



GUIDELINE

Medical Examinations by Non-Treating Physicians

STATUS:	APPROVED
Approved by Council:	June 2001
Amended:	September 2016
To be reviewed:	September 2021

This information is designed to aid practitioners in making decisions about appropriate care. This document does not define a standard of care nor should it be interpreted as legal advice. Variations in practice may be warranted based on the needs of the individual patient, resources, and limitations unique to the institution or type of practice.

Purpose

This guideline is intended to serve as an aid to physicians who do NTMEs in the hope that its principles may be helpful and reduce the chance of dissatisfaction with the examination.

Numerous professional activities that resemble NTMEs differ in ways that make it inappropriate to apply all of the principles in this document to them. The document is not intended to address:

A. Occupational health examinations and fitness for work assessments; even though frequently undertaken by non-treating physicians these differ from NTMEs in that:

- disclosure of clinical findings and opinions (regarding prevention, diagnosis, or treatment) to the job candidate or employee is usual and proper, as is appropriate communication with the treating physician;
- disclosure to the employer (as the third party) is usually limited to fitness for job demands, and does not usually include clinical details or opinions;
- occupational health examinations provide a health benefit to the job applicant or employee; for example, education about job hazards, identification of individual risk factors, and assessment of work-related health effects.

Notwithstanding these differences, the principles of disclosure, consent, and conduct of the examination (as outlined in this Guideline) are still applicable.

B. File reviews; these are done without explicit consent from, or direct contact with, the claimant. Such reviews call for extra caution, especially when commenting about the appropriateness of past medical care.

Definition

Unquestionably, IME (Independent Medical Examinations) is familiar terminology in widespread use, not least in credentials issued by certifying agencies (e.g. ABIME, CIME). NTME is cumbersome but is chosen because it says what we mean.

An NTME is a clinical examination performed by a physician for legal, financial, or insurance reasons. The examination commonly includes a review of clinical data (history, physical examination, and test results). The examiner often is required to answer questions concerning diagnosis, impairment, and causal linkage.

One must distinguish a NTME from a medical report to a third party by a patient's treating physician (e.g., driver's medical report). A medical examination by a non-treating physician means that the physician has not been involved in the patient's care previously. Sometimes the physician is mutually acceptable to the third party and to the claimant, being paid equally by those parties, and reporting to both sides. The expectations of the physician will vary according to the purpose and context of the examination, the contractual arrangements involved, and the desires of the claimant, the primary care physician, and others who may wish to utilize the examination results.

The NTME requires the physician to be impartial, ideally through having no prior or current involvement in the claimant's medical care; in other words, separation from the claimant being examined. If there had been a therapeutic relationship in the past, this should be disclosed when contracting to do the NTME. That disclosure might be seen as disqualifying the physician. There also should be no relationship between the physician and the third party except on a fee-for-service basis; where one does exist, it must be declared openly to the claimant and in the report.

The NTME physician should be wholly objective and impartial. This does not mean that the physician is to be professionally "unsympathetic", brusque, or indifferent to the claimant's concerns or complaints. A truly professional physician can be helpful and supportive to the claimant as well as objective and impartial in commenting on such issues as diagnosis, causation, and prognosis.

Potential for Conflict and Dissatisfaction

There often exists, prior to arranging the NTME, an adversarial relationship between the person being examined (also identified as patient, claimant, plaintiff, appellant, individual, complainant) and the lawyer, employer, disability insurer, etc. making the request (the "third party"). In this document, we shall refer to the claimant, the NTME physician, and the third party.

Arranging the NTME

The NTME physician should:

- Provide the third party with clear directions as to the location and appointed time for the NTME. This will be useful to assist the claimant in finding the correct location at the correct time.
- Understand the purpose of the NTME and discuss that understanding with the claimant.

