

California Workers' Compensation Qualified Medical Evaluator (QME) Panel Process: Legal Analysis and Practitioner's Guide

(PART-A INJURED WORKERS ANALYSIS)

February 28, 2026

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CALIFORNIA WORKERS' COMPENSATION: UNDERSTANDING THE QUALIFIED MEDICAL EVALUATOR (QME) PANEL PROCESS

This guide explains how the QME panel process works in California workers' compensation cases. If you were injured at work and you disagree with your employer or their insurance company about your medical condition, this process may determine the outcome of your claim.

Part 1: What Is the QME Panel Process?

This section explains what a QME is and why this process matters to your workers' compensation claim.

What Is a QME?

A Qualified Medical Evaluator (QME) is a doctor certified by the State of California to examine injured workers and write medical reports that help resolve disagreements in workers' compensation cases. The QME is not your personal doctor and does not provide treatment. Instead, the QME acts as a neutral evaluator — meaning they do not work for you or your employer. Their job is to give an honest, independent medical opinion about your injury.

The Division of Workers' Compensation (DWC) Medical Unit manages the QME certification program and keeps a database of all certified evaluators in California. When you or the insurance company requests an evaluation, the DWC randomly selects three doctors and sends their names to both sides. This group of three doctors is called a QME panel. The process for choosing a doctor from that panel depends on whether you have a lawyer. [DWC Qualified Medical Evaluator Process \(https://www.dir.ca.gov/dwc/MedicalUnit/QualificationForQME.html\)](https://www.dir.ca.gov/dwc/MedicalUnit/QualificationForQME.html)

Why the QME Process Matters

The QME's report can be the single most important piece of evidence in your case. The report may decide whether your claim is accepted or denied, how much disability you have, and what future medical treatment you can receive. The QME report often carries more weight in hearings than your treating doctor's opinion. [Pacific Workers' Law - Complete Guide to QMEs \(https://www.pacificworkers.com/blog/2025/july/complete-guide-to-qmes-in-ca-workers-comp-cases/\)](https://www.pacificworkers.com/blog/2025/july/complete-guide-to-qmes-in-ca-workers-comp-cases/)

When Is a QME Panel Needed?

You may need a QME panel when there is a disagreement about:

- Whether your injury is work-related — The insurance company denies your claim or says it needs more time to investigate.
- How much permanent disability you have — You and the insurance company disagree about how seriously your injury limits your ability to work.
- Medical treatment — The insurance company disagrees with your doctor about what treatment you need, whether you have reached maximum medical improvement (MMI) (the point where your condition will not get better with more treatment), or what work restrictions you have.

Important: The outcome of the QME evaluation depends mainly on your medical records and how honestly and consistently you describe your injury. You cannot "win" through legal arguments alone — you influence the outcome through good preparation and accurate information.

Part 2: The Laws That Control the QME Process

This section covers the main California laws and regulations that create and govern the QME panel system.

Key Statutes in the California Labor Code

Several sections of the California Labor Code set the rules for QME panels. Each section applies to a different type of medical disagreement.

- Cal. Lab. Code § 4060 (<https://dclbv.com/newsletters/2021/q1/medical-legal-and-panel-refresher/>) — Covers disputes about whether your injury is compensable (meaning whether it happened because of your job). When the insurance company denies your claim or delays a decision, either side can request a QME panel.
- Cal. Lab. Code § 4061 (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74061-permanent-disability-disputes-workers-comp/>) — Covers disputes about permanent disability or whether you have reached MMI. Your employer must give you a written notice about permanent disability benefits at the end of your temporary disability payments.
- Cal. Lab. Code § 4062 (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74062-objections-to-medical-determinations/>) — Covers other medical disputes not addressed by §4060 or §4061, such as whether a specific treatment is necessary or whether you need work restrictions. Either party must put the objection in writing.
- Cal. Lab. Code § 4062.1 (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74062-1-panel-qme-process-unrepresented-workers/>) — Sets the rules for unrepresented workers (workers without a lawyer). If no agreement is reached within 10 days of a written objection, either party may request a three-member QME panel.
- Cal. Lab. Code § 4062.2 (<https://calawyers.org/workers-compensation/a-recommended-approach-to-romero-lc-4062-1-and-4062-2/>) — Sets the rules for represented workers (workers with a lawyer). This section allows parties to agree on a single doctor called an Agreed Medical Evaluator (AME), which bypasses the random panel system entirely.

Key Regulations

The California Code of Regulations (CCR), Title 8 fills in the details of how the QME process works day-to-day:

- 8 CCR § 11 (<https://www.dir.ca.gov/t8/11.html>) and 8 CCR § 11.5 (https://www.dir.ca.gov/t8/11_5.html) — Set the qualifications a doctor must have to become a certified QME, including licensing, specialty training, report-writing courses, a competency exam, and anti-bias training.
- 8 CCR § 30 (<https://www.dir.ca.gov/t8/30.html>) — Describes how to request a QME panel, which forms to use, and how the DWC processes requests.
- 8 CCR § 33 (<https://www.dir.ca.gov/t8/33.html>) — Allows a QME to declare themselves unavailable for up to 120 days per year for reasons like medical emergencies or scheduling overload.
- 8 CCR § 35.5 (<https://www.law.cornell.edu/regulations/california/8-CCR-35.5>) — Requires QME reports to follow specific formatting guidelines and include verification under penalty of perjury.
- 8 CCR § 46.3 (https://www.dir.ca.gov/t8/46_3.html) — Allows QME evaluations by video (telehealth) when all parties agree in writing and a hands-on physical exam is not needed.

Part 3: Important Court Decisions

This section explains court rulings that affect how the QME process works in practice.

Changing from Unrepresented to Represented Status

Nelly Romero v. Costco Wholesale Corp., 72 Cal. Comp. Cases 824 (WCAB 2007), established an important rule: when a worker who started without a lawyer later hires one, the process switches from Cal. Lab. Code § 4062.1 to § 4062.2. This may allow the worker to request a new panel in a different medical specialty, as long as the worker has not yet attended a QME examination and the § 4062.2 procedures are properly followed. However, you cannot simply change specialties just because you hired a lawyer — you must follow the correct steps. California Attorneys Association - Recommended Approach to Romero (<https://calawyers.org/workers-compensation/a-recommended-approach-to-romero-lc-4062-1-and-4062-2/>)

Resolving Specialty Disputes

Two decisions changed how disagreements about what type of doctor should serve as QME are handled:

- *Portner v. Costco, Liberty Mut. Ins. Co.*, Cal. Wrk. Comp. P.D. LEXIS 499 (WCAB 2016), said that specialty disputes must go to the Medical Director (the state official who oversees the QME program) before going to a judge. This caused significant delays because the Medical Unit had a backlog of several months.
- *Porcello v. State Department of Corrections & Rehabilitation*, Cal. Wrk. Comp. P.D. LEXIS 9 (WCAB 2020), overruled the absolute requirement to go through the Medical Director first. It held that a Workers'

Compensation Administrative Law Judge (WCJ) — the judge who hears workers' compensation cases — has full authority to decide specialty disputes during case proceedings. This can speed up your case. DCLBV - Requesting a Trial for QME Panel Dispute (<https://dclbv.com/newsletters/2020/q2/requesting-a-trial-for-qme-panel-dispute/>)

QME Disqualification and Report Challenges

Byers v. Sonsray Machinery (WCAB panel decision) confirmed that challenging a QME's qualifications or asking to remove them is difficult. You must provide strong evidence, and late objections hurt your credibility. The QME's detailed findings carry significant weight. RjY Law - Key Defense Strategies for Challenging QME Disqualification (<https://www.rjylaw.com/wcab-decision-highlights-key-defense-strategies-for-challenging-qme-disqualification/>)

Evidence and Discovery Rules

DPR Construction v. WCAB (McClanahan), 111 Cal. App. 5th 1136 (2025), made clear that evidence not disclosed in the pretrial conference statement (a document listing all evidence before trial) cannot be used at trial unless you prove it was truly unavailable despite your best efforts. This rule is strictly enforced. Sullivan & Associates - 3rd DCA Clarifies Credibility Standards (<https://www.sullivanattorneys.com/blog/3rd-dca-clarifies-credibility-standards-discovery-rules>)

Expert Testimony Standard

As of January 1, 2024, Cal. Evid. Code § 801.1 (<https://www.wshblaw.com/publication-california-enacts-strict-standard-for-expert-medical-testimony>) requires that medical expert opinions about causation — including QME opinions — must meet the reasonable degree of medical probability standard. This means the doctor must conclude that their opinion is "more likely than not" correct.

Part 4: The QME Process If You Do Not Have a Lawyer

This section provides a step-by-step guide for unrepresented injured workers going through the QME panel process.

Step 1: Recognize the Dispute (Days 1–5)

When the insurance company denies your claim, delays a decision, disputes your disability rating, or objects to your doctor's treatment recommendation, the dispute must be communicated in writing. For permanent disability disputes under Cal. Lab. Code § 4061, your employer must give you written notice with your final temporary disability payment. Employees First Labor Law - Labor Code §4061 (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74061-permanent-disability-disputes-workers-comp/>)

Step 2: Request a Panel (Days 6–20)

Either you or the insurance company submits QME Form 105 (Request for QME Panel – Unrepresented Worker) to the DWC Medical Unit within 10 days after the employer provides the form to you. The form must list the body part(s) in dispute and the type of doctor (specialty) you are requesting. DWC Forms (<https://www.dir.ca.gov/dwc/forms.html>)

Step 3: Receive the Panel (Days 21–30)

The DWC randomly selects three certified QMEs in your area and sends you Form 107 — the panel list — within 20 working days. The form includes each doctor's name, address, phone number, specialty, and office hours. 8 CCR § 107 (<https://www.dir.ca.gov/t8/107.html>)

Step 4: Choose a Doctor (Days 31–40)

You have 10 working days from receiving the panel to:

1. Pick one doctor from the list of three.
2. Call that doctor's office to schedule an appointment.
3. Notify the insurance company of your choice and appointment date.

Critical: If you do not notify the insurance company within 10 working days, they can choose a doctor from the remaining panel members. Do not miss this deadline.

Step 5: Schedule the Appointment (Days 41–60)

The QME's office will schedule your exam. The doctor must offer an appointment within 90 days of your initial request (or 120 days if both sides agree to an extension). If the doctor cannot see you within 90 days, you may request a replacement panel using Form 31.5. 8 CCR § 108 - QME Panel Selection Instructions (<https://www.dir.ca.gov/t8/108.html>)

Step 6: Send Medical Records (Days 61–80)

You must provide all relevant medical records to the QME at least 20 days before the exam date. Send copies to the insurance company at the same time. Include:

- Emergency room records
- All treating doctor reports
- Diagnostic tests (X-rays, MRIs, lab results)
- Physical therapy records
- A description of your job duties

DWC Medical Unit - FAQs About QMEs (<https://www.dir.ca.gov/dwc/medicalunit/faqiw.html>)

Step 7: Attend the Examination (Days 81–110)

Bring your ID and any documents the QME's office requested. The exam usually takes 1–3 hours. The doctor will examine you, review your records, and ask detailed questions about your injury, symptoms, and daily activities. Be honest and consistent. Do not discuss legal matters or settlement during the exam. Pacific Workers' Law - Complete Guide to QMEs (<https://www.pacificworkers.com/blog/2025/july/complete-guide-to-qmes-in-ca-workers-comp-cases/>)

Step 8: Receive and Review the Report (Days 111–140)

The QME must issue a report within 30 calendar days of the exam (with possible 15-day extension for good cause). Review it carefully for factual errors. If you find mistakes, you have 30 days to request a correction using Form 37 (<https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm37.pdf>).

Note: Form 37 corrects factual errors only (such as a wrong injury date or incorrect job description). You cannot use it to challenge the doctor's medical opinions.

Part 5: The QME Process If You Have a Lawyer

This section covers the different rules that apply when a lawyer represents you.

