise, the format of an IME may also vary.

Independent medical examinations have certain things in common, however. For example, it is the ethical duty of the evaluator to perform an evaluation within his or her area of expertise only, and to do so in a thorough, objective, and competent fashion.

It is the ethical duty of the evaluator to provide information and opinions regardless of the party or entity paying the fee. It is also the ethical duty of the evaluator to make sure that there is no conflict of interest when accepting a case. For example, it would be unethical for a clinical therapist to change roles and become a forensic (court-related) expert in the same case given the fact that as a clinical therapist, the professional has served as the patient's advocate. Similarly, it would be unethical for a professional to perform a court-related evaluation of a friend.

Independent medical examinations generally include face-to-face evaluative sessions with the person who is being evaluated, the collection of information from collateral sources, a review of records, and sometimes psychological testing.

Independent medical examinations should include a review of information obtained from sources other than the person being evaluated given the fact that the subject of the evaluation is personally invested in the outcome of the evaluation process. It is incumbent upon the evaluator to obtain data from objective sources such as professionals, although there may be times when speaking with a spouse, friend, employer, or close family member is important.

Once the evaluator has completed the evaluation, he or she prepares a report summarizing the data collected, the professional's opinions, and the reasons for them.

Independent medical examinations are often performed at the request of a claimant's attorney. In that case, the evaluator cannot release the report to anyone without the attorney's permission or a court order. In certain cases, the report may not be favorable to the attorney's client, and the attorney may choose to not release it.

When an independent medical evaluator is appointed by the Court, however, such as when there is a question regarding an individual's competency to proceed with the

legal case, the evaluator is expected to release a copy of the report to both attorneys and, of course, the Court.

Assuming that the report has been released to both attorneys, it is often used in the process of settlement negotiation which is an attempt to resolve the issues in dispute without taking the matter before a judge. If it appears that the matter is not likely to be resolved without going to court, or if additional information is needed for the purpose of settlement, the evaluator may be asked to provide deposition testimony in advance of the hearing.

Should the legal issues remain unresolved at the end of the settlement process, the evaluator may be asked to testify in open court. It is important that he or she provide information in a neutral and balanced fashion. It is not the job of an evaluator to win a case for the client or the client's attorney. Rather, it is the responsibility of the evaluator to assist the trier-of-fact (such as a judicial officer or an arbitrator) by providing information and opinions that can be used to reach a just decision.