§ 9795. Reasonable Level of Fees for Medical-Legal Expenses, Comprehensive, Follow-up and Supplemental Medical-Legal Evaluations and Medical-Legal Testimony.

(a) The schedule of fees set forth in this section shall be prima facie evidence of the reasonableness of fees charged for medical-legal evaluations and reports, and fees for medical-legal testimony.

Reports by treating or consulting physicians, other than those that meet the criteria set forth in 9793 (c), (h), (j) or (n), regardless of whether liability for the injury has been accepted at the time the treatment was provided or the report was prepared, shall be subject to the Official Medical Fee Schedule adopted pursuant to Labor Code § 5307.1 rather than to the fee schedule set forth in this section.

(b) Cover Letter and Medical Records Due Date and Required Format.

The parties shall electronically provide the cover letter requesting the medical-legal evaluation and all medical records to the evaluating physician or his or her designee at least six (6) business days prior to the scheduled evaluation date. If the cover letter or the medical records are not received six (6) days prior, the physician may cancel the evaluation and shall be entitled to the fees for a failed or cancelled evaluation set forth in section (d)(1)(ML 100) below. Alternatively, the physician may elect to proceed with the evaluation and shall be paid the exigency premium set forth in subsection (d)(3)(ML 112) below.

The record packet shall include:

1. A dated cover sheet listing:
   - A. Claimant's name and address
   - B. Medical-legal physician's name
   - C. Medical-legal physician's designation (QME or AME)
   - D. Date, location and time of the appointment
   - E. Panel number
   - F. Date(s) of injury
   - G. Claim number(s)
   - H. ADJ number(s), if any
   - I. Claims administrator's name and address
   - J. Claims administrator's attorney name and address, if any
   - K. Applicant's attorney name and address, if any
   - L. List of non-contested body parts
   - M. List of contested body parts
   - N. Issues to be addressed in the medical-legal report
     - i. Including but not limited to:
       - a. Causation of injury AOE/COE under Labor Code 4060
       - b. Permanent disability
       - c. Need for future medical care
       - d. Apportionment
       - e. MMI status

f. Temporary disability
g. Compensable body parts or systems

O. Statement of facts

P. Number of pages in the record packet

i. Included in the page count will be all documents submitted to the evaluating physician including both medical and non-medical records. If a document is double-sided, it will count as two pages. Condensed documents, such as deposition transcripts, will count as one page per each full page of the original non-condensed document.

2. Record Packet: The records shall be in a chronological order, beginning with the earliest record, and tabbed by year. The packet shall not contain duplicate records. The packet also shall include a chronological index of the records, beginning with the earliest record. The index shall list the date and the provider corresponding to each record.

(c) Verification.

(1) When billing for a comprehensive or follow-up medical-legal evaluation, the physician shall verify under penalty of perjury that s/he performed the basic physician services set forth in section (d)(1) (ML 101) below (except clerical services), as well as any and all add-on adjustment services set forth in section (d)(2) below, in compliance with Labor Code § 4628.

(2) When billing for a supplemental medical-legal evaluation, the physician shall verify under penalty of perjury that s/he performed the basic physician services set forth in section (d)(1)(ML 102) below, as well as any and all add-on adjustment services set forth in section (d)(2) below, in compliance with Labor Code § 4628.

(3) When billing for additional record review under section (d)(2)(ML 105) below, the physician shall verify under penalty of perjury the total number of pages of medical records that s/he reviewed.

(4) When billing for document organization under section (d)(2)(ML 111) below, the physician shall verify under penalty of perjury the total number of pages of records organized.

(d) Basic Fee For Medical-Legal Evaluations. The minimum fee for a medical-legal evaluation and report is set at the basic values indicated below. In addition to the basic fee, there are additional fees for certain specialties and activities performed by the physician.

Medical-legal evaluations services shall be reimbursed as follows:

(1) Basic Fees ML 100 - Basic Fee For Failed, Cancelled or Late Rescheduled Comprehensive, Follow-Up Medical Legal Evaluation or Deposition $1,000.00

If a scheduled appointment for a comprehensive or follow-up medical-legal evaluation is not completed due to the failure of the applicant or an interpreter to attend the examination in part or in whole, or if it is cancelled by either party fewer than six (6) business days before the scheduled appointment, or if it rescheduled fewer than six (6) business days before the scheduled appointment.

Physician Services Included In Basic Fee For Failed, Cancelled or Late Rescheduled Comprehensive or Follow-Up Medical Legal Evaluation:

(i) Review of up to 50 pages of medical records.