The Key Difference: You May Choose an AME

The most important advantage of having a lawyer is the option to negotiate for an Agreed Medical Evaluator (AME). An AME is a single doctor that both you and the insurance company agree to use, instead of going through the random panel process. This gives both sides more control over which doctor evaluates your case. Sound Medical Evaluations - AME in California (<https://www.soundmedeval.com/agreed-medical-evaluations/>)

Step 1: Issue a Written Objection (Days 1–20)

When a dispute arises, the party raising it must communicate the objection in writing by mail. For represented workers under Cal. Lab. Code § 4062.2, the timing of all deadlines is calculated from the mailing date of the objection, not the date it is received. California Attorneys Association - Recommended Approach to Romero (<https://calawyers.org/workers-compensation/a-recommended-approach-to-romero-lc-4062-1-and-4062-2/>)

Step 2: Negotiate for an AME (Days 21–30)

After the objection is mailed, both sides have 10 days to try to agree on an AME. Your lawyer and the insurance company's lawyer may propose doctors they trust to be fair. If both sides agree, you skip the panel process entirely.

Step 3: Request a Panel If No AME Agreement (Days 31–35)

If no AME agreement is reached, either side may request a panel no earlier than the first working day that is at least 10 days after the objection was mailed. For injuries after January 1, 2005, the request must be submitted electronically through the DWC online system. Within one working day of generating the panel, the

requesting party must print it and serve a copy on the other side. 8 CCR § 30 (<https://www.dir.ca.gov/t8/30.html>)

Step 4: Strike One Doctor Each (Days 36–45)

Unlike the unrepresented process where only you choose, the represented process uses a strike system. Each side removes one name from the panel within 10 days of receiving it. The remaining doctor becomes your QME.

Step 5: Schedule, Prepare, and Attend (Days 46–110)

Your lawyer will handle scheduling and record submission. Both parties must provide medical records to the QME at least 20 days before the exam. The other side has 10 days to object to any non-medical records (such as personal letters or employment documents). Your lawyer should meet with you before the exam to prepare you. DWC Medical Unit - FAQs (<https://www.dir.ca.gov/dwc/medicalunit/faqiw.html>)

Step 6: Receive and Analyze the Report (Days 111–140)

Your lawyer will review the QME report and decide next steps:

- If favorable, your lawyer may use it to negotiate a settlement.
- If unfavorable, your lawyer may request a factual correction, ask for a supplemental report on issues the QME missed, or prepare to challenge the findings at trial.
- If neither side is satisfied, the case proceeds to trial before a WCJ, where the QME report is evidence but can be questioned.

Part 6: Required Forms

This section lists the forms you will need during the QME process.

Panel Request Forms

- Form 105 (<https://www.dir.ca.gov/dwc/forms.html>) — Request for QME Panel (Unrepresented Worker). Required for workers without a lawyer under Cal. Lab. Code § 4062.1.
- Form 106 — Request for QME Panel (Represented Worker, Pre-2005 Injuries). Used only for injuries that occurred before January 1, 2005.

Forms Issued by the DWC

- Form 107 (<https://www.dir.ca.gov/t8/107.html>) — QME Panel Selection Form. The DWC sends this to both parties with the names of three randomly selected doctors.
- Form 108 — QME Panel Selection Instructions. Provides step-by-step guidance for unrepresented workers on how to select a doctor and schedule the exam.

Post-Panel Forms

- Form 31.5 — Replacement Panel Request. Use this if your selected QME becomes unavailable or cannot schedule within 90 days.
- Form 37 (<https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm37.pdf>) — Request for Factual Correction. Use this within 30 days of receiving the QME report to correct factual mistakes. The QME has 10 days (if you made the request) or 15 days (if the insurance company or both parties made the request) to respond. 8 CCR § 37 (<https://www.law.cornell.edu/regulations/california/8-CCR-37>)

What Medical Records to Submit

You must organize and submit the following to the QME at least 20 days before your exam:

- Emergency room records from your injury
- All treating doctor reports and progress notes
- Diagnostic tests (X-rays, MRIs, CT scans, lab results)
- Physical therapy and rehabilitation records
- Specialist consultation reports
- Medical records from the three years before your injury (to show pre-existing conditions)
- A detailed job description showing your physical duties

- Workplace incident report

Part 7: Preparing for Your QME Examination

This section helps you understand what to expect and how to prepare for the QME exam.

What the QME Examination Is (and Is Not)

The QME examination is a medical-legal evaluation, not a doctor's visit for treatment. The QME will not prescribe medication or give you medical advice. The purpose is to create a neutral medical report that both sides can use as evidence. This report often becomes the most important document in your case. PI Law - What Is a QME? (<https://www.pi.law/blog/what-is-a-qme-in-california-workers-compensation-and-how-it-can-make-or-break-your-case/>)

How to Prepare

Follow these guidelines to present your case accurately:

- Be honest. Do not exaggerate your symptoms or minimize real limitations. The QME will compare what you say to your medical records. Inconsistencies hurt your credibility.
- Review your medical records before the exam to refresh your memory about treatment dates, test results, and diagnoses.
- Describe your limitations in specific terms. Instead of saying "my back hurts," say "I cannot lift more than 10 pounds" or "I cannot stand for more than two hours without pain."
- Know your injury timeline. Be ready to explain exactly how the injury happened, what symptoms appeared immediately, and how your condition has changed over time.
- Bring documentation. Carry your ID, insurance information, and any documents the QME's office requested.
- Do not discuss legal matters. Do not talk about settlement amounts, disagreements with your employer, or litigation strategy during the exam.

What Helps Your Case Before the Exam

- Follow your doctor's treatment plan. Attending all appointments and completing recommended therapy shows you are committed to recovery.
- Keep consistent records. Make sure all your doctors have the same information about your injury and symptoms.
- Avoid social media posts that show activities inconsistent with your claimed limitations (for example, posting photos of heavy lifting while claiming you cannot lift).

Important: The QME will assess your credibility by comparing your statements during the exam with your documented medical history. Inconsistencies between what you say and what your records show will be noted in the report and may weaken your case.

Part 8: After the QME Report

This section explains what happens after you receive the QME report and what options you have.

Reviewing the Report

Read the report carefully as soon as you receive it. Check for factual errors — mistakes about your injury date, job duties, medical history, or treatment timeline. These are facts that can be verified from written records.

If you find errors, you have 30 days to file a Request for Factual Correction (Form 37) (<https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm37.pdf>). 8 CCR § 37 (<https://www.law.cornell.edu/regulations/california/8-CCR-37>)

Note: You can only correct facts that are provably wrong based on written records. You cannot use Form 37 to disagree with the QME's medical opinions.

If the Report Is Favorable

If the QME supports your position — for example, by finding that your injury is work-related or that you have significant permanent disability — the insurance company may:

- Accept the findings and adjust your benefits
- Agree to a settlement based on the QME's conclusions
- Proceed to negotiate a Compromise and Release (C&R) (a one-time lump sum payment that closes your case) or a Stipulated Award (an agreement on ongoing payments) DWC - How Is My Case Resolved (<https://www.dir.ca.gov/dwc/CaseResolved.htm>)

If the Report Is Unfavorable

If the QME's findings do not support your claim, your options are limited but include:

- Requesting a supplemental report if the QME failed to address a specific issue
- Challenging the QME's findings through testimony and cross-examination if the case goes to trial
- In rare cases, requesting a second QME in a different specialty if new medical issues have developed Pacific Workers' Law - Getting a Second QME (<https://www.pacificworkers.com/blog/2025/july/getting-a-second-qme-in-ca-workers-comp-cases/>)

How the Report Is Used at Trial

If neither side agrees to settle, the case goes to trial before a WCJ. The QME report is admitted as evidence and carries significant weight. Either side may depose the QME (take sworn testimony outside of court) or call the QME to testify if they want to challenge or support the findings. The QME's opinion is presumed correct unless rebutted by other strong medical evidence.

Part 9: Costs and Timelines

This section explains what the QME process costs and how long it takes.

Costs

- No filing fees. There is no charge for requesting a QME panel.
- The insurance company pays the QME. The cost of the evaluation is paid by the employer's workers' compensation insurance, not by you. QME fees follow the Official Medical Fee Schedule (OMFS) set by the DWC. DWC Newsline - OMFS Updates (<https://www.dir.ca.gov/DIRNews/2026/2026-20.html>)
- Attorney fees are contingency-based. If you have a lawyer, they receive no payment unless you win. Fees typically range from 10–15% of your award and must be approved by the Workers' Compensation Appeals Board (WCAB). Your lawyer advances all case costs and recovers them from the final settlement. Scherr and Bassett - How Much Do Workers' Comp Lawyers Charge? (<https://scherandbassett.com/how-much-do-workers-comp-lawyers-charge-in-california/>)

Estimated Timelines

Stage	Unrepresented Workers	Represented Workers
Panel request to panel issuance	~20 working days	~20 working days (but 5+ month backlog is common)
Selection/strike period	10 working days	10 working days
Scheduling the appointment	Within 90 days (up to 120 by agreement)	Within 90 days (up to 120 by agreement)
QME report issuance	30 calendar days after exam (up to 45 with extension)	30 calendar days after exam (up to 45 with extension)
Total estimated time	5–7 months	9–13+ months

DWC - The QME Process Q&A

(<https://www.dir.ca.gov/dwc/MedicalUnit/TheQMEProcess/TheQMEProcessQandA.html>); IEA Training - Revisions to Medical-Legal Evaluation Regulations (<https://ieatraining.org/revisions-to-medical-legal-evaluation-regulations/>)

Important: Represented cases often take longer because of the Medical Unit's backlog in processing panel requests. The DWC is working to reduce these delays, but as of early 2026, waits of five or more months for panel issuance in represented cases remain common.

Part 10: Recent Developments and Practical Considerations

This section covers recent legal changes and practical tips relevant to injured workers in Northern California.

Recent Regulatory Changes (as of March 2026)

- Medical Fee Schedule updates took effect March 1, 2026, incorporating Medicare changes to hospital outpatient and surgical center reimbursement. These do not change QME procedures directly but affect treatment costs that may be disputed. DWC Newsline Release 2026-21 (<https://www.dir.ca.gov/DIRNews/2026/2026-21.html>)
- Utilization Review (UR) updates effective April 1, 2026 require insurance companies to prove accreditation for their review programs. Doctors following the Medical Treatment Utilization Schedule (MTUS) may provide treatment for the first 30 days after injury without prior approval from the insurance company, under certain conditions. These changes may reduce the number of treatment disputes that lead to QME requests. Enlyte - California UR Regulation Updates (<https://www.enlyte.com/insights/news-release/utilization-management/california-utilization-review-regulation-updates-effective-2026>)
- Proposed MTUS evidence-based updates were scheduled for public hearing on February 27, 2026, and may expand treatment guidelines in certain categories. DWC Proposed MTUS Updates (<https://www.dir.ca.gov/dwc/DWCPropRegs/2025/MTUS-Evidence-Based-Update/Index.htm>)

Remote (Telehealth) QME Evaluations

Under 8 CCR § 46.3 (https://www.dir.ca.gov/t8/46_3.html), a QME evaluation may be done by video if:

1. The dispute involves whether the injury is work-related, benefit termination, or work restrictions.
2. You, the insurance company, and the QME all agree in writing.
3. The QME states in writing that a hands-on physical exam is not needed.

Practical Tips for Workers in Northern California

The WCAB Northern District office serves the San Francisco Bay Area, located at 100 Montgomery Street, Suite 800, San Francisco, CA 94104. Cases are heard by WCJs at this location and satellite offices.

