



## Disclosure and independent medical examinations

In her recent article "Independent medical examinations and the fuzzy politics of disclosure" (*Can Med Assoc J* 1997;156:73-5), Dorothy Grant discussed issues concerning independent medical examinations (IMEs). Examinations done in Ontario for patients who have experienced motor-vehicle trauma may serve as a good model for contrasting the effects of disclosure concerning IMEs. Across Canada, an IME may be requested by a third party and the information is therefore controlled by the third party. In Ontario, under the auspices of the Ontario Insurance Commission and no-fault auto insurance, designated assessment centres have been established. A centre is chosen by agreement between the insurance company and the insurer. The centre completes a report that is released not only to the insurer but also to injured parties and their family physicians.

If the centre determines that the injured person does not meet the criteria for disability payments or for a physical impairment that would be compensated, the person knows the basis for the decision. Without this information, the injured person cannot determine whether the decision was fair and the evaluation accurate, or whether the evaluator was in any way misinformed. Knowing that the report will be reviewed by the injured party also makes report writers more accountable by forcing them to demonstrate how they reached their conclusion.

The open-disclosure policy also means that a poorly written report based on erroneous data and insignificant evidence can be refuted by the injured party, allowing for an evaluation process that can be more just. I

look forward to more articles on this important and timely topic.

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At our disability-management company, insurance companies and employers often call on us to arrange IMEs and submit a report when there is a dispute regarding an employee's benefit payments. Following a careful review of the law, our company formulated IME report guidelines that are at times contrary to the advice given by Dorothy Grant.

A 1992 Supreme Court of Canada decision (*McInerney v. MacDonald*) established a common-law right of access to one's own medical record, with very limited exceptions. This decision made clear that the patient (or in our case, the employee) can upon request obtain a copy of the IME report. If we believe the report contains information that could harm the employee's or another person's health, the report is provided to the employee's family physician. The Ontario government's recently released consultation paper "A Legal Framework for Health Information" (July 1996) also supports this position.

Physicians should remember that a patient's medical record can be revealed to a person other than the patient only with the consent of the patient (or his or her authorized representative) or as required by law (a court order or a specific provision in a statute). Accordingly, the IME report can be released to the insurance company or to the employer only if the physician preparing the report obtains the employee's written consent. Employees will not usually withhold consent if this means that their benefits will be discontinued. In

the absence of written consent, the physician can provide the third party with information on the employee's functional restrictions, the requirement for investigations, consultation or therapy, and the prognosis, if known.

To protect employers against possible human-rights complaints, it is generally advised that they not obtain a copy of the IME report. Employers should be provided with summaries that explain employees' ability to work and their need for accommodation in relation to the verified medical condition.

If the employer and the employee are involved in legal proceedings and the employee has not consented to the report's release, then the rules of the courts or the relevant administrative tribunal (such as a workers' compensation board) should govern the release of medical information to the employer. We hope this information dispels some of the myths surrounding IMEs.

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## Know your residency applicants well

Dr. Tara Young deserves great credit for using her article "Teaching medical students to lie" (*Can Med Assoc J* 1997;156:219-22) to focus on ways the current method for matching trainees to specialty programs encourages deception and lying. She clearly points out how harmful this is to all those involved in the matching process.

Cardiac surgery is a newcomer to the matching process, and we are very disturbed by this phenomenon,