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Department of Labor
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MEMORANDUM

TO: Medical Providers Performing Independent Medical Examinations, Workers' Compensation Adjusters, Workers' Compensation Attorneys, Injured Workers, Vocational Rehabilitation Providers, and Other Interested Parties
FROM: J. Stephen Monahan, Director WC & Safety Division
DATE: May 18, 2020
SUBJECT: Applying /clarifying IME Requirements during the COVID-19 pandemic

This Memorandum is necessary because evidently some individuals did not realize that the Guidance previously provided for applying Rule 12 was intended to extend to IME examinations by implication. As the Vermont Department of Health has stated:
Patients must be confident that the environment where they will receive care is safe.

No independent medical examination shall be conducted unless the independent medical examiner is able to demonstrate compliance with the guidance the Vermont Health Department has established for outpatient visits. That Guidance may be found here:
<https://www.healthvermont.gov/sites/default/files/documents/pdf/Phase-One-Openings-Outpatient-Procedures.pdf>

If the IME is scheduled at an out-of-state location (within a 2 hour driving distance) the independent medical examiner must still demonstrate compliance with the Vermont department of health guidance. Failure to do so shall excuse the claimant from attending.

<p>6.1200 Notice. Except in exigent circumstances, written notice of a scheduled independent medical examination shall be provided to the injured worker (and if represented, to his or her attorney as well) at least seven days prior to the scheduled examination date. The notice shall identify the reasons for the examination and the issues to be addressed by the examining medical provider. In addition, the notice shall include information as to the injured worker's and the examining medical provider's respective rights and responsibilities regarding video and/or audio</p>	<p>The written notice shall include a written description of the independent medical examiner's compliance with all of the Vermont Health Department Guidance (see link above)</p>
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<p>recordings of the examination in accordance with Rules 6.1400 and 6.1500.</p> <p>*****</p>	<p>*****</p>
<p>6.1900 Refusal to attend; obstruction of examination. Notwithstanding Rule 6.1300, if an injured worker refuses without good cause to submit him- or herself to an examination scheduled pursuant to this Rule, or if he or she in any way obstructs the examination, his or her right to take or prosecute any proceeding under the Workers' Compensation Act shall be suspended until such refusal or obstruction ceases, and compensation shall not be payable for the period during which such refusal or obstruction continues. 21 V.S.A. §655.</p>	<p>If the independent medical examiner is not complying with the COVID-19 prevention practices described in the scheduling letter the injured worker may choose to leave the examination before it is completed, or file an objection to its admissibility. If an objection is filed the extent of compliance will be evaluated to determine whether the IME will be considered.</p>