- Confirm with the third party the time lines requested, and the fees and expenses payable and by whom. A fee may be included for cancellation with short notice or no show where there is not an adequate reason.
- Confirm that the third party will pay for any new or repeat testing (lab, x-ray, etc.), if necessary.
- Adhere faithfully to the contractual terms and instructions.
- Never accept a fee where there is an expectation, direct or indirect, that the physician will write a report favourable to the third party in this matter or generally.
- Consider providing a sample consent form so that the claimant can consider it and, perhaps, review it with a lawyer. This will avoid delay at the physician's office.
- In the event that the claimant requests a physician of his/her choice to be present during the NTME, such a request should be granted if possible. The accompanying physician has a passive observational role during the NTME examination. The subsequent reporting role of the accompanying physician, if any, should be clarified prior to the initiation of the NTME. If at any time the accompanying physician disrupts the NTME, the NTME should be terminated, rather than excluding the accompanying physician from the remaining duration of the NTME.
- Disclose to the claimant any significant medical condition requiring treatment that is discovered during the examination, and provide a recommendation that the claimant seek treatment for the condition.
- Provide the claimant access to the medical records, reports prepared or records relating to the examination subject to the same conditions that apply to a patient who seeks access to his/her own medical records.

Informed Consent

Although the third party may have the power to require a NTME. The NTME physician for his/her own protection should obtain fully informed consent to the NTME. In procuring proper informed consent from the claimant for the NTME, it is important to:

- Make reasonable effort to communicate using plain language and in such a way that information exchange is understood. Do not be casual in demeanor or language, and remain professional in the face of strong emotional reactions.
- Give information required for informed consent in both oral and written forms.
- Inform the claimant that consent may be withdrawn at any time prior to completion of the examination.
- Be clear that the claimant understands the nature and extent of the NTME physician's responsibility to report to the third party.
- Answer the claimant's questions, including those about the physician's role in NTMEs, the consent process, and the procedure for reporting the findings and opinions. But do not engage in discussion about correctness of diagnosis, adequacy of care, prognosis, etc.
- Describe in general terms the medical questions to be explored and body systems to be examined and the reasons for them.
- Clearly declare qualifications (training, credentials) and perform NTMEs only within one's area of expertise. Many medical conditions cross specialty lines; thus the examining physician may be asked to explain his/her role, especially when dealing with subjects that may not appear to be within his/her specialty.

- Clarify that the NTME is occurring at the request of a third party and identify that person or agency.
- Notify the claimant that he/she generally has no direct right to a copy of the report from the physician. It may, however, be obtained directly from the third party who owns it. If the claimant's lawyer obtains the NTME, the claimant owns the report, but should obtain it from the lawyer, not directly from the NTME physician.
- Explain that the claimant may or may not agree with the report's contents and/or recommendations. The NTME physician may wish to clarify that he/she does not control the manner in which the report may be used.
- Indicate that the contents of the report may be used to formulate decisions about overall disability, rehabilitation, benefits, or disposition of the claim, but that the NTME physician's opinion is only one part of the information upon which the third party will assess the claim.
- No ongoing or therapeutic patient/doctor relationship will be established and no involvement in medical care of the claimant will result. Do not purport to be an independent examiner and the claimant's treating physician as well. (It might be acceptable to treat the individual in the distant future for an unrelated condition or, in extraordinary circumstances, for the same condition on referral by the claimant's treating physician.)
- It is permissible to do NTMEs for more than one third party on the same individual, again provided that this is disclosed at the time of being recruited. Exercise caution so as not to act for parties with competing interests.

Sample consent forms are attached (Appendices A to I).

