

Notice of Agency Rulemaking Proposal

AGENCY: Workers' Compensation Board

CHAPTER NUMBER AND TITLE: Chapter 4 Independent Medical Examiner

TYPE OF RULE (*check one*): ☒ Routine Technical ☐ Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: This rule adds an additional performance criteria for independent medical examiners which requires examiners that examiners provide independent, impartial, and objective medical findings in cases assigned to them.

Date, time and location of PUBLIC HEARING (*if any*): Thursday, October 5, 2023 at 10:00. To be held at 442 Civic Center Drive, Suite 100 in Augusta and via Zoom Meeting ID: 817 6051 1136 Passcode: 36146935
<https://mainestate.zoom.us/j/81760511136?pwd=VEI4S3plTDNsN0thSGdxZ0laT2NJUT09>

COMMENT DEADLINE: Oral - October 5, 2023, written October 13, 2023

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*):
 Richard Hewes, 27 State House Station, Augusta, ME 04333-0027, 207-287-7086 (phone), 207-287-7198 (fax),
richard.hewes@maine.gov, TTY is 711

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*):

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None

STATUTORY AUTHORITY FOR THIS RULE: 39-A M.R.S.A. § 312

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*):

AGENCY WEBSITE: www.maine.gov/wcb

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Richard.hewes@maine.gov

* Check one of the following two boxes.

☒ The summary provided above is for publication in both the newspaper and website notices.

☐ The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rulemaking notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____
 (authorized signature)

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
014	90C	0183	01	4946				

Notice of Agency Rulemaking Proposal

Additional Information for the Web *(if any)*

DETAILED SUMMARY:

The proposed rule adds a performance criteria and will emphasize to the independent medical examiners the importance of providing impartial and objective reports in cases assigned to them.

Notice of Agency Rulemaking Proposal

Additional Information for the Web

DETAILED SUMMARY: The proposed rule adds a performance criteria and will emphasize to the independent medical examiners the importance of providing impartial and objective reports in cases assigned to them.

Explain why this rule is being proposed and how it will operate. See Title 5 §8053 sub-§3 ¶D: "If possible, contain the express terms of the proposed rule or otherwise describe the substance of the proposed rule, stating the subjects and issues involved and indicate where a copy of the proposed rule may be obtained."

Rulemaking Fact Sheet

(5 MRS §8057-A)

AGENCY: Workers' Compensation Board

NAME, ADDRESS, PHONE NUMBER, EMAIL OF AGENCY CONTACT PERSON:

Richard Hewes, 27 State House Station, Augusta, ME 04333-0027, 207-287-7086 (phone), 207-287-7198 (fax), richard.hewes@maine.gov,

CHAPTER NUMBER AND RULE TITLE: Chapter 4 Independent Medical Examiner

TYPE OF RULE (*check one*): ☒ Routine Technical ☐ Major Substantive

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COMMENT DEADLINE: Oral – October 5, 2023, written – October 13, 2023

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

To emphasize the importance of independence when acting as an independent medical examiner.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ____YES XNO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

The new criteria will be applied during the Board's annual review of the performance of independent medical examiners.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [*see* §§8057-A(1)(E) & 8063-B]

The primary sources of information relied upon by the Board were: 1) Information received from representatives of employees, employers, and insurers; and 2) professional judgement.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)] None

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
[*see* §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED
AND HOW THEY WILL BE AFFECTED: [*see* §8057-A(2)(B)]

BENEFITS OF THE RULE: [*see* §8057-A(2)(C)]

Note: If necessary, additional pages may be used.

Administrative Procedure Act

CHECKLIST

Agency: Workers' Compensation Board

Chapter Number and Title of Rule: Chapter 4 Independent Medical Examiner

PROPOSED RULE:

1. Was this rule listed on the last regulatory agenda? Yes
2. Date of notification of: Anyone on mailing list: will send out once after SoS packet is accepted and will be posted on agency website

Any trade, industry or professional group N/A

Any trade publications N/A
3. Date Notice of Rulemaking Proposal (MAPA-3) sent to Secretary of State: 9-5-23
4. Date Fact Sheet sent to Executive Director of Legislative Council: 9-5-23
5. Date of publication in Secretary of State's rulemaking ad.: 9-13-23
6. Date of hearing(s): 10-5-23 7. Comment deadline: Oral – 10-5-23, written 10-13-23

ADOPTED RULE:

8. Was comment deadline extended or comment period reopened? _____
If yes, date of second notice publication in Secretary of State's rulemaking ad: _____
9. Is adopted rule consistent with what was proposed? _____
(If not, please address the changes in the comments and responses section of your filing.)
10. Is the person signing the Certification Statement (MAPA-1, #9) authorized to do so as stated in your statutes or in 5 MRSA, c.71? _____
11. Was the rule adopted within 120 days of the comment deadline? _____
12. Was the rule approved and signed by the Office of the Attorney General within 150 days of the comment deadline? _____
13. Is a Basis Statement included? _____ Is a copy of the Fact Sheet included? _____
Are comments, with names and organizations, and your responses included? _____

Rulemaking Cover Sheet

MAPA-1

TO: Secretary of State
ATTN: Administrative Procedure Officer,
State House Station 101, Augusta, Maine 04333.

1. **Agency:** Workers' Compensation Board
2. **Agency umbrella and unit number:** 90-351
(2 digit umbrella # and 3 digit unit #)
3. **Title of rule:** Independent Medical Examiner
4. **Chapter number assigned to the rule:** 4
(must be 3 digits or less)
5. **Date(s)/method(s) of notice:** SoS submittal, agency mailing list and website
6. **Date(s)/place(s) of hearing(s):** 10-5-23 at WCB Augusta Central Office and via Zoom
7. **Type:** ☐ new rule ☒ partial amendment(s) of existing rule
☐ suspension of existing rule ☐ repeal of rule ☐ emergency rule
☐ repeal and replace: complete replacement of existing chapter, with former version simultaneously repealed.
8. **Name/phone of agency contact person:** Richard Hewes 207-287-7086
9. **If a major substantive rule under Title 5, c. 375, sub-CII-A, check one of the following**
☐ **Provisional adoption** ☐ **Final adoption**
(prior to Legislative review)
☐ **emergency adoption of major-substantive rule**

10. **Certification Statement:** I, _____ hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by _____ on _____.
(name of agency) (date)

I further certify that all portions of this rule are adopted in compliance with the requirements of the Maine Administrative Procedure Act.

Signature: _____
(original signature, personally signed by the head of agency)

Printed name & title: _____

11. **Approved as to form and legality by the Attorney General on** _____
(date)

Signature _____
(original signature, personally signed by an Assistant Attorney General)

Printed Name: _____

Notice of Agency Rulemaking Adoption

AGENCY:

CHAPTER NUMBER AND TITLE:

ADOPTED RULE NUMBER: **20xx.xxx**
(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY

EFFECTIVE DATE:
(TO BE FILLED IN BY SECRETARY OF STATE)

AGENCY CONTACT PERSON:
AGENCY NAME:
ADDRESS:

TELEPHONE: