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## Professional Standards and Guidelines Regarding Third-Party Examinations and Reports

This document is a physician **standard** and **guidelines** approved by the Council of the College of Physicians and Surgeons of Nova Scotia.

A **standard** reflects the minimum professional and ethical behavior, conduct or practice expected by the College of Physicians and Surgeons of Nova Scotia. Physicians licensed with the College are required to be familiar with and comply with the College standards.

**Guidelines** contain recommendations endorsed by the College of Physicians and Surgeons of Nova Scotia. The College encourages its members to be familiar with and to follow its guidelines whenever possible and appropriate.

### Preamble

This standard applies to all physicians who prepare third-party reports, or who conduct medical examinations for a third-party report. The standards and guidelines as set out in this document do not limit a physician's [mandatory reporting obligations](#).

For the purposes of this document, the following definitions apply:

- “Third-party report” refers to medical information or a professional opinion, unrelated to the provision of health care, provided by a treating physician or independent medical examiner for the purposes of an external process such as applications for insurance benefits or legal proceedings.
- “Treating physician” is a physician who provides a report about their own patient, with whom they have a treating relationship.
- “Independent medical examiner” is a physician who provides a report about an individual with whom the physician does not have a treating relationship.

- “Examinee” is the individual who is the subject of a third-party report, whether or not in a treating relationship with the physician.

## Professional Standards

Physicians performing third-party examinations are held to the same standard of care as physicians providing patient care.

### 1. Obligation to Provide a Report

Physicians have an obligation to provide accurate information and to be objective when forming a professional opinion. The obligation to provide a report depends on whether the physician has a treating relationship with the examinee.

#### a. Existing treating relationship:

Physicians are obligated to provide reports about their own patients when proper consent is provided by the patient. This includes statutory obligations under the [Nova Scotia Worker’s Compensation Act](#).

#### b. Previous treating relationship:

When an independent medical examiner (IME) is asked to provide a report about a former patient, they must disclose the existence of the previous treating relationship before accepting the request. A treating relationship is not created when an IME conducts an examination for the purposes of preparing a third-party report.

### 2. Consent

Physicians must obtain the examinee’s consent for the disclosure of personal health information to the requesting party and for conducting a medical examination. Physicians must document that this consent has been obtained.

### 3. Communications

Physicians must clearly communicate to the examinee that their primary responsibility is to provide a report to the third-party requesting the report.

Physicians must inform examinees of concerning health findings detected during an examination. These could include unexpected significant clinical findings, conditions that raise serious concerns, or conditions that the physician believes will require essential intervention. The College also recommends that independent medical examiners convey any concerning health findings in writing to the treating physician.

Following a third-party examination, the physician does not meet with the examinee to discuss the report and must advise the examinee that the report is sent directly to the requesting party. Any request from a patient for a copy of the report must be directed to the requesting party.

#### 4. Timelines

When preparing a third-party report, or conducting an examination for a third-party report, physicians must fulfill requests for reports in accordance with reasonable timelines.

### Guidelines

#### 1. Communication to the Examinee

- a. The distinct nature of third-party reports can give rise to claims that the report is biased, especially if the physician is being paid by a third party. Physicians should clearly explain their role as an independent examiner in the report. This should include that:
  - in preparing the report, they are complying with the request or requirements of the requesting party;
  - through the report, they may have to release information that may not be in the patient's or examinee's best interests, or that may prove disadvantageous; and
  - they do not make decisions regarding eligibility for benefits or entitlement to legal remedies.
- b. Effective communication about the physician's role will be particularly important where an existing relationship exists, as patients may be more inclined to confuse the encounter with a typical appointment for medical care.
- c. At a minimum, physicians should ensure the following information is conveyed to the patient:
  - the report will include personal health information which will be disclosed to the requesting party;
  - the personal health information will otherwise be kept confidential unless the physician is permitted or required by law to disclose the information;
  - the consent can be withdrawn at any time (this will prevent the physician from completing and submitting the report); and
  - that examinees are entitled to place limits on the information that physicians can disclose in a report. Patients should be informed that such limitations may prevent the physician from proceeding with the report process. The refusals or limitations should be documented.

## 2. Request for an Observer

Parties may wish to have an observer present during an examination, or may request that the examination be recorded. Any arrangements with respect to observers or recording must be mutually agreeable to the parties involved. If the parties disagree, it is recommended that the examination be postponed until these matters are resolved.

## 3. Litigation

If the request for a report is made in cases where litigation is contemplated or underway, the physician should contact the [Canadian Medical Protective Association](#) as specific requirements may apply.

## 4. Fees

In some instances fees are set out in law. When this is not the case, physicians can adopt their own practices regarding fees.

## 5. Information

All material provided to an independent medical examiner should be reviewed by that independent medical examiner. Independent medical examiners are encouraged to include an index or listing of all information reviewed in preparation of the report. The index or listing should also be included in the examiner's report.

When information is being reviewed where litigation is contemplated or underway, physicians should contact the [Canadian Medical Protective Association](#).

## 6. Scope of Expertise and Knowledge

Physicians should only complete the portions of the report for which they have adequate information and expertise, and should clearly indicate specific reasons why a complete report cannot be provided.

## 7. Retention of Reports, Notes and Documents

Contractual requirements may exist regarding the retention of records associated with an independent medical examination.

Independent medical examiners must comply with any statutory obligations regarding the retention of, and access to reports. Physicians who are uncertain about their statutory obligations should contact the [Canadian Medical Protective Association](#).

## Resources

Government of Nova Scotia:

[Worker's Compensation Act](#)

[Nova Scotia Civil Procedure Rules](#)

[Personal Health Information Act](#)

[Personal Health Information Act \(Collection, Use and Disclosure\)](#)

[Personal Health Information Act \(Consent, Capacity, and Substitute Decision-Makers\)](#)

Canadian Protective Medical Association:

[Independent medical evaluations: be prepared](#)

[Timely responses for reports](#)

## Acknowledgements

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## Document History

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