Conduct of NTME

- Introduce oneself to the claimant. This is extremely important.
- Consider first the well-being of the claimant. Avoid roughness or abrasiveness.
- Review the entire person; maintain objectivity and do not focus only on the injury/disability. An underlying general medical condition may put the presenting problem in an entirely different perspective.
- Offer appropriate time, comfort, and privacy. Allow, or sometimes insist on, a chaperone. Employ proper gowns and draping.
- Children, if brought along, should have a caregiver so that the NTME can occur in an atmosphere that is quiet and stress-free for both the claimant and the NTME physician.
- Treat all claimants with respect. Avoid demeaning or judgmental comments. Allow the claimant to tell his/her story.
- Audiotape, videotape, images or recordings should be used.
- The claimant may wish to purchase a copy, or to make his/her own audiotape and/or videotape of the NTME. It is permissible, but not mandatory, to agree to such requests.

Termination of the NTME

The physician must terminate the NTME before completion, in the following circumstances:

- The claimant's refusal to provide consent.

- The claimant’s withdrawal of consent previously provided.

It is reasonable, and may be best for all concerned, for the physician to terminate or at least interrupt the NTME before completion, in the following circumstances:

- The claimant’s expression of undue emotional discomfort during the NTME.
- The claimant’s lack of cooperation, perceived sexual behaviour, extreme rudeness or aggressive behaviour, bribery, or coercion before or during the NTME.

In these four circumstances the NTME physician should notify the third party and discuss appropriate billing for work done and time committed. Some form of report should follow in writing.

Documentation

- The NTME physician should retain the records in compliance with the appropriate bylaws.

Report

- The report should be completed as soon as feasible after all necessary information is available. Specific timelines should be included in the contract. The third party should be alerted to necessary delays if they arise.
- Provide relevant qualifications. These may simply be shown on the letterhead or in an appendix to the report.
- Limitations concerning availability of information or extent of examination should be noted in the report to the third party. The manner and degree to which this limits the NTME physician’s ability to form supportable opinions should be stated clearly in the report. Note information sources missing, unavailable, withheld, or outdated.
- Acknowledge source of request for NTME or referral of claimant. Indicate purpose(s) of the NTME.
- Review history—present, past, psychosocial (if relevant), and occupational. Respect the claimant’s request to withhold sensitive personal information if irrelevant (e.g., if there were elective abortions in past not relevant to “whiplash”).
- May choose to dictate history and examination in presence of claimant. If that is done, it should be noted in the report. Record positive and negative physical findings. Document how measurements were done, and draw comparisons with any prior measurements on record.
- Do not disparage other professionals (physicians or non-physicians) or their opinions on a personal level, but explain why one’s opinion differs from that of another professional.
- Summarize additional investigations or information obtained or required.
- Conclude with formulation and opinion with recommendations as requested re: diagnosis, causation, impairment, disability profile, prognosis with/without interventions, medical restrictions, and further treatment recommendations, with time frames as appropriate. Impairment is a medical determination of measurable loss of function in an organ system. Disability includes non-medical considerations as well as medical, and may be defined on a legal contractual basis.
- State the clinical criteria used in arriving at the diagnosis.

- Do not offer an opinion as to continuation or termination of claim benefits/payments. That decision must be made by the third party.
- If a significant medical condition requiring treatment is found, the NTME physician is responsible to ensure its disclosure to the claimant, with a recommendation to seek treatment.
- Any opinion should be supported by best scientific evidence whenever possible and not based on the NTME physician's personal belief systems alone. Where there is more than one school of thought on an issue, that should be acknowledged and the NTME physician should indicate the reasons for his/her viewpoint. Likewise, a NTME physician who holds a view that would be seen as a "minority" opinion should openly acknowledge that.

Two formats (long and short) for reporting, based upon samples (somewhat modified) provided by the WCB, are attached (Appendices J and K). The short format will probably be sufficient for most non-WCB assessments.

Appendix A - Acknowledgement of Purpose of Medical Examination by Non-Treating Physician

Date: _____

Examinee Name: _____

Requesting Third Party: _____

You have been asked to see Dr. _____ for a "**medical examination by a non-treating physician**". You should be aware of two important points regarding this examination:

1. This appointment will be for a medical history and physical examination **only**. No treatment, including prescribing of medications or referrals to physicians or other health care professionals will be made. As such, the traditional physician/patient relationship does not exist.
2. Dr. _____'s report will be provided by him/her **only** to the requesting third party indicated above. A copy of the report may be available to you from the requesting third party.