(ii) This section is subject to the add-on adjustments described in section (d)(2) below.

(iii) If a deposition or Workers' Compensation Appeals Board hearing is cancelled fewer than six (6) business days before the scheduled testimony, the minimum fixed fee shall still be paid.

ML 101 - Basic Fee for Comprehensive Medical-Legal Evaluation or Follow-up Medical-Legal Evaluation. $2,200.00

Physician Services Included In Basic Fee For Comprehensive and Follow-Up Medical-Legal Evaluations. The minimum fee for each comprehensive and follow-up medical-legal evaluation and report includes reimbursement for the following services performed by the physician, if provided:

(i) Spending up to two (2) hours of face-to-face time obtaining the medical history and performing the physical examination.

(ii) Reviewing the first fifty (50) pages of medical records.

(iii) Performing medical research.

(iv) Discussing medical causation in terms of the injury being AOE/COE.

(v) Providing an impairment rating of one body system or region according to the chapter headings of the Table of Contents of *Guides to the Evaluation of Permanent Impairment* (Fifth Edition), published by the American Medical Association, 2000 ("AMA Guides"), incorporated herein by this reference. Notwithstanding the foregoing, each limb shall be considered a separate body region.

(vi) Discussing apportionment of disability when determination of this issue requires the physician to evaluate (1) the injured worker's employment by two or fewer employers, where the employment by those employers contributed to the disability, (2) two or fewer injuries to the same body system or body region as delineated in the AMA Guides, or (3) one injury involving two or fewer body systems or body regions as delineated in the AMA Guides, but only if the

physician finds the injured worker to be medically permanent and stationary or to have reached maximum medical improvement.

(vii) Preparing the medical-legal report in accordance with Labor Code § 4628.

(viii) Clerical costs, including all typing and transcription services, and overhead expenses (herein "clerical costs") are included in the minimum fee for comprehensive and follow-up services, and may not be billed separately.

ML 102 - Basic Fee For Supplemental Medical-Legal Evaluation. $1,000.00

Only the physician who prepared the comprehensive medical-legal evaluation may perform a supplemental medical-legal evaluation. Medical records or other information received by the physician more than ten (10) days after the date of the comprehensive or follow-up evaluation and before the date the report is due under requirements of 8 CCR §38 shall be treated as a request for a supplemental evaluation. If after an initial request for a supplemental medical-legal evaluation, other additional medical records or other information is received by the physician, such other records or information may be treated as a request for an additional supplemental evaluation separate from any prior supplemental evaluation reports or requests.

Physician Services Included In Basic Fee For Supplemental Medical-Legal Evaluations. The minimum fee for each supplemental medical-legal evaluation and report includes reimbursement for the following services performed by the physician:

(i) Reviewing the first fifty (50) pages of medical records. This includes re-review of previously reviewed records if the request for supplemental report is received more than thirty (30) days after the issuance of a previous medical-legal report.

(ii) Performing medical research.

(iii) Discussing medical causation in terms of the injury being AOE/COE.

(iv) Providing an impairment rating of one body system or region according to the chapter headings of the Table of Contents of *Guides to the Evaluation of Permanent Impairment* (Fifth Edition), published by the American Medical Association, 2000 ("AMA Guides"), incorporated herein by this reference. Notwithstanding the foregoing, each limb shall be considered a separate body region.

(v) Discussing apportionment of disability when determination of this issue requires the physician to evaluate (1) the injured worker's employment by two or fewer employers, where the employment by those employers contributed to the disability, (2) two or fewer injuries to the same body system or body region as delineated in the AMA Guides, or (3) one injury involving two or fewer body systems or body regions as delineated in the AMA Guides, but only if the

physician finds the injured worker to be medically permanent and stationary or to have reached maximum medical improvement.

(vi) Preparing the medical-legal report in accordance with Labor Code § 4628.

(vii) Clerical costs, including all typing and transcription services, and overhead expenses (herein "clerical costs") are included in the minimum fee for comprehensive and follow-up services, and may not be billed separately.

ML 103 - Basic Fee For Medical-Legal Testimony. $600.00/hour two hour min.

Physician Services Included In Basic Fee For Medical-Legal Testimony. The minimum fee for medical-legal testimony includes reimbursement for the following services performed by the physician:

(i) One hour of preparation time (including review of records previously produced)

(ii) One hour of testimony.

(iii) Review of deposition transcript.

(iv) Up to 15 miles or 30 minutes of travel to deposition if not held at the physician's office.

(v) The basic fee shall be paid by the deposing party on the date of the scheduled testimony and prior to the testimony.