- Language access. If you need an interpreter during your QME exam, request one in advance. QMEs are required to arrange interpreters when requested. Confirm with the QME's office before your appointment date.
- Transportation. The DWC selects QMEs within a reasonable geographic distance from your home, but appointments may still require travel. Plan ahead and confirm the location.
- Get help if unrepresented. The DWC Information and Assistance Unit (<https://www.dir.ca.gov/dwc/ianda.html>) provides free guidance to injured workers about QME procedures. Contact them immediately upon receiving a panel list if you are unsure what to do.
- Discovery deadlines. Northern California WCJs strictly enforce evidence disclosure deadlines. Make sure all medical reports are filed with your first Declaration of Readiness (the form that asks for a trial date). Evidence disclosed late may be excluded. WCAB Rules of Practice and Procedure (<https://www.dir.ca.gov/wcab/WCABProposedRegulations/WCABRulesofPracticeandProcedureAug2014/WCABTexofRegulationsClean.pdf>)

References

1. Hanning & Sacchetto LLP - California QME Process Guide (<https://www.hanningsacchetto.com/blog-post/navigating-the-california-qualified-medical-evaluator-process-what-injured-california-workers-need-to-know/>)
2. California Code of Regulations Title 8, § 11 - QME Eligibility Requirements (<https://www.dir.ca.gov/t8/11.html>) - California DIR
3. Cal. Lab. Code § 4062.1 - Panel QME Process for Unrepresented Workers (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74062-1-panel-qme-process-unrepresented-workers/>) - Employees First Labor Law
4. DWC Qualified Medical Evaluator Process (<https://www.dir.ca.gov/dwc/MedicalUnit/QualificationForQME.html>) - California DIR

5. California Code of Regulations Title 8, § 11.5 - Disability Evaluation Report Writing Course (https://www.dir.ca.gov/t8/11_5.html) - California DIR
6. California Code of Regulations Title 8, § 108 - QME Panel Selection Instructions (<https://www.dir.ca.gov/t8/108.html>) - California DIR
7. California Attorneys Association - Recommended Approach to Romero, LC §4062.1 and §4062.2 (<https://calawyers.org/workers-compensation/a-recommended-approach-to-romero-lc-4062-1-and-4062-2/>) - California Lawyers Association
8. Agreed Medical Evaluations (AME) in California (<https://www.soundmedeval.com/agreed-medical-evaluations/>) - Sound Medical Evaluations
9. California Code of Regulations Title 8, § 30 - QME Panel Requests (<https://www.dir.ca.gov/t8/30.html>) - California DIR
10. California Code of Regulations Title 8, § 107 - QME Panel Selection Form (<https://www.dir.ca.gov/t8/107.html>) - California DIR
11. DWC Medical Unit - Frequently Asked Questions About QMEs (<https://www.dir.ca.gov/dwc/medicalunit/faqiw.html>) - California DIR
12. California Code of Regulations Title 8, § 35.5 - Compliance by AMEs and QMEs (<https://www.law.cornell.edu/regulations/california/8-CCR-35.5>) - Cornell Law Institute
13. Getting a Second QME in California Workers' Comp Cases (<https://www.pacificworkers.com/blog/2025/july/getting-a-second-qme-in-ca-workers-comp-cases/>) - Pacific Workers' Law
14. Complete Guide to QMEs in California Workers' Comp Cases (<https://www.pacificworkers.com/blog/2025/july/complete-guide-to-qmes-in-ca-workers-comp-cases/>) - Pacific Workers' Law
15. Workers' Compensation Time Limits Guide (<https://www.sullivanattorneys.com/hubfs/website/resources-page-docs/MS&A%20Work%20Comp%20Time%20Limits.pdf>) - Sullivan & Associates
16. California Code of Regulations Title 8, § 46.3 - Remote Health Medical-Legal Evaluations (https://www.dir.ca.gov/t8/46_3.html) - California DIR
17. Revisions to Medical-Legal Evaluation Regulations (2023 Updates) (<https://ieatraining.org/revisions-to-medical-legal-evaluation-regulations/>) - IEA Training
18. DWC Medical Unit - The QME Process Questions and Answers (<https://www.dir.ca.gov/dwc/MedicalUnit/TheQMEProcess/TheQMEProcessQandA.html>) - California DIR
19. California Code of Regulations Title 8, § 33 - Unavailability of QME (<https://www.dir.ca.gov/t8/33.html>) - California DIR
20. Cal. Lab. Code § 4061 - Permanent Disability Disputes (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74061-permanent-disability-disputes-workers-comp/>) - Employees First Labor Law
21. DWC Forms - Workers' Compensation Forms (<https://www.dir.ca.gov/dwc/forms.html>) - California DIR
22. Medical-Legal and Panel Refresher (<https://dclbv.com/newsletters/2021/q1/medical-legal-and-panel-refresher/>) - DCLBV Law
23. WCAB Panel Decision - Jim Camden, ADJ2298079 (2025) (<https://www.dir.ca.gov/wcab/Panel-Decisions-2026/Jim-CAMDEN-ADJ2298079.pdf>) - WCAB
24. DWC Newsline Release 2026-21 - OMFS Adjustments (<https://www.dir.ca.gov/DIRNews/2026/2026-21.html>) - California DIR
25. WCAB Decision: Key Defense Strategies for Challenging QME Disqualification (<https://www.rjylaw.com/wcab-decision-highlights-key-defense-strategies-for-challenging-qme-disqualification/>) - RJY Law
26. California Enacts Stricter Standard for Expert Medical Testimony (SB 652) (<https://www.wshblaw.com/publication-california-enacts-stricter-standard-for-expert-medical-testimony/>) - WSHB Law
27. DWC Newsline Release 2026-20 - OMFS Update for Physician Services (<https://www.dir.ca.gov/DIRNews/2026/2026-20.html>) - California DIR
28. Cal. Lab. Code § 4062 - Objections to Medical Determinations (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74062-objections-to-medical-determinations/>) - Employees First Labor Law
29. DWC Information and Assistance Unit (<https://www.dir.ca.gov/dwc/ianda.html>) - California DIR
30. Requesting a Trial for QME Panel Dispute (<https://dclbv.com/newsletters/2020/q2/requesting-a-trial-for-qme-panel-dispute/>) - DCLBV Law

31. California Code of Regulations Title 8, § 37 - Request for Factual Correction (<https://www.law.cornell.edu/regulations/california/8-CCR-37>) - Cornell Law Institute
32. DWC Form 37 - Request for Factual Correction (Form and Instructions) (<https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm37.pdf>) - California DIR
33. California Utilization Review Regulation Updates Effective 2026 (<https://www.enlyte.com/insights/news-release/utilization-management/california-utilization-review-regulation-updates-effective-2026>) - Enlyte
34. 3rd DCA Clarifies Credibility Standards and Discovery Rules (<https://www.sullivanattorneys.com/blog/3rd-dca-clarifies-credibility-standards-discovery-rules>) - Sullivan & Associates
35. What Is a QME in California Workers' Compensation? (<https://www.pi.law/blog/what-is-a-qme-in-california-workers-compensation-and-how-it-can-make-or-break-your-case/>) - PI Law
36. New California Evidentiary Standard for Defense Expert Testimony (<https://www.proskauer.com/blog/new-california-evidentiary-standard-makes-admitting-defense-expert-testimony-more-challenging>) - Proskauer LLP
37. WCAB Rules of Practice and Procedure (<https://www.dir.ca.gov/wcab/WCABProposedRegulations/WCABRulesofPracticeandProcedureAug2014/WCABTexofRegulationsClean.pdf>) - WCAB
38. How Is My Case Resolved (<https://www.dir.ca.gov/dwc/CaseResolved.htm>) - California DIR
39. DWC Evidence-Based Updates to MTUS (<https://www.dir.ca.gov/dwc/DWCPropRegs/2025/MTUS-Evidence-Based-Update/Index.htm>) - California DIR
40. How Much Do Workers' Comp Lawyers Charge in California? (<https://scherandbassett.com/how-much-do-workers-comp-lawyers-charge-in-california/>) - Scherr and Bassett
41. California Code of Regulations Title 8, § 10670 - Documentary Evidence (<https://www.dir.ca.gov/t8/10670.html>) - California DIR

California Workers' Compensation Qualified Medical Evaluator (QME) Panel Process: Legal Analysis and Practitioner's Guide

(PART-B LEGAL ANALYSIS)

Generated by: Legal AI Assistant

Facilitated by: The Law Offices of Fernando Hidalgo, Inc.

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California Workers' Compensation Qualified Medical Evaluator (QME) Panel Process: Comprehensive Legal Analysis and Practitioner's Guide

Generated by: Legal Research Assistant | Date: March 1, 2026

Executive Summary

The Qualified Medical Evaluator (QME) panel process represents one of the most consequential procedural mechanisms in California's workers' compensation system, determining how medical disputes between injured workers and claims administrators are resolved when parties cannot reach agreement.^{[1][4]} This report provides comprehensive analysis of the QME panel framework, including statutory and regulatory requirements, procedural mechanics, strategic considerations for practitioners, and practical implementation guidance specific to California practice.

Key Findings:

The QME panel system, codified primarily in California Labor Code sections 4060 through 4067 and implemented through California Code of Regulations Title 8 sections 30 through 65, creates distinct procedural pathways depending on whether an injured worker is represented by counsel.^{[3][10]} For unrepresented workers, the process is governed by Labor Code section 4062.1, which provides streamlined panel generation and selection procedures with specific timelines. For represented workers, Labor Code section 4062.2 applies a more complex framework with extended timelines and additional strategic considerations.^{[3][7]}

The Division of Workers' Compensation (DWC) Medical Unit administers the QME certification program, maintaining a database of state-certified evaluators and issuing randomly-generated panels of three physicians when parties request evaluation.^{[4][10][4]} Once issued, panels trigger a series of time-sensitive obligations: the injured worker (or their attorney) must select a physician within ten working days, schedule an appointment within an additional ten working days, and the selected QME must issue a comprehensive medical-legal report within thirty calendar days from examination commencement.^{[6][15]}

Client Risk Assessment: Medium to High

The outcome of a QME evaluation can single-handedly determine claim acceptance or denial, disability rating, and future medical entitlement. A well-prepared QME process significantly favors the party investing time in strategic preparation, while procedural missteps can result in adverse outcomes that are difficult to remedy. For injured workers, the QME report often carries greater evidentiary weight than treating physician opinions at hearing.^{[14][14][52]}

Primary Strategic Options:

(1) **Proactive Panel Management:** Where permitted, negotiate for an Agreed Medical Evaluator (AME) with mutual consent, avoiding panel randomness and gaining greater control over evaluator selection.^{[8][11]} This approach requires early coordination with the claims administrator and is most viable when parties maintain relatively cooperative relationships.

(2) **Specialty Dispute Navigation:** When specialty designation becomes contentious—for example, whether an orthopedic versus neuropsychological evaluator should assess a spinal cord injury with psychological sequelae—utilize either administrative resolution through the Medical Director or, alternatively, seek Workers' Compensation Administrative Law Judge (WCJ) determination under recent panel decisions favoring expedited judicial resolution.^[38]

(3) **Comprehensive Record Preparation:** Ensure all relevant medical records, diagnostic studies, and prior treatment documentation reaches the QME at least 20 days before examination, with advance notice to the opposing party and reservation of right to object to non-medical records being submitted.^{[6][11][11]} This approach maximizes information available to the evaluator and demonstrates procedural compliance.

Timeline and Deadline Considerations:

Critical deadlines cluster at several junctures: (1) panel generation (10 working days for Medical Unit to issue following request); (2) physician selection (10 working days from panel issuance); (3) appointment scheduling (10 working days for initial contact, with appointment within 90-120 days depending on circumstances); (4)

examination completion and report issuance (30 calendar days with potential extensions for good cause); and (5) supplemental reporting (60 days if ordered).[6][15][17]

Likelihood of Success Assessment: Medium

The QME's role is to provide neutral medical opinion resolving factual disputes, not to advocate for either party. Success in QME evaluation turns on: (1) factual accuracy of records reviewed; (2) consistency and credibility in applicant testimony; (3) persuasiveness of medical evidence already in the record; and (4) evaluator's independent clinical judgment. Unlike advocacy-oriented legal proceedings, the outcome depends primarily on medical facts rather than legal argumentation. Parties cannot "win" a QME evaluation through better advocacy—they influence outcomes through better preparation, accurate information presentation, and strategic record-building before the examination occurs.

Legal Framework

Statutory Authority

The QME panel system derives authority from several interconnected statutory provisions in the California Labor Code, each creating distinct procedural requirements based on claim status and worker representation.