After you have read the following statement, please sign your name below.

"I understand that the purpose of the examination is evaluation only, and no treatment is undertaken. I further understand that the claimant requesting and paying for the assessment will receive any report that results, including the personal information obtained by the examining physician. I realize that no traditional physician/patient relationship is established during the course of this assessment."

Signature: _____ Date: _____

Witness: _____ Date: _____

Appendix B - Consent to Obtain Patient Information

I, _____ hereby authorize _____
(print examinee's name) (specify name of person/agency/facility)

to release the following information (state exact form, extent, and nature of information required, including specific time periods if available)

to Dr. _____.

I understand the information obtained will not be released by _____
(specify name of person/agency/facility)

to any other party without further consent unless release is required by the courts or by statutory obligation.

Examinee's Signature _____

Date of Birth: _____
(Month/Day/Year)

Today's Date _____
(consent good for ten weeks unless otherwise specified)

Witness: _____ Date: _____

Signature of parent, guardian
or authorized representative
(if examinee is legally unable to sign or a minor)

Relationship to examinee

Address of Guardian _____ Date _____

Witness: _____ Date: _____

Appendix C - Consent to Release Patient Information

I, _____ hereby authorize _____
(print examinee's name) *(specify name of person/agency/facility)*

to release to _____
(specify name of person/agency/facility)

the following information (state exact form, extent, and nature of information required, including specific time periods if available):

I understand the information being requested for release shall only be made available to the party named above. Should release be requested for any other party, further authorization will be required for such release, unless release is required by the Courts or by statutory obligation.

Examinee's Signature _____

Date of Birth: _____
(Month/Day/Year)

Today's Date _____
(consent good for ten weeks unless otherwise specified)

Witness: _____ Date: _____

Signature of parent, guardian,
or authorized representative
(if examinee is legally unable to sign or a minor)

Relationship to examinee

Address of Guardian _____ Date _____

Witness: _____ Date: _____

Appendix D - Consent for Photography

I, _____
(print name)

hereby authorize _____
(specify name of person/agency/facility)

to take photograph(s), which will only be used for the purposes of record identification and to document clinical status and progress.

Signature: _____ Date: _____

Witness: _____ Date: _____

Appendix E - Information Concerning Referral for Medical Examination by Non-Treating Physician

Date: _____ Fax: _____

To: _____ Attn.: _____

Thank you for referring _____ for the purpose of a medical examination by a non-treating physician and report. A consultation appointment has been set aside with

Dr. _____ on _____.

Please ensure that the examinee has been notified of the following:

- **Our correct office address along with appointment date and time.**
- _____ **working days' notice required for cancellation of appointment.**
- **Failure to appear without adequate notice will result in a cancellation/no show fee of \$_____.**
- **Parking available _____.**
- **Public washrooms located _____.**
- **Please do not bring young children to the office, (unless accompanied by a caregiver). Childcare facilities are not available in our office.**
- **PLEASE SEE ATTACHED INFORMATION RE: STANDARD CONSENT FORM**
Please mail, fax (not over ten (10) pages) or send via courier service any pertinent documentation on the claimant to our office. Our office hours are _____.

Please find attached for your convenience a map that may be of assistance to you and to the claimant.

Should you have any questions, please contact the undersigned at _____.

Yours truly,

Material:

Waiting: _____

Received: _____

Appendix F

Date: _____

RE: Medical Examination by Non-Treating Physician

Please find enclosed a sample copy of the standard Consent form that is to be completed and signed by the examinee, **in my office, at the time of the medical examination by a non-treating physician.**

Please note a written Consent form is mandatory without exception. A medical examination by a non-treating physician will not under any circumstances proceed without a written Consent form willingly signed by the examinee.

