

BUSINESS PRACTICE POLICY

ATTENDANCE OF A SUPPORT PERSON DURING AN IME

ISSUE DATE: June 2017

1. Policy

The objective of a Practice Policy on Attendance of a Support Person during an Independent Medical Examination (IME) is to provide guidelines that will assist **mlcoa** medical examiners to determine whether or not it they deem it appropriate for a support person to attend an actual IME assessment.

The essential principle is that the decision, ultimately, rests with the medical examiner. There is, however, no legal provision that requires that the medical examiner must allow a support person to attend.

There is no doubt that any person attending an **mlcoa** office for an IME has the right to be accompanied by a support person to the office; accompaniment does not, however, automatically assign the right for the support person to be present during the actual consultation itself.

In seeking an IME, all parties are relying on the independence and judgment of the medical examiner. This independence and judgment will, therefore, extend to the medical examiner being able to determine whether or not a support person may be in attendance during an IME. Seeking to impose restrictions in this regard may itself be seen as a fetter of the independence and judgment of the medical examiner.

2. Guidelines for Medical Examiners

1. A support person should be a genuine support person and not a "lobbyist" or representative of the examinee in relation to any proceedings (i.e. an appointed legal representative, advocate or union official). That said, however, the medical examiner should be able to exercise their judgment and not be influenced by any such person if they are permitted to attend the consultation.
2. As a general principle, if another person is permitted by the examiner to be present during the consultation, they should not take an active part in the examination unless:
 - a) they are an interpreter, or
 - b) the medical examiner directly seeks their involvement.
3. Whilst concern might arise in relation to a support person seeking to influence, participate in or disrupt the medical examiner, trust needs to be placed in the medical examiner's judgment to make an appropriate assessment of the conduct of, or the statements made by, a support person. The medical examiner can always provide commentary on the conduct or statements of support persons attending an IME in their final IME Report, if it is deemed pertinent to the matter(s) under consideration.

4. In a circumstance in which a support person is authorised by the medical examiner to attend the examination, if the support person at any stage becomes disruptive or attempts to participate without invitation during the IME, the medical examiner has the right to ask them to desist and, if the behavior continues, to either ask them to leave the consulting room or to terminate the IME.
5. There is no legal basis for prohibiting an attending support person taking notes during the course of an IME unless, during the process of taking notes, the person disrupts the medical examiner by direct interruption or by making side comments which would be deemed to be intended to be disruptive.
6. Depending on the age and maturity of a person attending an IME, it may well be inappropriate for a minor to attend an IME unless in the presence of their parent/guardian. It should be expected that the parent/guardian would also perform the role of a support person. Judgments in relation to the necessity of a support person or parent/guardian attending with a minor should be left to the medical examiner to determine.
7. It is recommended that accompanying children not be present during the consultation as they may act as a distraction to the examinee and/or the medical examiner. If it is unavoidable that children accompany the examinee to the **mlcoa** office, then another adult should attend to supervise the children elsewhere whilst the examination is being conducted. The attendance of children in the Consulting room during an assessment will, again be at the discretion of the medical examiner and whether they deem the behavior of the child/children to be disruptive and therefore not conducive to conduct of the assessment.

Whilst the independence of the medical examiner is fundamental, the safety of mlcoa staff and the medical examiner remains paramount. This may mean that a decision is made by mlcoa, contrary to the medical examiner's wishes, that an IME does not proceed or is terminated if there is concern in relation to the safety of staff or the medical examiner.