Labor Code Section 4060 (<https://law.justia.com/codes/california/code-lab/division-4/part-2/chapter-2/article-3/section-4660-1/>) establishes the framework for determining whether an injury is compensable—that is, whether it arose out of and occurred during the course of employment.[23] When a claims administrator denies a claim or delays acceptance while investigating compensability, either party may request a QME panel to resolve the factual dispute. The statute requires that such a compensability examination occur only after the claims administrator provides proper notice to the employee that the claim is delayed or denied pending investigation.[10]

Labor Code Section 4061 (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74061-permanent-disability-disputes-workers-comp/>) governs disputes arising when parties disagree about the extent of permanent disability or whether an employee has reached maximum medical improvement (MMI).[21] The statute mandates that at the end of temporary disability payments, the employer must provide the employee with a form and advisory statement that permanent disability indemnity may be due, and that if disagreement exists, it must be resolved through the QME panel process (or AME process for represented workers).[21]

Labor Code Section 4062 (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74062-objections-to-medical-determinations/>) addresses objections to other medical determinations not covered by sections 4060 or 4061, including disputes over the necessity or scope of medical treatment, continuation of treatment, MMI status absent permanent disability issues, and work restrictions.[35] Either party must communicate the objection in writing, and if parties cannot agree, a QME panel is requested.[35] Critically, the timeframe for objecting under Section 4062 is more generous than under Section 4061, with no specific deadline stated in the statute itself, though reasonableness is applied by courts as a practical limitation.[23]

Labor Code Section 4062.1 (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74062-1-panel-qme-process-unrepresented-workers/>) creates the unrepresented worker procedure, providing that when an unrepresented employee or employer objects to a medical determination, the objection must be communicated in writing, and if no agreement is reached within 10 days, either party may request assignment of a three-member QME panel.[3] The unrepresented worker has 10 days from panel issuance to select a physician, arrange an appointment, and notify the employer of the selection and appointment timing.[3] If the unrepresented employee fails to inform the employer within 10 days, the employer may select the physician from the remaining panel members.[3]

Labor Code Section 4062.2 (<https://calawyers.org/workers-compensation/a-recommended-approach-to-romero-lc-4062-1-and-4062-2/>) establishes the represented worker procedure, providing that panel requests cannot be made earlier than the first working day that is at least 10 days after the date of mailing an objection.[7] Unlike the Section 4062.1 process, Section 4062.2 allows parties to mutually agree on an Agreed Medical Evaluator (AME), bypassing the panel entirely.[3] When parties cannot agree on an AME, the DWC Medical Unit generates a three-member panel, and each party may strike one name within 10 days of service, leaving one physician as the evaluator.[10][10]

Labor Code Section 4062.3 defines the scope of information that may be provided to evaluators and establishes procedures for objecting to non-medical records being submitted to the QME.[11]

Regulatory Framework

8 California Code of Regulations Section 11 (<https://www.dir.ca.gov/t8/11.html>) and Section 11.5 (https://www.dir.ca.gov/t8/11_5.html) establish eligibility requirements for initial appointment as a QME, including required licensing, postgraduate training or board certification, completion of at least 16 hours of disability evaluation report-writing instruction, and passage of a QME competency examination.[2][9][2] Medical doctors and osteopaths must provide evidence of postgraduate specialty training or board certification in a specialty recognized by the Administrative Director.[2][2] Chiropractors must provide evidence of a current or valid certificate in California Workers' Compensation Evaluation obtained within three years.[2][2] Psychologists must hold a doctoral degree in psychology with at least five years postdoctoral experience in treatment of emotional and mental disorders.[2][2] All applicants must complete anti-bias training of at least two hours prior to appointment.[2]

8 CFR Section 30 (<https://www.dir.ca.gov/t8/30.html>) and Section 107 (<https://www.dir.ca.gov/t8/107.html>) address QME panel request procedures and panel selection forms. The regulation provides that unrepresented cases require submission on Form 105 (Request for QME Panel - Unrepresented Worker), while represented cases submitted for pre-2005 injuries may use Form 106.[10][10] For represented cases with post-2005 injuries, requests must be submitted electronically through the DWC system.[10] The panel selection form (Form 107) must be issued by the Medical Unit and contains the names, addresses, telephone numbers, and specialties of the three selected QMEs.[25]

8 CFR Section 31.5 establishes procedures for replacement panels when circumstances warrant—for example, when a QME is unavailable, when geographic distance becomes impractical, or when a panel specialty dispute is resolved in favor of a different specialty.[10][11][11]

8 CFR Section 33 (<https://www.dir.ca.gov/t8/33.html>) addresses QME unavailability, permitting a QME to declare unavailable status for up to 120 days per calendar year for specified reasons (medical emergency, family emergency, natural disaster, or inability to schedule new evaluations within 90 days due to existing appointments).[20] During unavailable status, the QME cannot accept new evaluation appointments but may complete already-scheduled examinations and reports.[20]

8 CFR Section 35 and Section 35.5 (<https://www.law.cornell.edu/regulations/california/8-CCR-35.5>) require that all QME examinations comply with specific evaluation procedures and that QME reports comply with administrative reporting guidelines, including date of examination, location of examination, verification under penalty of perjury, and, where permanent disability is found, completion of the Physician's Report of Permanent and Stationary Status and Work Capacity (Form DWC-AD 10133.36).[12]

8 CFR Section 37 (<https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm37.pdf>) and Section 50 address requests for factual correction of QME reports. Within 30 days of receiving a QME report, either party may request the QME to correct factual errors (defined as statements or assertions of fact verifiable from written records submitted to the QME).[40][43] The QME has 10 days (if the worker requested correction) or 15 days (if the claims administrator or both parties requested correction) to review and respond with a supplemental report indicating whether corrections were necessary and whether any corrections change the QME's opinions.[40][43]

8 CFR Section 46.3 (https://www.dir.ca.gov/t8/46_3.html) permits remote health medical-legal evaluations by QME or AME via video conferencing or similar technology when three conditions are met: (1) the dispute involves whether an injury is arising out of and occurring in the course of employment (AOE/COE), termination of indemnity benefits, or work restrictions; (2) written agreement exists among the injured worker, carrier/employer, and QME; and (3) the QME attests in writing that a hands-on physical examination is not necessary.[16][17]

Key Case Law and Binding Precedent

Nelly Romero v. Costco Wholesale Corp., 72 Cal. Comp. Cases 824 (2007), established that when an unrepresented applicant later becomes represented, the moment of representation triggers transition from Labor Code Section 4062.1 to Section 4062.2, which may permit requesting a replacement panel in a different

specialty even if an initial panel was already issued under Section 4062.1.[7] The decision clarifies that if an applicant has not yet attended and participated in an initial QME evaluation, they may be entitled to a new panel in a different specialty under Section 4062.2 procedures, provided the formal requirements of Section 4062.2 are followed.[7] However, subsequent practice has revealed that Romero's application is not unlimited-applicants cannot simply change specialties by obtaining representation without following the Section 4062.2 procedural requirements, and in some cases, the Medical Director or a WCJ may determine that specialty changes are not warranted.[7]

Portner v. Costco, Liberty Mut. Ins. Co., Cal. Wrk. Comp. P.D. LEXIS 499 (2016), held that specialty disputes regarding QME panels "shall be resolved" by the Medical Director, suggesting that parties must submit specialty disagreements to the Medical Director before seeking judicial resolution.[38] This decision created significant practice delays, as the Medical Unit backlog for specialty dispute resolution reached several months.

Porcello v. State Department of Corrections & Rehabilitation, Cal. Wrk. Comp. P.D. LEXIS 9 (2020), overruled the absolute requirement to submit specialty disputes to the Medical Director, holding instead that Workers' Compensation Administrative Law Judges possess full power under Labor Code sections 5300, 5301, and 5309 to decide QME specialty disputes during case adjudication.[38] This decision effectively permits parties to bypass the Medical Director and bring specialty disputes directly to trial, potentially accelerating case resolution.[38]

Byers v. Sonsray Machinery, a recent WCAB panel decision, reaffirmed that the QME disqualification standard is high-a party challenging a QME's adequacy or availability must provide credible evidence, and the QME's detailed report findings and attestations carry significant evidentiary weight.[27] The decision emphasized that untimely objections to QME adequacy weaken credibility and that the burden of proof lies with the party alleging disqualification or unavailability for deposition.[27]

DPR Construction v. WCAB (McClanahan), 111 Cal. App. 5th 1136 (2025), clarified that Labor Code section 5313 does not require detailed explanations of credibility findings beyond the ultimate facts and evidence relied upon, but that Labor Code section 5502 discovery rules are strictly enforced-evidence not disclosed in the pretrial conference statement is inadmissible unless the proponent demonstrates it was unavailable or undiscoverable through due diligence, and this rule is not subject to harmless error analysis.[51]

Policy Guidance

USCIS Policy Manual equivalents in the workers' compensation context are the EOIR (Executive Office for Immigration Review) materials referenced in the immigration context, but for workers' compensation, the controlling policy guidance comes from DWC administrative guidance and WCAB rules. The WCAB Rules of Practice and Procedure (https://www.dir.ca.gov/wcab/WCABProposedRegulations/WCAB_RulesofPracticeandProcedureAug2014/WCAB_TexofRegulationsClean.pdf) establish procedural requirements for case management, declaration of readiness, evidence submission, and trial procedures.[54] Critically, these rules specify that all medical reports relevant to issues raised in a Declaration of Readiness must be filed with the first Declaration of Readiness, and that additional reports not previously filed may be excluded absent good cause.[54]

The DWC Information and Assistance Unit (<https://www.dir.ca.gov/dwc/ianda.html>) provides administrative guidance to injured workers and employers regarding QME procedures, though such guidance is not binding authority.[34]

Current Legal Landscape (As of March 2026)

Recent Developments (Last 90 Days)

Medical Fee Schedule Updates: The DWC posted adjustments to the Official Medical Fee Schedule (OMFS) effective March 1, 2026, incorporating CMS Medicare changes to hospital outpatient departments and ambulatory surgical center reimbursement, including new status indicator codes for skin substitutes.[26][29] These changes do not directly affect QME procedures but impact the scope of treatments that may be subject to UR disputes overlapping with QME evaluation.

Utilization Review Regulatory Updates: Effective April 1, 2026, California utilization review regulations have been updated to require that claims administrators provide proof of URAC Workers' Compensation Utilization

Management Accreditation and that physicians rendering treatment consistent with the Medical Treatment Utilization Schedule may do so without prospective UR for the first 30 days after injury (subject to specific conditions including timely submission of Form 5021).[49] These developments affect the relationship between UR denials and QME requests for treatment disputes under Labor Code Section 4062.

WCAB Panel Decisions: Recent significant panel decisions have addressed multiple QME-related issues: (1) the interplay between AME agreements and physician billing disputes, with the WCAB recently holding that parties cannot unilaterally withdraw from an AME agreement absent good cause, even when billing disputes arise;[24] (2) discovery violations related to undisclosed medical reports, with the court emphasizing strict enforcement of discovery cutoff rules regardless of harmless error arguments;[51] and (3) the continued viability of specialty change requests when applicants transition from unrepresented to represented status, though with clarified requirements for compliance with Section 4062.2 procedures.[7]

Ninth Circuit Status and Controlling Precedent

While workers' compensation is primarily a state law matter within California's exclusive jurisdiction (federal workers' compensation law applies only to specific federal employees and longshore workers), Ninth Circuit precedent on constitutional and civil rights issues affects California's workers' compensation system interpretation. The Ninth Circuit has not issued recent decisions directly addressing QME procedures, as such matters are entirely within WCAB jurisdiction. However, federal constitutional principles regarding due process and access to justice remain applicable constraints on QME procedures.

Circuit Splits and Regional Variations

Unlike immigration law, workers' compensation law is entirely state-governed. California's approach differs from other jurisdictions in several respects: (1) California's random panel selection system (as opposed to party-selected evaluators in some jurisdictions); (2) the distinction between represented and unrepresented worker procedures (most jurisdictions do not differentiate); and (3) California's emphasis on medical-legal evaluations rather than single-evaluator appointment systems. Within California, there are no circuit splits—the WCAB is the exclusive appellate body for workers' compensation decisions, and its decisions are binding statewide.

Pending Litigation and Anticipated Developments

Several cases and regulatory initiatives may affect QME procedures in the coming year: (1) proposed MTUS evidence-based updates scheduled for public hearing on February 27, 2026, may expand treatment guidelines in certain condition categories, potentially affecting the scope of treatment disputes subject to QME evaluation;[59] (2) proposed utilization review regulation amendments may create new categories of treatment exempt from prospective review, potentially reducing certain types of UR-QME disputes; and (3) ongoing Medical Unit efforts to reduce panel assignment backlogs, which as of recent reports stood at approximately five months for represented cases, continue to be a priority.[18]

San Francisco-Specific Context

San Francisco Immigration Court and Workers' Compensation Proceedings

Important Clarification: The research query concerns California workers' compensation QME panels, not immigration court proceedings. However, the personalization provided in the system prompt indicates this is being generated by an immigration law practice. There appears to be a mismatch between the query topic (workers' compensation QME panels) and the practice area described (immigration law).

For purposes of this report, analysis proceeds based on the query topic: California workers' compensation QME panels. If the user intended to request research on a different topic, clarification is requested.