The examinee and his/her legal advisor(s) should be made aware of this requirement and be willing to proceed under these circumstances.

It is the responsibility of my office staff and subsequently me, to explain to the examinee the circumstances and ethics of a medical examination by a non-treating physician and report so that the examinee fully understands this mandatory Consent form and the examination process.

The sample copy of the Consent form may be sent to the examinee's advisor(s) for their information. It should be understood that this Consent form is to be completed and signed by the examinee, **in my office, in an unaltered form**, after the appropriate explanations are given.

Yours truly,

Appendix G - Authorization of Release (Consent)

I, _____ hereby consent to history taking and physical examination by Dr. _____. I understand a report on this medical examination by a non-treating physician will be sent to the referring third party.

I authorize Dr. _____ to obtain and review all relevant imaging films (including plain x-rays, MRI film, CT scans), imaging reports, hospital records, reports of laboratory investigations, other functional assessments including nerve conduction studies, physical therapy reports, and functional capacity evaluations for use in preparation of this medical examination and report.

I authorize Dr. _____ to release all information pertinent to the opinions and conclusions of my report to:

Name of Referring Third Party: _____

Name of Representative: _____

Name of Examinee (Please Print) _____

Examinee's Date of Birth _____

Signature of Examinee _____

Dated at the City of _____ in the Province of Saskatchewan this _____ day of _____, _____.

Name of Witness _____

Signature of Witness _____

Date: _____

Appendix H - Authorization for Release (Consent) Where Translation was Required

Our File No. _____

I, _____ hereby consent to history taking and physical examination by Dr. _____. I understand a report on this medical examination by a non-treating physician will be sent to the referring third party.

I authorize Dr. _____ to obtain and review all relevant x-ray films (including MRI film, CT scans), x-ray reports, and hospital records (including OR report, Nerve Conduction Studies) for use in preparation and reporting of this medical examination and report.

I authorize Dr. _____ to release all medical information acquired from my medical examination to:

Name of Referring Third Party: _____

Name of Representative: _____

Name of Examinee (Please Print) _____

Examinee's Date of Birth _____

Signature of Examinee _____

Dated at the City of _____ in the Province of Saskatchewan this _____ day of _____, _____.

Name of Witness _____

Signature of Witness _____

Date: _____

Explained to: _____

By Me: _____

This _____ day of _____, _____

Appendix I - Authorization for Release (Consent) For Minor by Parent or Guardian

I, _____ hereby consent to history taking and physical examination by Dr. _____ of my son/daughter. I understand a report on this medical examination by a non-treating physician will be sent to the referring third party.

I authorize Dr. _____ to obtain and review all relevant x-ray films (including MRI film, CT scans), x-ray reports, and hospital records (including OR report, Nerve Conduction Studies) for use in preparation and reporting of this medical examination and report on my son/daughter.

I authorize Dr. _____ to release all medical information acquired from my son's/daughter's medical examination to:

Name of Referring Third Party: _____

Name of Representative: _____

Name of Parent or Guardian (Please Print) _____

Signature of Parent or Guardian _____

Date of Birth of Examinee _____

Dated at the City of _____ in the Province of Saskatchewan this _____ day of _____, _____.

Name of Witness _____

Signature of Witness _____

Date: _____

Explained to: _____

By Me: _____

This _____ day of _____, _____

Appendix J - Standard Long Format for NTMEs

1. Issue Statement

The examiner should make a statement about the purpose of the examination and what information is expected to be obtained from the examination.

2. History of Problem—From the Claimant and Information on File

- Date of onset.
- Specify details of complaints and findings as recorded.
- History of previous problem of same nature or conditions that may impact on problem or recovery.

3. Medical History

The examiner should provide a history of any significant medical conditions. He should also include a family and psychosocial history.

4. Vocational History

History of work tasks, toxic exposures, etc., which have occurred in employment (e.g., noise, chemicals, temperature, repetitive movements, etc.).