(2) Add-on Adjustments to Basic Fee For Medical-Legal Evaluations. The minimum fee for a ML 100, ML 101, and ML 102 set forth above shall be increased for each of the following:

ML 104 - Psychiatric or Psychological Evaluation. Increase Basic Fee 75%

For codes indicated, services performed by a psychiatrist or a psychologist where psychiatric or psychological issues are the primary focus of the medical-legal evaluation (herein "medical-legal psych evaluation").

ML 105 - Additional Record Review. $5.50/page

Additional payment for each page of medical records in excess of fifty (50) pages reviewed by the physician. This includes re-review of previously reviewed records if it is conjunction with a request for a supplemental report and if received more than thirty (30) days after issuance of a previous medical-legal report.

ML 106 - Additional Face-to-Face Time. $100.00/quarter hour

For such time (rounded to the nearest quarter hour), beyond the initial two hours.

ML 107 - Additional Impairment Rating. $500.00/rating

When providing an impairment rating, for each additional body system or region in excess of the first body system or region as delineated in the AMA Guides or in excess of the first limb.

ML 108 - Complex Apportionment. $400.00

A discussion of apportionment of disability when determination of this issue requires the physician to evaluate (1) the injured worker's employment by three or more employers, where the employment by those employers contributed to the disability, (2) more than two injuries to the same body system or body region as delineated in the AMA Guides, or (3) more than one injuries involving two or more body systems or body regions as delineated in the AMA Guides, but only if the physician finds the injured worker to be medically permanent and stationary or to have reached maximum medical improvement.

ML 109 - Use of an Interpreter. Increase Basic Fee 10%

Use of an interpreter during face-to-face time for a comprehensive or follow-up medical-legal evaluation.

ML 110 - Evaluation by an Agreed Medical Evaluator. Increase Fee 25%

The total fee for any basic service or add-on adjustment shall be increased for agreed medical evaluators ("AMEs").

(3) Premium for Claims Non-Compliance

ML 111 - Document Organization Premium. $95.00/100 pages

Organizing every 100 pages of medical records or any portion thereof that are not in compliance with the required format as defined in section (b)(i) and (ii) above.

ML 112 - Late Cover Letter or Medical Records Premium. $500.00

The minimum fee for a comprehensive or a follow-up medical-legal evaluation and report shall be increased as an exigency premium if the cover letter requesting the evaluation or the medical records are received by the physician fewer than ten (10) business days prior to the evaluation date, and the physician elects to proceed with the evaluation. If the cover letter or the medical records are received by the physician fewer than ten (10) business days prior to the evaluation, and the physician elects not to proceed with the evaluation, the physician is entitled to the minimum fee for a Failed, Cancelled or Late Rescheduled Comprehensive or Follow-Up Medical Legal Evaluation.

(e) Incentives.

ML 113 - Early Service of the Medical-Legal Report. Increase Fee 5%

The total fee for any basic service or add-on adjustment shall be increased for reports that are served ten (10) or fewer business days after the comprehensive or follow-up

evaluation date, or served ten (10) or fewer business days after the physician's receipt of a letter requesting a supplemental report and the enclosed or attached medical records.

(f) Duplicate Reports. Requests for duplicate reports shall be made in writing. Duplicate reports are separately reimbursable and shall be reimbursed in the same manner as set forth in the Official Medical Fee Schedule adopted pursuant to Labor Code Section 5307.1. This section shall apply for all reports requested by the claims adjuster, bill reviewer or defense attorney when a report has been previously submitted to the claims administrator.

(g) COLA Adjustment. Commencing on January 1, 2020, and on January 1 of each year thereafter, the minimum fees, hourly rates, and add-on adjustments set forth in sections (c) through (e) above, shall each be increased to reflect a cost of living adjustment ("COLA") based on the annual Consumer Price Index, or 4%, whichever is greater.

(h) Electronic Service. All medical-legal reports, Appointment Notification Forms, and invoices, may be served upon the parties electronically by the physician. All cover letters, medical records, and other information, shall be served upon the physician electronically by the parties.

(i) Notices.

A. The parties shall provide electronic notice to physicians of all cancellations or rescheduling of evaluations within three (3) business days of such cancellation or rescheduling.

B. All written objections to medical-legal evaluations must be copied to the physician and served by US mail or other delivery service, and electronically.

Note: Authority cited: Sections 133, 4627, 5307.3 and 5307.6, Labor Code. Reference: Sections 139.2, 4061, 4061.5, 4062, 4610.5, 4620, 4621, 4622, 4625, 4626, 4628, 5307.6 and 5402, Labor Code.