San Francisco Workers' Compensation Proceedings

California does not have a centralized "San Francisco Immigration Court" for workers' compensation matters. Instead, workers' compensation cases are adjudicated before Workers' Compensation Administrative Law Judges (WCJs) at local WCAB district offices. The Northern District office of the WCAB serves the San Francisco Bay Area, with the main office located at 100 Montgomery Street, Suite 800, San Francisco, CA 94104, and satellite locations in Concord (1855 Gateway Blvd., Suite 850) and other Bay Area cities.[34]

WCJ-Specific Considerations in Northern California

While specific information about individual WCJ preferences regarding QME procedures is not systematically documented in public sources, Northern California WCJs generally adhere to the WCAB Rules of Practice and Procedure uniformly. However, certain procedural tendencies emerge through practice: (1) Northern District WCJs tend to enforce discovery deadlines strictly under Labor Code Section 5502, consistent with the recent DPR Construction decision;^[51] (2) judges in this district frequently utilize the specialty dispute resolution pathway created by Porcello, sometimes bypassing Medical Director determination in favor of expedited judicial resolution when parties request it;^[38] and (3) continuances for QME appointment scheduling are generally granted liberally when the QME cannot schedule within 90 days, consistent with regulatory requirements.

DWC Medical Unit Operations

The DWC Medical Unit, administratively located in Oakland but serving the statewide system, processes panel requests from the Northern California region with the same procedures applied throughout the state. Processing times have historically been slower for represented cases (historically 5+ months backlog) than unrepresented cases (20 working days statutory requirement), as regulations provide preference to unrepresented workers.^[18] For injuries occurring on or after January 1, 2005, all represented case panel requests must be submitted electronically.^[10]

Northern California Enforcement Patterns and State Law Interactions

California Proposition 47 and Workers' Compensation Implications: California Proposition 47 (Penal Code Section 1473.7) permits post-conviction relief for convictions with immigration consequences, but this provision does not directly affect workers' compensation law. However, practitioners should be aware that reducing criminal convictions to misdemeanors may affect whether an injury qualifies for workers' compensation if the original conviction was relevant to compensability analysis.

California SB 54 (California Values Act): SB 54 restricts law enforcement cooperation with immigration authorities but does not affect workers' compensation proceedings directly. However, if an injured worker faces immigration enforcement issues, practitioners should coordinate with immigration counsel regarding case strategy and confidentiality of worker statements made during QME evaluations and workers' compensation litigation.

California Proposition 64 (Medicinal and Adult-Use Cannabis Regulation Act): Proposition 64 legalized cannabis in California, affecting workers' compensation eligibility for cannabis-related injuries and creating unique QME issues regarding causation when applicants claim cannabis use exacerbated or caused certain conditions. QMEs must address this medical-legal issue factually without injecting policy judgments about cannabis legality.

Practical Considerations for Practitioners in Northern California

Northern California practitioners working with diverse worker populations should be aware that QME appointment scheduling may face practical challenges when workers have limited transportation or when language interpretation is needed. The DWC Medical Unit provides QME contact information and instructions in English and Spanish, and QMEs are required to arrange for interpreters if requested.^[6] However, practitioners should proactively request interpreter services and confirm with the QME office that interpreters will be available on the examination date.

Strategic Analysis Framework

Arguments Favoring QME Panel Requests and Favorable Outcomes

Strength: Strong - When medical records are incomplete or contradictory, a QME panel request allows neutral third-party evaluation to resolve disputes on objective medical evidence. The statutory framework presumes that medical disputes warrant evaluation by certified, neutral physicians rather than ex parte advocacy or claims administrator determinations. A QME request is strongest when: (1) the applicant's treating physician report contains clear findings of work-relatedness or permanent disability; (2) competing medical evidence (if any) is based on incomplete record review or inadequate examination; and (3) the requested specialty matches the body part and condition at issue.

Strength: Moderate-to-Strong - When an insurance company has denied a claim based on investigation without obtaining medical evaluation, Labor Code Section 4060 permits QME panel request to establish work-relatedness. The burden on the claims administrator to prove non-compensability is higher when evaluation occurs through neutral QME rather than through ex parte investigation. Applicants have strategic advantage when the treating physician's initial report is detailed and medically sound, supporting industrial causation.

Strength: Moderate - When permanent disability or MMI is disputed, a QME report carries significant weight in subsequent hearings, settlement negotiations, and appeals. If the applicant's treating physician's permanent and stationary determination is well-supported medically and the applicant presents as credible during QME evaluation, the resulting QME report will likely support the applicant's position. However, this requires careful preparation-the QME will review all medical records and assess consistency of applicant's testimony with documented history.

Arguments Opposing QME Panel Requests and Risk Factors

Strength: Strong - Insurance companies and self-insured employers often oppose QME panel requests when they believe the applicant's claim is weak or when they have already obtained favorable medical opinions through treating physician selection or contractual medical provider arrangements. If medical records support a finding of non-compensability, pre-existing condition, or minimal disability, the claims administrator will argue that QME evaluation is unnecessary (when parties already agree) or will result in an adverse finding.

Strength: Moderate-to-Strong - The DHS/claims administrator's strongest argument against QME panels is procedural timing and cost. QME evaluations require 30+ days for report issuance, extending case resolution and increasing administrative costs. Claims administrators often argue that existing medical evidence (treating physician reports) is sufficient and that QME evaluation is duplicative. In represented cases, claims administrators may assert that Labor Code Section 4062.2 requirements were not met (e.g., insufficient waiting period between objection and panel request) and therefore the panel request is premature.

Strength: Moderate - When an applicant has changed treating physicians frequently or provided inconsistent histories of injury, the claims administrator will argue that QME evaluation will likely reveal credibility issues or inconsistencies that undermine the claim. This argument is particularly strong when the applicant's written reports conflict with treating physician documentation or when applicants' claims of functional limitations are contradicted by observed activities or social media evidence.

Risk Assessment and Vulnerabilities

High-Risk Scenario: An unrepresented worker requests a QME panel but fails to meet the 10-day selection deadline, allowing the claims administrator to unilaterally select the evaluator. This places the worker at significant disadvantage, as the claims administrator may select an evaluator known to produce conservative ratings or unfavorable causation findings.[6][11]

High-Risk Scenario: A represented worker's attorney violates Labor Code Section 4062.2 procedures by requesting a specialty change or new panel without properly issuing a written objection and waiting the required 10-day period after mailing the objection. The Medical Director or WCJ may reject the panel request as procedurally defective, requiring re-filing and further delays.[7]

Moderate-Risk Scenario: Medical records submitted to the QME contain conflicting information (e.g., treating physician reports from different providers with inconsistent diagnoses or work restrictions). The QME must navigate these conflicts and will issue opinions based on their independent clinical judgment, which may not align with applicant's preferred narrative. Additionally, if medical records include employer-generated incident reports or worker's statements contradicting applicant's trial testimony, the QME will note these inconsistencies in their report.[11][11][52]

Moderate-Risk Scenario: The QME requests an extension beyond 30 days to issue a report, citing good cause (e.g., pending medical tests, consultation with specialist, medical emergency). While extensions are permitted up to 15 additional days for good cause, any extension risks case delays and, in some scenarios, may prompt the other party to request a replacement panel if scheduling becomes problematic.[11][11]

Lower-Risk Scenario: The claims administrator objects to certain non-medical records (e.g., personal letters, social media evidence, employment records) being submitted to the QME. Such objections are procedurally permitted,[11][11] but the impact on the QME's evaluation depends on whether the records were material to

disputed issues. The QME will not consider objected-to records unless the opposing party challenges the objection and a WCJ or Medical Director determines the records should be reviewed.[11]

Practical Implementation Framework

Procedural Roadmap: Step-by-Step Timeline for Unrepresented Workers

Step 1: Medical Dispute Recognition and Notice (Days 1-5 of Dispute)

When a claims administrator denies a claim (Labor Code Section 4060), delays acceptance pending investigation, disputes a permanent disability rating (Section 4061), or objects to a treating physician's recommendation regarding treatment or MMI status (Section 4062), the claims administrator or injured worker must communicate the dispute in writing to the other party.[3][23][35] For Section 4061 disputes, the employer must provide written notice with the temporary disability final payment.[21] For Section 4062 disputes, either party must issue a written objection within 30 days of receiving the treating physician's report (for unrepresented workers).[35]

If the injured worker is unrepresented and the claims administrator has initiated dispute, the claims administrator must provide the worker with a QME Form 105 (Request for QME Panel - Unrepresented Worker) and information about the QME process within specific timeframes.[3]

Step 2: Panel Request Submission (Days 6-20 of Dispute)

Either the injured worker (unrepresented) or the claims administrator submits QME Form 105 to the DWC Medical Unit within 10 days after the employer provides the form to the worker.[3][10] The form must specify the body part(s) in dispute and the specialty of QME requested (e.g., orthopedic surgery, psychiatry, internal medicine, chiropractic).[3] For disputes involving multiple specialties, applicant and claims administrator may disagree on specialty-in such cases, the Medical Director determines the appropriate specialty, or alternatively, parties may proceed to trial with WCJ making the determination.[38]

Step 3: Panel Issuance and Receipt (Days 21-30 of Dispute)

The DWC Medical Unit generates a panel of three QMEs in the requested specialty, randomly selected from certified evaluators in the appropriate geographic region (generally within reasonable distance of injured worker's residence or employer location).[3][10] The panel is issued as Form 107 and mailed to both parties within 20 working days of receiving the request.[3][10] The form includes each physician's name, address, telephone number, specialty, and office hours.[25]

Step 4: Physician Selection (Days 31-40 of Dispute)

The unrepresented injured worker has 10 working days from receipt of the panel to select one QME, contact that physician's office, and schedule an examination appointment.[6] Within the same 10-day window, the worker must notify the claims administrator of the selected physician and appointment date/time.[6] If the worker fails to notify the claims administrator within 10 days, the claims administrator may select a physician from the remaining panel members.[6]

Practical Tip for Unrepresented Workers: Request Form 108 (Qualified Medical Evaluator Panel Selection Instruction) from the DWC, which provides detailed step-by-step guidance. Ask the DWC Information and Assistance Unit for assistance if you are uncertain about procedures.[34] Do not delay in contacting the selected QME's office, as physicians may have limited appointment availability and scheduling delays are common.[6]

Step 5: Appointment Scheduling and Confirmation (Days 41-60 of Dispute)

The selected QME's office staff will schedule the appointment and request that the injured worker provide necessary information (claim number, date of injury, treating physician name, work injury history).[6] The QME's office may require submission of medical records in advance or may request that records be sent by the claims administrator.[6][11] As of February 2023 regulatory updates, the QME must schedule the initial appointment within 90 days of the worker's initial request for appointment, though parties may agree to extend this to 120 days if necessary.[17]

Practical Tip: Confirm the appointment at least one week in advance. If the selected QME becomes unavailable or cannot accommodate you within 90 days, you may request a replacement panel from the DWC Medical Unit using Form 31.5 (Replacement Panel Request).[6]

Step 6: Medical Records Submission (Days 61-80 of Dispute)

All medical records relevant to the disputed issues must be provided to the QME at least 20 days before the scheduled examination date (for unrepresented workers, this timeline may be less strictly enforced than for represented workers, but best practice is to submit early).[11][11] The worker should provide copies to the claims administrator simultaneously or beforehand. If the claims administrator objects to specific non-medical records (e.g., personal letters, work schedules, employment records), they must notify the worker in writing within 10 days of receiving notice of the records, and the QME will not consider those records unless a higher authority (WCJ or Medical Director) determines they are relevant.[11][11]

Practical Tip: Organize medical records chronologically and clearly label them. Include copies of all treating physician reports, diagnostic tests (MRI, X-ray, lab results), physical therapy records, and any other medical documentation relevant to the disputed issues. Include a brief summary of your work duties and how the injury affects your ability to perform those duties.

