

Part 6 Medical Evaluations

34A-2-601 Medical panel, director, or consultant -- Findings and reports -- Objections to report -- Hearing -- Expenses.

- (1)
- (a) The Division of Adjudication may refer the medical aspects of a case described in this Subsection (1)(a) to a medical panel appointed by an administrative law judge:
 - (i) upon the filing of a claim for compensation arising out of and in the course of employment for:
 - (A) disability by accident; or
 - (B) death by accident; and
 - (ii) if the employer or the employer's insurance carrier denies liability.
 - (b) An administrative law judge may appoint a medical panel upon the filing of a claim for compensation based upon disability or death due to an occupational disease.
 - (c) A medical panel appointed under this section shall consist of one or more physicians specializing in the treatment of the disease or condition involved in the claim.
 - (d) As an alternative method of obtaining an impartial medical evaluation of the medical aspects of a controverted case, the division may employ a medical director or one or more medical consultants:
 - (i) on a full-time or part-time basis; and
 - (ii) for the purpose of:
 - (A) evaluating medical evidence; and
 - (B) advising an administrative law judge with respect to the administrative law judge's ultimate fact-finding responsibility.
 - (e) If all parties agree to the use of a medical director or one or more medical consultants, the medical director or one or more medical consultants is allowed to function in the same manner and under the same procedures as required of a medical panel.
- (2)
- (a) A medical panel, medical director, or medical consultant may do the following to the extent the medical panel, medical director, or medical consultant determines that it is necessary or desirable:
 - (i) conduct a study;
 - (ii) take an x-ray;
 - (iii) perform a test; or
 - (iv) if authorized by an administrative law judge, conduct a post-mortem examination.
 - (b) A medical panel, medical director, or medical consultant shall make:
 - (i) a report in writing to the administrative law judge in a form prescribed by the Division of Adjudication; and
 - (ii) additional findings as the administrative law judge may require.
 - (c) In an occupational disease case, in addition to the requirements of Subsection (2)(b), a medical panel, medical director, or medical consultant shall certify to the administrative law judge:
 - (i) the extent, if any, of the disability of the claimant from performing work for remuneration or profit;
 - (ii) whether the sole cause of the disability or death, in the opinion of the medical panel, medical director, or medical consultant results from the occupational disease; and

- (iii)
 - (A) whether any other cause aggravated, prolonged, accelerated, or in any way contributed to the disability or death; and
 - (B) if another cause contributed to the disability or death, the extent in percentage to which the other cause contributed to the disability or death.
- (d)
 - (i) An administrative law judge shall promptly distribute full copies of a report submitted to the administrative law judge under this Subsection (2) by mail to:
 - (A) the applicant;
 - (B) the employer;
 - (C) the employer's insurance carrier; and
 - (D) an attorney employed by a person listed in Subsections (2)(d)(i)(A) through (C).
 - (ii) Within 20 days after the report described in Subsection (2)(d)(i) is deposited in the United States post office, the following may file with the administrative law judge a written objection to the report:
 - (A) the applicant;
 - (B) the employer; or
 - (C) the employer's insurance carrier.
 - (iii) If no written objection is filed within the period described in Subsection (2)(d)(ii), the report is considered admitted in evidence.
- (e)
 - (i) An administrative law judge may base the administrative law judge's finding and decision on the report of:
 - (A) a medical panel;
 - (B) the medical director; or
 - (C) one or more medical consultants.
 - (ii) Notwithstanding Subsection (2)(e)(i), an administrative law judge is not bound by a report described in Subsection (2)(e)(i) if other substantial conflicting evidence in the case supports a contrary finding.
- (f)
 - (i) If a written objection to a report is filed under Subsection (2)(d), the administrative law judge may set the case for hearing to determine the facts and issues involved.
 - (ii) At a hearing held pursuant to this Subsection (2)(f), any party may request the administrative law judge to have any of the following present at the hearing for examination and cross-examination:
 - (A) the chair of the medical panel;
 - (B) the medical director; or
 - (C) the one or more medical consultants.
 - (iii) For good cause shown, an administrative law judge may order the following to be present at the hearing for examination and cross-examination:
 - (A) a member of a medical panel, with or without the chair of the medical panel;
 - (B) the medical director; or
 - (C) a medical consultant.
- (g)
 - (i) A written report of a medical panel, medical director, or one or more medical consultants may be received as an exhibit at a hearing described in Subsection (2)(f).