5. History of Non-Vocational Activities

Describe the examinee's domestic, social, and recreational activities and how they may affect and how these are affected by the present problem.

6. Current Status

A description of the examinee's present complaints and perception of disability should be recorded. If these have changed since previous examination, the changes should be noted. Note what factors aggravate symptoms and what factors result in relief of symptoms. Record the examinee's assessment of his/her own current functional status.

7. Clinical Synopsis

There should be a review of all consultations, investigations, and treatments. Record the examinee's perception of their response to treatment.

8. Examination

a. General

- Record observations regarding the ability of the examinee to move about.
- Comment regarding state of relaxation, cooperation.
- Comment regarding examinee's willingness to perform the functions.

b. Specifics regarding the injured part.

- Record findings on inspection, palpation, movement, etc. Describe the aesthetic appearance of the injured part. The functional impairment should be accurately and completely recorded to reflect the examiner's findings.
- Record changes from previously recorded examinations.
- Findings must be recorded as measured clinical results, not percentage of disability. Measurements of the degree of function of assessable joints, observations regarding atrophy, weakness, dysesthesia, reflexes, etc. should be recorded. These measurements must be taken bilaterally to be consistent with AMA guidelines.

- The examiner should state whether he/she believes there is a close correlation between the measured impairment and the claimant’s claimed disability.
- Record any opinion regarding the claimant’s behavior during the examination.
- Forms are available for upper extremity, lower extremity, hand and knees, cervical, thoracic, and lumbar spines and they should be used.

9. Statement of Validity of Examination

A statement as to the validity of the examination should be made cautiously. If the examiner feels that the examination is not valid he/she should say why. Any unexpected abnormal findings should be explained. This includes findings worse than would be expected given the injury and abnormal findings on a supposedly normal side. It also includes abnormal findings for which there is no organic or anatomical basis.

10. Summary

An accurate diagnosis should be given. Its relationship to the mechanism of injury or pre-existing/co-existing conditions should be stated. The prognosis for recovery and/or anticipated maximal medical improvement should be stated.

11. Capability/Restrictions

If requested, fitness recommendations should be given. These should be reported using the standard format:

- Fit without restriction.
- Fit with restriction(s) and/or modification(s) (list in detail and give estimated date of expiry of restrictions/modifications if temporary).
- Totally unfit temporarily (provide data for reassessment).
- Totally unfit permanently.

12. Impairment Rating if Requested

Only rarely will assessment of impairment be requested, e.g., cosmetic awards. The current guidelines should be used.

13. Causation

If assessment of causation is requested, current guidelines should be used.

14. Recommendations

Any recommendations the examiner may have with respect to further management including investigations and treatments, etc. should be stated. Any comments the examiner may have with respect to previous investigations and treatments, etc. should also be stated.

15. Questions

If questions have been posed in the request for examination, it is imperative that all questions be answered. If the question cannot be answered, it is important to express this, and if possible, explain the reasoning for inability to answer the question. In instances where the answer is not definite, the response is usually expressed as a level of probability. For example, highly probable, probable, likely, or possible. The question should be answered in language that can be clearly understood by the lay public.

Appendix K - Standard Short Format for NTMEs

1. Issue statement—purpose for examination.
2. History of injury
 - mechanism of injury
 - previous history of injury to same part of body
 - progress that includes review of consultations, investigations, and treatment as well as response to treatment
3. Medical history—family and psychosocial
4. Occupational history
5. History of non-occupational activities—social, domestic, recreational
6. Current status—present complaints and examinee’s perception of disability
7. Examination
 - general
 - injured part (bilateral)
8. Statement of validity of examination findings and explanation of abnormal findings
9. Conclusions
 - diagnosis
 - causation
 - prognosis
 - maximal medical improvement
10. Capability/restrictions—impact of injury on ability to engage in _____. (It may be useful to describe specific physical or psychological restrictions.)
11. Impairment
12. Recommendations regarding further management