Step 7: Examination Preparation and Attendance (Days 81-110 of Dispute)

Attend the QME appointment on time. Bring original identification and any requested documents (insurance card, employment records, medical history summary). The QME will conduct a physical examination (if appropriate for the condition), review medical records, and ask detailed questions about your injury history, symptoms, work duties, and functional limitations.[14][14] Be honest, consistent, and complete in your answers. Do not exaggerate symptoms or minimize legitimate limitations.[14][14][52]

The examination typically lasts 1-3 hours depending on the complexity of the injury. After the examination, the QME will inform you that a report will be generated and served on both parties within 30 days.[6][14]

Practical Tip: Do not discuss legal strategy, settlement value, or disagreements with your treating physician during the examination. Focus solely on your injury, symptoms, medical history, and functional status. Bring a written summary of your job duties if relevant, as the QME will assess whether you can perform those duties within your medical restrictions.[6]

Step 8: QME Report Issuance and Review (Days 111-140 of Dispute)

The QME issues a comprehensive medical-legal report within 30 calendar days from the examination date (extensions up to 15 additional days are available for good cause).[6][11] The report is served on both the injured worker and claims administrator simultaneously. The report addresses the disputed issues, such as: (1) whether the injury is work-related (Labor Code Section 4060 dispute); (2) whether the worker has reached maximum medical improvement and, if so, the extent of permanent disability (Section 4061 dispute); or (3) whether specific treatment is medically necessary or whether work restrictions are warranted (Section 4062 dispute).[6][14][52]

Practical Tip: Review the QME report carefully immediately upon receipt. Check for factual errors (e.g., misstatement of your injury history, job duties, or medical history). If you identify factual errors, you have 30 days to request a factual correction using Form 37 (Request for Factual Correction).[40][43] Note: Factual correction requests do not challenge the QME's medical opinions—they correct only statements of fact verifiable from written records.[40][43]

Step 9: Post-Report Strategy (Days 141-180 of Dispute)

If the QME report is favorable to your position, the claims administrator may accept the findings and adjust benefits or issue an award. If the report is unfavorable, you have limited options: (1) you may request a supplemental report if the QME failed to address a specific issue;[11] (2) you may challenge the QME's findings through testimony and cross-examination if the case proceeds to trial; or (3) in limited circumstances, you may request a second QME in a different specialty if new medical issues have arisen.[13]

If neither party is satisfied with the QME report, the case will proceed to trial before a WCJ, where the QME report will be presented as evidence but may be rebutted by testimony and other evidence.[6]

Procedural Roadmap: Step-by-Step Timeline for Represented Workers

Key Differences from Unrepresented Procedure:

Represented workers follow Labor Code Section 4062.2 procedures, which differ significantly from Section 4062.1 in timing requirements, strategic options, and procedural protections. The most significant difference is that represented workers and claims administrators may agree on an Agreed Medical Evaluator (AME), bypassing the random panel system entirely.[3][8]

Step 1: Initial Objection and Notice (Days 1-20 of Dispute)

When a dispute arises (claim denial under Section 4060, permanent disability disagreement under Section 4061, or other medical dispute under Section 4062), the party initiating the dispute (typically the claims administrator) must communicate the objection to the opposing party in writing.[3][7][23][35] For Section 4060 disputes (compensability), the claims administrator's notice of denial or delay serves as the objection.[3] For Section 4061 and Section 4062 disputes, a written objection must specifically identify the treating physician, date of the report being objected to, and nature of the dispute.[3][7]

The objection must be mailed, not emailed or hand-delivered (unless the parties agree otherwise).[7] The timing for Section 4062.2 panel requests is calculated from the "mailing date" of the objection, not the date of receipt.[7]

Step 2: Pre-Panel Negotiation Period (Days 21-30 of Dispute)

After the objection is mailed, the parties have 10 days to negotiate and attempt to agree on an Agreed Medical Evaluator (AME) or to resolve the dispute without medical evaluation.[3][7] This is a crucial strategic window where represented workers and claims administrators can attempt to mutually select a respected, neutral physician willing to evaluate the case as an AME rather than proceeding through the random panel system.[3][8]

Practical Tip for Applicants' Attorneys: Early communication with defense counsel regarding AME selection can accelerate case resolution and provide greater control over evaluator selection. Propose evaluators with established reputations for fairness and detailed reporting. Consider the evaluator's experience with your specific injury type and body part.[8]

Step 3: Panel Request (Days 31-35 of Dispute)

If parties cannot agree on an AME, either party may request a panel no earlier than the first working day that is at least 10 days after mailing the objection.[3][7] For represented cases with injuries occurring after January 1, 2005, the request must be submitted electronically through the DWC online system.[10] The request form (Form 105 for represented workers, or Form 106 for pre-2005 injuries) must specify the specialty requested, and if parties disagree on specialty, the Medical Director will determine the appropriate specialty (or the matter may proceed to a WCJ for determination).[10]

Within one working day of generating the electronic panel list, the requesting party must print the panel and serve a copy on the opposing party with proof of service.[10]

Step 4: Panel Strikes and Selection (Days 36-45 of Dispute)

Within 10 days of service of the panel, each party may strike one name from the panel, leaving one QME as the evaluator.[10][10] This differs from the unrepresented procedure, where only the worker selects a physician. The strike procedure gives the claims administrator significant control over which evaluator is eliminated.

Practical Tip for Applicants' Attorneys: When reviewing the panel, research the QMEs' prior decisions and reputation among applicants' bar. If one evaluator is known to produce unfavorable disability ratings or have trouble with credibility findings, prioritize striking that evaluator. The remaining evaluator, after both parties strike, will conduct the evaluation.[10]

Step 5: Appointment Scheduling (Days 46-55 of Dispute)

The applicant's attorney (having received the panel before or simultaneously with the claims administrator) should immediately contact the selected QME's office and schedule an appointment. The QME must schedule

the initial appointment within 90 days of the initial request for appointment, though parties may agree to extend to 120 days.[17]

Unlike the unrepresented procedure, represented workers' attorneys will typically coordinate directly with the QME office and manage the scheduling process, rather than relying on the worker to contact the physician.[14]

Step 6: Medical Records Coordination (Days 56-80 of Dispute)

Both parties must provide medical records to the QME in compliance with Labor Code Section 4062.3. The party providing records must serve copies on the opposing party at least 20 days before the scheduled examination date.[11][11] The opposing party has 10 days to object to non-medical records (defined as non-medical documents, personal letters, employment records, etc.).[11][11] If an objection is timely filed, those non-medical records will not be provided to the QME unless the WCJ or Medical Director determines they are relevant and should be reviewed.[11][11]

Practical Tip for Applicants' Attorneys: Carefully curate the materials submitted to the QME. Include all relevant medical records, but be strategic about non-medical materials. Include job description, employment records showing worker's position and duties, and materials that contextualize the injury and limitations. However, do not submit materials that might suggest credibility problems or inconsistencies in the applicant's account.[11][11]

Step 7: Examination Preparation (Days 81-110 of Dispute)

The applicant's attorney should meet with the applicant before the QME examination to prepare testimony, discuss the disputed issues, and ensure the applicant understands what to expect. The attorney should coach the applicant on consistency, honesty, and focus—the goal is for the applicant to present a credible account of the injury and limitations without exaggeration or minimization.[14][14][52]

The applicant should bring identification and any materials requested by the QME's office. The applicant should avoid discussing legal strategy, settlement value, or litigation positions during the examination—focus solely on medical facts and functional status.[14][14]

Step 8: Report Issuance and Challenge Strategy (Days 111-140 of Dispute)

The QME issues the report within 30 days of examination (extensions available for good cause).[6][11] Both parties receive copies simultaneously. If the report contains factual errors, either party may request a factual correction using Form 37 within 30 days of receipt.[40][43] If the report is incomplete or fails to address specific issues, either party may request a supplemental report.[11]

Practical Tip for Applicants' Attorneys: If the QME report is favorable, consider whether supplemental reporting is needed to strengthen specific findings. If the report is unfavorable, assess whether the findings are based on faulty assumptions, incomplete records, or medical error. Determine whether the report can be credibly challenged through testimony at trial or whether the unfavorable findings substantially undermine the case.

Step 9: Case Resolution or Trial (Days 141+)

After the QME report is issued, the case may resolve through negotiated settlement, stipulated award, or compromise and release.[55] If resolution does not occur, the case will proceed to trial before a WCJ, where the QME report will be received in evidence and the QME may be deposed or called to testify if either party challenges the findings.[14][14][52]

Required Forms and Documentation

Mandatory Forms for Requesting QME Panels

QME Form 105 (Request for QME Panel - Unrepresented Worker): This form is required for unrepresented injured workers requesting a panel under Labor Code Section 4062.1.[3][22] The form must include: (1) date of injury; (2) claim number; (3) requesting party (employee or claims administrator); (4) reason QME panel is being requested (compensability, permanent disability, or other medical determination); (5) type of dispute (Section 4060, Section 4061, or Section 4062); (6) name of primary treating physician; (7) date of report being

objected to; (8) date of objection communication; (9) specialty of treating physician; (10) QME specialty requested; and (11) employer and claims administrator information.[10][22] The form must be submitted within 10 days after the claims administrator provides it to the worker.[3]

QME Form 106 (Request for QME Panel - Represented Worker, Pre-2005 Injuries): For dates of injury prior to January 1, 2005, represented workers may still request panels using Form 106, which contains similar information requirements to Form 105 but with attorney certification.[22]

QME Form 107 (Qualified Medical Evaluator Panel Selection Form): This form is issued by the DWC Medical Unit (not submitted by the requesting party) and contains the names, addresses, office telephone numbers, and specialties of three randomly-selected QMEs.[25] Both parties receive Form 107 simultaneously upon panel issuance.

QME Form 108 (Qualified Medical Evaluator Panel Selection Instruction): This instructional form provides detailed guidance to unrepresented workers on how to select a QME, schedule appointments, and comply with deadlines.[6] The form is provided automatically by the DWC with the panel list.

QME Form 31.5 (Replacement Panel Request): Used to request a replacement panel when circumstances warrant (e.g., selected QME becomes unavailable, geographic distance becomes impractical, or specialty change is necessary).[6][26] The form must be submitted within specific timeframes depending on the reason for replacement.[6]

QME Form 37 (Request for Factual Correction of Unrepresented Panel QME Report): Used by either party to request correction of factual errors in a QME report within 30 days of report receipt.[40][43] The form must specify which statements or facts are incorrect and may be accompanied by additional pages identifying the corrections needed.[40][43] Only factual errors verifiable from written records may be corrected; medical opinions cannot be challenged through this process.[40][43]

Documentation Requirements for Medical Record Submission

All medical records, diagnostic tests, treatment records, and prior medical history relevant to the disputed issues must be compiled and provided to the QME at least 20 days before the scheduled examination date.[11][11] Documentation requirements include:

Emergency Department Records: Complete records from initial injury evaluation, including vital signs, physical examination findings, imaging ordered, and disposition.[52]

Treating Physician Reports: All treating physician progress reports, comprehensive evaluations, work restriction recommendations, and, if applicable, permanent and stationary reports with impairment ratings.[14][14][52]

Diagnostic Tests and Imaging: Complete copies of all imaging studies (X-rays, MRI, CT scans, ultrasound) with radiologist reports, laboratory test results with interpretations, and any other diagnostic studies.[52]

Physical Therapy and Rehabilitation Records: Complete treatment notes showing dates of therapy, specific interventions, patient response, and functional progress or plateau.[52]

Occupational Medicine or Specialist Consultation Reports: Any evaluations or consultations obtained for differential diagnosis, treatment planning, or second opinions.[52]

Prior Medical History: Medical records from the three years preceding the work injury documenting pre-existing conditions, prior similar injuries, and baseline functional status (to allow the QME to assess apportionment of disability).[52]

Work-Related Documentation: Detailed job description, job classification, essential functions, physical demands analysis, workplace incident report, and any employer documentation regarding the injury and its mechanism.[52]

Applicant's Written Chronology (Optional): For represented workers, a concise written summary (1-2 pages) of the injury mechanism, subsequent treatment, and functional impact may assist the QME's understanding, though such materials may be considered non-medical records subject to objection.[11]

Evidentiary Standards and Admissibility

Competent Medical Evidence: The QME report constitutes "substantial medical evidence" in workers' compensation proceedings and may constitute the sole foundation for a decision on disputed medical issues.[14][14][52] The QME's opinion on causation, disability extent, and treatment necessity is presumed correct unless rebutted by other substantial medical evidence.[14][52]

Hearsay and Medical Records: Medical records submitted to the QME are not subject to hearsay objections in the context of QME evaluation-the QME may review and rely on prior treating physician reports, diagnostic test reports, and other medical records regardless of whether the original authors testify at trial.[11][52] However, if a party challenges the QME's reliance on particular sources at trial, the foundation and reliability of those sources may be questioned through testimony.[71]

Applicant Credibility: The QME will assess the applicant's credibility during the examination, comparing the applicant's history, symptom report, and observed functional capacity against objective medical findings and documented treatment records.[27][52] Inconsistencies between applicant testimony at examination and documented medical history will be noted in the QME report and may affect credibility determinations at trial.[27][51]

Expert Testimony Standard: As of January 1, 2024, California Evidence Code Section 801.1 establishes that expert testimony regarding medical causation must be supported by the reasonable degree of medical probability standard (more likely than not), applicable to both plaintiff and defense experts.[28][31] QME opinions on causation must therefore meet this standard.[28]

Client Preparation and Strategic Positioning

Pre-Examination Client Counseling

Injured workers undergoing QME evaluation must understand that the examination is not treatment-it is a neutral medical-legal evaluation that will generate evidence used by both parties in settlement negotiations and, potentially, at trial. The QME is not the worker's doctor and will not provide medical advice or treatment recommendations (though the report may address future care needs).

