



Medical Panels Program

# General Rules of Procedure

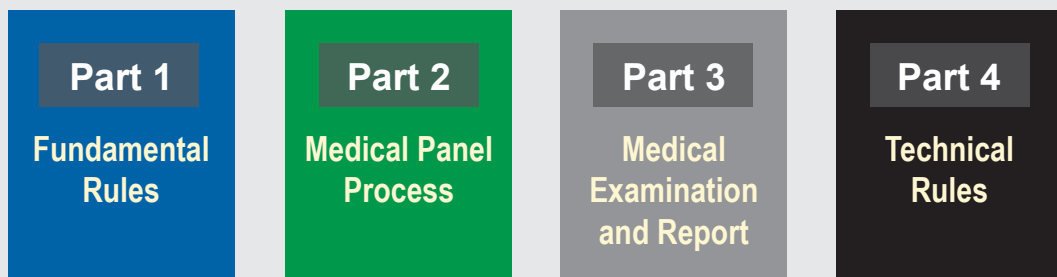
# Introductory Information Note

## What these rules do

The rules govern the Medical Panels Program's practice and procedure under the [Workers' Compensation Act](#), [Workers' Compensation Regulation](#), and the [Medical Panels Regulation](#). The rules are in place to help everyone understand what they can expect and what is expected of them during the Medical Panels Program process and medical examination.

## Contents of the rules

The rules are divided into 4 Parts, as follows:



## Definitions

An Appendix [Definitions] at the end of the rules contains a list of words that have particular meaning.

## Authority for the rules

The Medical Panels Commissioner is given authority to make general rules of procedure for proceedings before a medical panel by section 6(1) of the Medical Panels Regulation.

## Part 1

### Fundamental Rules

## Summary overview of this Part:

This Part contains basic rules that apply to the Medical Panels Program, the medical examination, and everyone involved in a medical panel.

This Part includes statements about the purpose of the rules, what the rules apply to, and the Medical Panels Program's jurisdiction. It also describes how parties can be represented and the operation of the Medical Panels Program, including procedure before the Medical Panels Program and how to communicate with the Medical Panels Program.

### What is the purpose of the rules?

**1.1(1)** The purpose of these rules is to establish a timely, fair and independent process for conducting medical panels.

**1.1(2)** These rules govern the practice and procedure applicable to the Medical Panels Program.

### What legislation governs the Medical Panels Program?

**1.2** The Medical Panels Program is established by Section 46.2(1) of the Workers' Compensation Act and has accountabilities under the following statutes and regulations:

- (a)** Workers' Compensation Act, RSA 2000, c W-15;
- (b)** Medical Panels Regulation, Alta Reg 21/2018; and
- (c)** Workers' Compensation Regulation, Alta Reg 325/2002.

### What is a medical panel and what can a medical panel do?

**1.3(1)** A medical panel is convened by the Medical Panels Commissioner at the request of the Workers' Compensation Board or the Appeals Commission. Medical panels consist of three independent medical experts appointed by the Medical Panels Commissioner to address differences in medical opinion or other medical questions related to a workers' compensation claim.

**1.3(2)** Medical panels conduct medical examinations and make binding medical findings in a report. As part of the examination process, the panel provides the opportunity for a worker to meet with the panel to provide medical and other history and answer questions that may assist in making medical findings. The process is not adversarial and is a fact-finding exercise.

**1.3(3)** A medical panel does not have the jurisdiction to make decisions on any financial or compensation-related matters on a worker's claim.

**1.3(4)** For the purpose of making its reports, a medical panel has the authority to medically examine the worker.

## Medical Panels Program: general authority

**1.4** In exercising its jurisdiction, the Medical Panels Program may, with respect to a particular medical panel, issue general or specific practice or procedural directions about the medical panel at any time, with or without terms and conditions.

## Medical Panels Commissioner: general authority

**1.5** In addition to any other powers of or granted to the Medical Panels Commissioner, the Medical Panels Commissioner:

- (a)** Establishes the medical panel based on the selection of medical experts made by the worker, the employer, and the Workers' Compensation Board.
- (b)** May seek clarification in writing from the referring body regarding the questions to be answered.
- (c)** Advises the panel members of their duties, emphasising the fact-finding nature of their duties and the final and binding nature of their reports.
- (d)** Gathers additional information relevant to the medical issue or matter, either on their own motion or at the request of a medical panel chair.
- (e)** Reviews the report of the medical panel to ensure each question asked of the medical panel is addressed.

## Waiver of and non-compliance with the rules

**1.6(1)** The Medical Panels Commissioner may, in a particular case, do either or both of the following:

- (a)** waive or vary a time period specified in these rules, whether or not the time has passed or expired;
- (b)** waive or vary a rule.

**1.6(2)** In deciding to give a waiver or variance the Medical Panels Commissioner must:

- (a)** take into account the particular circumstances of the case and what would be fair and just; and
- (b)** satisfy that the particular circumstances justify a waiver or variance of the time period or rule, or both.

**1.6(3)** The waiver or variance may be made or given subject to terms and conditions, or made or given subject to terms and conditions about future proceedings of the medical panel, or both.

**1.6(4)** The waiver or variance must not be inconsistent with the Workers' Compensation Act and Medical Panels Regulation.