- (ii) Notwithstanding Subsection (2)(g)(i), a report received as an exhibit under Subsection (2)(g)(i) may not be considered as evidence in the case except as far as the report is sustained by the testimony admitted.
- (h) For a claim referred under Subsection (1) to a medical panel, medical director, or medical consultant before July 1, 1997, the commission shall pay out of the Employers' Reinsurance Fund established in Section 34A-2-702:
 - (i) expenses of a study or report of the medical panel, medical director, or medical consultant; and
 - (ii) the expenses of the medical panel's, medical director's, or medical consultant's appearance before an administrative law judge.
- (i)
 - (i) For a claim referred under Subsection (1) to a medical panel, medical director, or medical consultant on or after July 1, 1997, the commission shall pay out of the Uninsured Employers' Fund established in Section 34A-2-704 the expenses of:
 - (A) a study or report of the medical panel, medical director, or medical consultant; and
 - (B) the medical panel's, medical director's, or medical consultant's appearance before an administrative law judge.
 - (ii) Notwithstanding Section 34A-2-704, the expenses described in Subsection (2)(i)(i) shall be paid from the Uninsured Employers' Fund whether or not the employment relationship during which the industrial accident or occupational disease occurred is localized in Utah as described in Subsection 34A-2-704(20).
- (3)
 - (a) The commission may employ a qualified physician as medical panel director who, in addition to the other duties outlined in this section for a medical director, is responsible for:
 - (i) assisting the commission in creating and enforcing standards for medical panels and medical consultants;
 - (ii) training members of medical panels or medical consultants;
 - (iii) increasing the number of physicians who participate on medical panels;
 - (iv) ensuring medical panels include appropriate specialists; and
 - (v) monitoring the quality of medical panel and medical consultant reports.
 - (b) The commission shall pay the expenses of employing a medical panel director described in this Subsection (3) out of the Uninsured Employers' Fund established in Section 34A-2-704.

Amended by Chapter 428, 2013 General Session

34A-2-602 Physical examinations.

- (1) The division or an administrative law judge may require an employee claiming the right to receive compensation under this chapter to submit to a medical examination at any time, and from time to time, at a place reasonably convenient for the employee, and as may be provided by the rules of the commission.
- (2) If an employee refuses to submit to an examination under Subsection (1), or obstructs the examination, the employee's right to have the employee's claim for compensation considered, if the employee's claim is pending before an administrative law judge, commissioner, or Appeals Board, or to receive any payments for compensation theretofore granted by a final order of the commission, shall be suspended during the period of the refusal or obstruction.

Renumbered and Amended by Chapter 375, 1997 General Session

34A-2-603 Autopsy in death cases -- Certified pathologist -- Attending physicians -- Penalty for refusal to permit -- Liability.

- (1)
 - (a) On the filing of a claim for compensation for death under this chapter or Chapter 3, Utah Occupational Disease Act, when, in the opinion of the commissioner or the commissioner's designee it is necessary to accurately and scientifically ascertain the cause of death, an autopsy may be ordered by the commissioner or the commissioner's designee.
 - (b) The commissioner or the commissioner's designee shall:
 - (i) designate the certified pathologist to make the autopsy; and
 - (ii) determine who shall pay the charge of the certified pathologist making the autopsy.
- (2) Any person interested may designate a duly licensed physician to attend the autopsy ordered under Subsection (1).
- (3) The findings of the certified pathologist performing the autopsy shall be filed with the commission.
- (4) All proceedings for compensation shall be suspended upon refusal of a claimant or claimants to permit such autopsy when ordered under Subsection (1).
- (5) When an autopsy has been performed pursuant to an order of the commissioner or the commissioner's designee no cause of action shall lie against any person, firm, or corporation for participating in or requesting the autopsy.

Renumbered and Amended by Chapter 375, 1997 General Session

34A-2-604 Employee leaving place of treatment.

- (1) An injured employee who desires to leave the locality in which the employee has been employed during the treatment of the employee's injury, or to leave this state, shall:
 - (a) report to the employee's attending physician for examination;
 - (b) notify the division in writing of the intention to leave; and
 - (c) accompany the notice with a certificate from the attending physician setting forth:
 - (i) the exact nature of the injury;
 - (ii) the condition of the employee; and
 - (iii) a statement of the probable length of time disability will continue.
- (2) An employee may leave the locality in which the employee was employed only after:
 - (a) complying with Subsection (1); and
 - (b) receiving the written consent of the division.
- (3) If an employee does not comply with this section, compensation may not be allowed during the absence.

Renumbered and Amended by Chapter 375, 1997 General Session