Key Counseling Points:

- (1) **Honesty and Consistency:** Answer all questions truthfully and completely. Do not exaggerate symptoms or functional limitations, as inconsistencies will be noted and will affect credibility. Similarly, do not minimize legitimate injuries or limitations. The goal is accurate medical-legal assessment, not advocacy for a particular outcome.
- (2) **Preparation and Documentation:** Before the examination, review your medical records to refresh your memory about treatment dates, imaging results, and prior functional status. This allows you to provide consistent, accurate information without relying on memory of events months or years past.
- (3) **Functional Description:** Be prepared to describe your daily activities, work duties, hobbies, and limitations in functional terms. Rather than stating "I have a bad back," explain "I cannot bend or lift more than 10 pounds, and I cannot stand for more than two hours without pain." [14][14] The QME will translate these functional limitations into medical findings.
- (4) **Avoid Discussion of Legal Strategy:** Do not discuss settlement value, litigation positions, or disagreements with treating physicians during the examination. The QME is not party to litigation strategy and will note any appearance that testimony is being shaped for litigation advantage. [14]
- (5) **Injury Mechanism and Timeline:** Clearly explain how the injury occurred, what you were doing at the time, what immediate symptoms appeared, and how symptoms have evolved over time. Detailed chronological narrative is more credible than vague recollection. [14][14]
- (6) **Treatment Engagement:** If you have participated fully in recommended treatment (medical consultations, physical therapy, diagnostic testing), this demonstrates commitment to recovery and enhances credibility. If you have declined or discontinued treatment, be prepared to explain reasons (cost, transportation, lack of improvement, other medical contraindication). [14][14][52]

Strategic Record-Building for Favorable QME Outcomes

For applicants' attorneys representing injured workers, strategic record-building throughout the claim lifecycle significantly influences QME evaluation outcomes:

Comprehensive Treating Physician Documentation: Ensure the primary treating physician maintains detailed progress notes documenting persistent symptoms, response to treatment, functional limitations, and, ultimately, permanence of condition. Detailed treating physician documentation is the foundation upon which QME opinions are built.[14][14][52]

Diagnostic Testing Documentation: Ensure all indicated diagnostic tests (imaging, electrodiagnostic testing, functional capacity evaluation) are performed and documented. Absence of diagnostic testing may prompt the QME to recommend additional testing, potentially delaying resolution.[14][14]

Work Status Verification: Obtain written job descriptions and functional demands analyses from the employer detailing specific job duties, physical requirements, and environmental demands. This documentation allows the QME to assess whether the worker can return to the same job or whether permanent restrictions preclude pre-injury job performance.[14][14][52]

Consistent Medical Narrative: Ensure that all treating physician reports, specialist consultations, and diagnostic test results are consistent with one another and with the applicant's symptom report. Inconsistencies raise credibility concerns and provide the claims administrator with ammunition to challenge the claim.[14][14][52]

Avoiding Credibility Pitfalls: Advise the applicant to avoid social media posts showing activities inconsistent with claimed limitations (e.g., posting photos of hiking or heavy lifting while claiming inability to lift).[14][14][52] Ensure the applicant's testimony about functional limitations is consistent with what was reported to treating physicians and is consistent across multiple interviews or testimony sessions.[14][14][51]

Post-Examination Follow-Up and Report Analysis

Upon receipt of the QME report, applicants' attorneys should:

(1) **Promptly Review for Factual Errors:** Within 30 days, identify any factual errors (misstatements of injury history, job duties, medical history) and file a Form 37 request for correction if necessary.[40][43]

(2) **Assess Medical Opinion Strength:** Evaluate whether the QME's medical opinions are well-reasoned, supported by documented evidence, and consistent with the applicant's account. If opinions appear unsupported or flawed, develop a strategy to challenge them through expert rebuttal or cross-examination testimony.[14][14][52]

(3) **Identify Gaps:** Note any issues the QME failed to address, which might warrant a supplemental report request or which might need to be addressed through applicant or expert testimony at trial.[11]

(4) **Assess Settlement Leverage:** Evaluate whether the QME report supports settlement at reasonable value or whether the report is sufficiently unfavorable that trial is preferable.[14][14][55]

Costs, Timeline, and Fee Structures

Filing Fees and Direct Costs

No filing fees are assessed for requesting a QME panel.[22] The cost of the QME evaluation is borne by the claims administrator (employer's workers' compensation insurer), not by the injured worker.[10] The QME's fee is set according to the Official Medical Fee Schedule (OMFS) and is paid directly to the evaluator by the claims administrator.[10][12][26]

As of 2026, QME evaluation fees are established by the DWC based on the complexity and time required for specific body part evaluations. Detailed fee schedules are available on the DWC website and are updated periodically to align with Medicare rate updates.[26][29]

Processing Times and Case Duration

Panel Request to Panel Issuance: For unrepresented workers, the DWC must issue a panel within 20 working days of receiving the panel request.[3][10] For represented workers, panel issuance timelines are the same,

though the Medical Unit historically experiences a 5+ month backlog for represented case panels, meaning initial issuance may occur 5+ months after the request is submitted.[18]

Selection to Appointment: The injured worker has 10 working days to select a QME and schedule an appointment.[6] The QME must schedule the initial appointment within 90 days of the worker's initial request for appointment (or within 120 days if parties agree).[17]

Appointment to Report Issuance: The QME has 30 calendar days from the date the examination commences to issue the report.[6][11] Extensions up to 15 additional days are available for good cause (pending medical tests, consultant reports, medical emergencies).[11][11]

Supplemental Reporting: If either party requests a supplemental report to address additional issues, the QME has 60 days to issue it.[11][11]

Total Timeline: From panel request to final QME report issuance typically requires 4-6 months for unrepresented workers and 8-12+ months for represented workers (due to backlog), plus 30 days for report issuance, totaling 5-7 months minimum for unrepresented cases and 9-13+ months for represented cases.

Workers' Compensation Attorney Fees

Contingency Fee Structure: Attorneys representing injured workers in workers' compensation cases work on a contingency fee basis—they receive no payment unless the case resolves in the worker's favor (through settlement, award, or favorable trial decision).[58] Attorney fees are not paid out-of-pocket by the injured worker; instead, they are deducted from the worker's settlement or award.[58]

Fee Percentages: In California workers' compensation cases, typical attorney fees range from 10-15% of the awarded benefits, with more experienced attorneys charging up to 20% in complex cases.[58] The fee agreement must be approved by the Workers' Compensation Appeals Board.[58] Factors affecting fee levels include case complexity, attorney experience, and settlement amount.[58]

5710 Fees: Labor Code Section 5710 allows the claims administrator to pay applicants' attorneys' fees directly (separate from the applicant's settlement), which does not reduce the applicant's recovery.[58] Applicants' attorneys should negotiate for Section 5710 fee treatment when possible.[58]

No Upfront Costs: Because of the contingency fee structure, injured workers do not face upfront legal costs. All costs associated with case development (record copying, expert consultation, witness deposition, court filing fees) are typically advanced by the attorney and recouped from the final recovery.[58]

Conclusion: Strategic Synthesis and Risk Management Framework

The QME panel process represents a critical juncture in California workers' compensation claims, where neutral medical evaluation can either solidify or undermine the applicant's position. Success in QME evaluation requires integrated preparation across multiple domains: procedural compliance with strict statutory timelines; factual consistency across medical records, applicant testimony, and documented treatment; strategic identification of favorable evaluators (in represented cases with AME selection); and credible presentation of functional limitations during the examination.

For unrepresented workers, the key vulnerability is procedural—missing the 10-day selection deadline or failing to understand specialty designation requirements can result in disadvantageous evaluator assignment. Unrepresented workers should immediately seek assistance from the DWC Information and Assistance Unit upon receiving a panel list.[34]

For represented workers, the greatest leverage exists during the pre-panel negotiation period when parties may agree on an AME, and during medical records curation before examination. Applicants' attorneys should invest significant effort in comprehensive record review, detailed job description documentation, and applicant preparation to maximize the likelihood of favorable QME findings.

The QME report, once issued, carries substantial evidentiary weight and, in many cases, becomes the decisive factor in case resolution. While unfavorable reports may be challenged through testimony and expert rebuttal, such challenges face an uphill battle—the QME's detailed examination and professional opinion command significant deference. Accordingly, preventing unfavorable findings through careful preparation is far more efficient than attempting to overcome them through litigation.

For insurance companies and self-insured employers, the corresponding strategy involves strategic evaluator selection (in striking panel members), early identification of medical record gaps, and coordination with medical consultants to ensure the QME receives accurate, complete information supporting the claims administrator's position.

The evolving legal landscape-particularly the recent Porcello decision permitting WCJ resolution of specialty disputes and the Romero clarifications regarding represented status transitions-provides both opportunities and risks for experienced practitioners. Competent QME management requires current knowledge of applicable statutes, regulations, and recent case law developments.

References

- [1] Hanning & Sacchetto LLP - California QME Process Guide (<https://www.hanningsacchetto.com/blog-post/navigating-the-california-qualified-medical-evaluator-process-what-injured-california-workers-need-to-know/>)
- [2] California Code of Regulations Title 8, Section 11 - QME Eligibility Requirements (<https://www.dir.ca.gov/t8/11.html>)
- [3] Labor Code Section 4062.1 - Panel QME Process Unrepresented Workers (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74062-1-panel-qme-process-unrepresented-workers/>)
- [4] DWC Qualified Medical Evaluator Process (<https://www.dir.ca.gov/dwc/MedicalUnit/QualificationForQME.html>)
- [5] Pearson VUE - Qualified Medical Evaluator Exam (<https://www.pearsonvue.com/us/en/qme.html>)
- [6] California Code of Regulations Title 8, Section 108 - QME Panel Selection Instructions (<https://www.dir.ca.gov/t8/108.html>)
- [7] California Attorneys Association - Recommended Approach to Romero, LC Section 4062.1 and Section 4062.2 (<https://calawyers.org/workers-compensation/a-recommended-approach-to-romero-lc-4062-1-and-4062-2/>)
- [8] Sound Medical Evaluations - Agreed Medical Evaluations (AME) in California (<https://www.soundmedeval.com/agreed-medical-evaluations/>)
- [9] California Code of Regulations Title 8, Section 11.5 - Disability Evaluation Report Writing Course (https://www.dir.ca.gov/t8/11_5.html)
- [10] California Code of Regulations Title 8, Section 30 - QME Panel Requests (<https://www.dir.ca.gov/t8/30.html>)
- [11] DWC Medical Unit - Frequently Asked Questions About Qualified Medical Evaluators (<https://www.dir.ca.gov/dwc/medicalunit/faqiw.html>)
- [4] DWC Qualified Medical Evaluator Process - Qualification Overview (<https://www.dir.ca.gov/dwc/MedicalUnit/QualificationForQME.html>)
- [9] California Code of Regulations Title 8, Section 11.5 - Disability Evaluation Report Writing Course (Detailed Requirements) (https://www.dir.ca.gov/t8/11_5.html)
- [12] California Code of Regulations Title 8, Section 35.5 - Compliance by AMEs and QMEs with Administrative Director Guidelines (<https://www.law.cornell.edu/regulations/california/8-CCR-35.5>)
- [13] Pacific Workers' Law - Getting a Second QME in California Workers' Comp Cases (<https://www.pacificworkers.com/blog/2025/july/getting-a-second-qme-in-ca-workers-comp-cases/>)
- [14] Pacific Workers' Law - Complete Guide to Qualified Medical Evaluations (<https://www.pacificworkers.com/blog/2025/july/complete-guide-to-qmes-in-ca-workers-comp-cases/>)
- [10] California Code of Regulations Title 8, Section 30 - QME Panel Requests (Service and Documentation Requirements) (<https://www.dir.ca.gov/t8/30.html>)

- [11] DWC Medical Unit - Frequently Asked Questions About QMEs (Supplemental Reports and Extensions) (<https://www.dir.ca.gov/dwc/medicalunit/faqiw.html>)
- [15] Sullivan & Associates - Workers' Compensation Time Limits Guide (<https://www.sullivanattorneys.com/hubfs/website/resources-page-docs/MS&A%20Work%20Comp%20Time%20Limits.pdf>)
- [16] California Code of Regulations Title 8, Section 46.3 - Remote Health Medical-Legal Evaluations (https://www.dir.ca.gov/t8/46_3.html)
- [17] IEA Training - Revisions to Medical-Legal Evaluation Regulations (2023 Updates) (<https://ieatraining.org/revisions-to-medical-legal-evaluation-regulations/>)
- [18] DWC Medical Unit - The QME Process Questions and Answers (<https://www.dir.ca.gov/dwc/MedicalUnit/TheQMEProcess/TheQMEProcessQandA.html>)
- [19] DaisynBill - CA Telehealth Billing Rules for 2025 (<https://blog.daisybill.com/ca-workers-comp-telehealth-2025>)
- [20] California Code of Regulations Title 8, Section 33 - Unavailability of QME (<https://www.dir.ca.gov/t8/33.html>)
- [21] Employees First Labor Law - Labor Code Section 4061: Permanent Disability Disputes (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74061-permanent-disability-disputes-workers-comp/>)
- [14] Pacific Workers' Law - Complete Guide to QMEs (Additional Considerations) (<https://www.pacificworkers.com/blog/2025/july/complete-guide-to-qmes-in-ca-workers-comp-cases/>)
- [22] DWC Forms - Workers' Compensation Forms (<https://www.dir.ca.gov/dwc/forms.html>)
- [23] DCLBV Law - Medical Legal and Panel Refresher (<https://dclbv.com/newsletters/2021/q1/medical-legal-and-panel-refresher/>)
- [24] WCAB Panel Decision - Jim CAMDEN ADJ2298079 (2025) (<https://www.dir.ca.gov/wcab/Panel-Decisions-2026/Jim-CAMDEN-ADJ2298079.pdf>)
- [25] California Code of Regulations Title 8, Section 107 - QME Panel Selection Form (<https://www.dir.ca.gov/t8/107.html>)
- [26] DWC Newsline - OMFS Adjustments (Hospital Outpatient/ASC) - Release 2026-21 (<https://www.dir.ca.gov/DIRNews/2026/2026-21.html>)
- [27] RJY Law - WCAB Decision: Key Defense Strategies for Challenging QME Disqualification (<https://www.rjylaw.com/wcab-decision-highlights-key-defense-strategies-for-challenging-qme-disqualification/>)
- [28] WSHB Law - California Enacts Stricter Standard for Expert Medical Testimony (SB 652) (<https://www.wshblaw.com/publication-california-enacts-stricter-standard-for-expert-medical-testimony>)
- [29] DWC Newsline - OMFS Update for Physician Services - Release 2026-20 (<https://www.dir.ca.gov/DIRNews/2026/2026-20.html>)
- [30] WCAB Significant Panel Decisions - Index (https://www.dir.ca.gov/wcab/wcab_panel.htm)
- [31] Proskauer LLP - New California Evidentiary Standard for Defense Expert Testimony (<https://www.proskauer.com/blog/new-california-evidentiary-standard-makes-admitting-defense-expert-testimony-more-challenging>)
- [32] ECJ Law - Assembly Bill 1870: New Posting Requirements for Workers' Compensation Rights (<https://www.ecjlaw.com/ecj-blog/new-law-expands-posting-requirements-regarding-workers-compensation-rights>)

- [2] California Code of Regulations Title 8, Section 11 - QME Eligibility and Anti-Bias Training (<https://www.dir.ca.gov/t8/11.html>)
- [33] DWC - If My Claim Was Denied (<https://www.dir.ca.gov/dwc/myclaimwasdenied.htm>)
- [34] DWC Information and Assistance Unit (<https://www.dir.ca.gov/dwc/ianda.html>)
- [4] DWC Qualified Medical Evaluator Process Overview (<https://www.dir.ca.gov/dwc/MedicalUnit/QualificationForQME.html>)
- [35] Employees First Labor Law - Labor Code Section 4062: Objections to Medical Determinations (<https://employeesfirstlaborlaw.com/labor-code-%C2%A74062-objections-to-medical-determinations/>)
- [15] Sullivan & Associates - Workers' Compensation Time Limits Guide (Representation and Procedures) (<https://www.sullivanattorneys.com/hubfs/website/resources-page-docs/MS&A%20Work%20Comp%20Time%20Limits.pdf>)
- [36] DWC QME Discipline - Investigations and Enforcement (<https://www.dir.ca.gov/dwc/medicalunit/discipline.html>)
- [11] DWC Medical Unit - Frequently Asked Questions (QME Selection and Availability) (<https://www.dir.ca.gov/dwc/medicalunit/faqiw.html>)
- [37] California Code of Regulations Title 8, Section 10141 - Dismissal of Inactive Claims (<https://www.dir.ca.gov/t8/10141.html>)
- [4] DWC Qualified Medical Evaluator Process (<https://www.dir.ca.gov/dwc/MedicalUnit/QualificationForQME.html>)
- [38] DCLBV - Requesting a Trial for QME Panel Dispute (<https://dclbv.com/newsletters/2020/q2/requesting-a-trial-for-qme-panel-dispute/>)
- [39] Invictus Law - Maximum Medical Improvement (MMI) and California Workers' Compensation (<https://www.invictuslawpc.com/workers-compensation-lawyer/maximum-medical-improvement/>)
- [40] Cornell Law - California Code of Regulations Title 8, Section 37 - Request for Factual Correction (<https://www.law.cornell.edu/regulations/california/8-CCR-37>)
- [41] DWC Workers' Compensation Benefits - Current Rates and Schedules (<https://www.dir.ca.gov/dwc/workerscompensationbenefits.htm>)
- [42] Smith Law PC - Demystifying Maximum Medical Improvement (MMI) (<https://smithcomplaw.com/demystifying-maximum-medical-improvement-mmi/>)
- [43] DWC Form 37 - Request for Factual Correction (Instructions and Form) (<https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm37.pdf>)
- [44] HelbockLaw - California Workers' Comp Settlement Chart for 2026 (<https://www.helbocklaw.com/california-workers-comp-settlement-chart/>)
- [45] ALFA International - California Workers' Compensation Law Overview (<https://www.alfainternational.com/compendium/workers-compensation/california/>)
- [46] RJY Law - Utilization Review in California Workers' Compensation (<https://www.rjylaw.com/utilization-review-in-california-workers-compensation-when-can-a-judge-address-medical-necessity/>)
- [47] Bradford and Barthel - AMA Guides, California PDRS, and Rating Instructions (<https://bradfordbarthel.com/2025/03/25/ama-guides-california-pdrs-can-differ-on-rating-instructions/>)
- [48] Justia - California Labor Code Section 5001 (<https://law.justia.com/codes/california/code-lab/division-4/part-3/chapter-2/section-5001/>)

- [49] Enlyte - California Utilization Review Regulation Updates (April 1, 2026)
(<https://www.enlyte.com/insights/news-release/utilization-management/california-utilization-review-regulation-updates-effective-2026>)
- [50] Justia - California Labor Code Section 4660.1 (<https://law.justia.com/codes/california/code-lab/division-4/part-2/chapter-2/article-3/section-4660-1/>)
- [51] Sullivan & Associates - 3rd DCA Clarifies Credibility Standards and Discovery Rules
(<https://www.sullivanattorneys.com/blog/3rd-dca-clarifies-credibility-standards-discovery-rules>)
- [52] PI Law - What Is a QME in California Workers' Compensation? (<https://www.pi.law/blog/what-is-a-qme-in-california-workers-compensation-and-how-it-can-make-or-break-your-case/>)
- [53] Employees First Labor Law - How Do I Settle My Workers' Comp Case: C&R vs. Stipulated Award
(<https://employeesfirstlaborlaw.com/how-do-i-settle-my-workers-comp-case-cr-vs-stipulated-award/>)
- [54] WCAB Rules of Practice and Procedure - Chapter 4.5
(https://www.dir.ca.gov/wcab/WCABProposedRegulations/WCAB_RulesofPracticeandProcedureAug2014/WCAB_TexofRegulationsClean.pdf)
- [11] DWC Medical Unit - Frequently Asked Questions (QME Report Timelines and Extensions)
(<https://www.dir.ca.gov/dwc/medicalunit/faqiw.html>)
- [55] DWC - How Is My Case Resolved (<https://www.dir.ca.gov/dwc/CaseResolved.htm>)
- [56] DWC Medical Treatment Utilization Schedule (<https://www.dir.ca.gov/dwc/mtus/mtus.html>)
- [57] Employees First Labor Law - Pre-Existing Conditions & Workers' Comp: Employee's Guide
(<https://employeesfirstlaborlaw.com/pre-existing-conditions-workers-comp-employees-guide/>)
- [58] Scherr and Bassett - How Much Do Workers' Comp Lawyers Charge in California (2025)?
(<https://scherandbassett.com/how-much-do-workers-comp-lawyers-charge-in-california/>)
- [59] DWC Evidence-Based Updates to Medical Treatment Utilization Schedule
(<https://www.dir.ca.gov/dwc/DWCPropRegs/2025/MTUS-Evidence-Based-Update/Index.htm>)
- [60] California Orthopaedic Association - Apportionment
(<https://www.coa.org/docs/courses/9%20Rondeau%20COA%20Apportionment%20PPT.pdf>)
- [61] California Code of Regulations Title 8, Section 10545 - Petition for Costs
(<https://www.dir.ca.gov/t8/10545.html>)
- [62] Invictus Law - Understanding Supplemental Job Displacement Benefits
(<https://www.invictuslawpc.com/understanding-supplemental-job-displacement-benefits/>)
- [63] Hanning & Sacchetto - Return-to-Work Programs & Employee Rights Explained
(<https://www.hanningsacchetto.com/blog-post/return-to-work-programs-light-duty-employee-rights/>)
- [64] Justia - California Labor Code Section 4662 (<https://law.justia.com/codes/california/code-lab/division-4/part-2/chapter-2/article-3/section-4662/>)
- [65] DWC - Supplemental Job Displacement Benefits (SJDB) FAQs
(https://www.dir.ca.gov/dwc/sjdb/sjdb_faq.html)
- [66] DWC - Return to Work: Working for Your Employer After Injury
(<https://www.dir.ca.gov/injuredworkerguidebook/Chapter6.pdf>)
- [67] Employees First Labor Law - Permanent Total Disability in Workers' Comp: Lifetime Benefits Guide
(<https://employeesfirstlaborlaw.com/permanent-total-disability-in-california-workers-comp-lifetime-benefits-guide/>)
- [68] California Lawyers Association - Admissible Statements (Police Reports and Hearsay)
(<https://calawyers.org/solo-small-firm/admissible-statements/>)

[69] The Advocate Magazine - Deposition and Cross-Examination of Defense Experts
(<https://www.advocatemagazine.com/article/2012-march/the-deposition-and-cross-exam-of-defense-experts>)

[70] Thomas F. Martin Law - Workers' Compensation Cases: The Legal Standard of Proof
(<https://thomasfmartin.com/understanding-workers-compensation-cases-the-legal-standard-of-proof/>)

[71] California Code of Regulations Title 8, Section 10670 - Documentary Evidence
(<https://www.dir.ca.gov/t8/10670.html>)

[72] California Courts - Direct Examination of Expert Witnesses
(<https://courts.ca.gov/sites/default/files/courts/default/2024-12/directofexpert.pdf>)

[73] U.S. Department of Labor - Burden of Proof
(<https://www.dol.gov/agencies/owcp/energy/regs/compliance/Decisions/GenericDecisions/Headnotes/DecisionBurdenOfProof>)