**1.6(5)** Providing a waiver or variance in one circumstance does not oblige the Medical Panels Commissioner to make the same decision in another circumstance.

### **Conflict between the rules and legislation**

**1.7(1)** If any of these rules conflict or are inconsistent with legislation, the legislation prevails to the extent of the conflict or inconsistency.

**1.7(2)** The Medical Panels Commissioner may make additional rules for a particular medical panel and may consult with the chair of a medical panel for that purpose, so long as those additional rules are not inconsistent with these rules or legislation.

### **Communication with the Medical Panels Program**

**1.8** All communication with the Medical Panels Program by a party to a medical panel must be through the Medical Panels Registrar or other assigned Medical Panels Program staff member.

### **Confidentiality of information**

**1.9** Information shared in the course of a Medical Panels Program process and examination is private. It shall not be used or disclosed except as required by the Workers' Compensation Act, Workers' Compensation Regulation and Medical Panels Regulation.

### **Respectful Proceedings**

**1.10** A person who is disruptive, disrespectful or threatening in the course of a medical panel process may have their access to Medical Panels Program staff or premises restricted or made subject to conditions by the Medical Panels Commissioner, regardless of when the offending action occurs.

## Part 2

### Medical Panel Process

## Summary overview of this Part:

This Part describes how to make a request for a medical panel, what is done when a medical panel request is received, and how other parties can respond to and participate in a medical panel.

### Starting a medical panel

**2.1** The Workers' Compensation Board or Appeals Commission must forward a written request for a medical panel to the Medical Panels Commissioner, containing the following information:

- (a) the name of the worker;
- (b) the Workers' Compensation Board claim number;
- (c) the medical questions to be answered by the medical panel;
- (d) any documents the requesting party wants to ensure are before the medical panel, itemized to note date, author, and content of document.

### Multiple referrals to a medical panel

**2.2** On receipt of a request for a medical panel, the Medical Panels Commissioner will confirm that the questions posed to the medical panel have not been addressed by a previous medical panel on the same issue. A medical panel will not revisit the questions posed unless sufficient time has passed such that there is new information to be considered, or it is warranted by advancements in medical knowledge or technology.

### Acknowledgement of receipt and notice to parties

**2.3** The Medical Panels Program will acknowledge receipt of the request for a medical panel and will provide notice to the parties to the medical panel. The parties are typically the worker, the employer and the Workers' Compensation Board.

### Representation

**2.4(1)** At the discretion of the Medical Panel Chair, a worker may be represented by another person before the medical panel.

**2.4(2)** When a worker retains a representative for a medical panel, a Notice of Representation form must be filed with the Medical Panels Program.

**2.4(3)** If a worker dies in the course of the medical panel process and the executor or personal representative of the deceased wishes to continue with the medical panel, they may do so on information satisfactory to the Medical Panels Commissioner that the executor or personal representative is duly appointed and has appropriate authority.

**2.4(4)** A representative may assist the worker during the examination, speak to the record before the medical panel and otherwise ensure a complete history is brought to the panel's attention.

### **Giving notice to a representative is notice to a worker**

**2.5** A notice given to a representative by the Medical Panels Program or by another party to a medical panel is notice to the worker for whom the representative acts.

### **Representative ceasing to act**

**2.6** If a representative ceases to act for a worker, the worker or representative must promptly file a written notice with the Medical Panels Program.

### **Medical professional advisor**

**2.7** In addition to a representative, a worker may select a physician, with the physician's consent, as the worker's medical professional advisor to provide input and make representations on behalf of the worker for the benefit of the medical panel.

### **Case eligibility list**

**2.8(1)** On receipt of a request for a medical panel, the Medical Panels Commissioner shall prepare from the general eligibility list of physicians prepared by the College of Physicians and Surgeons a case eligibility list of physicians specifically skilled in the medical issue or matter to be dealt with by the medical panel.

**2.8(2)** The case eligibility list shall be forwarded to the parties in accordance with section 2 of the Medical Panels Regulation.

**2.8(3)** The parties will advise the Medical Panels Program of their preferred physicians from the case eligibility list in accordance with instructions provided by the Medical Panels Program.

**2.8(4)** If the worker, employer or Worker's Compensation Board do not advise the Medical Panels Program of their preferred physicians from the case eligibility list within 2 weeks of receiving same, or such longer period as determined by the Medical Panels Commissioner, the Medical Panels Commissioner shall choose a physician on their behalf.

**2.8(5)** The Medical Panels Commissioner will choose one of the physicians selected to be the chair of the medical panel.

### **Type of examination**

**2.9** The Medical Panels Program may conduct an examination by any one or more of the following:

- (a)** an oral examination (which may include the use of electronic technology to facilitate participation);
- (b)** a documents-only process.

### **Pre-medical examination information**

**2.10(1)** Prior to the examination, the Medical Panels Program will send every party the following information:

- (a)** a confirmation of the medical examination date, place and time;
- (b)** a confirmation of the questions to be answered by the medical panel;
- (c)** attendees at the examination;
- (d)** the type of examination; and
- (e)** whether an interpreter will be provided.

**2.10(2)** Prior to the examination, the Medical Panels Program will send the parties and medical panel members the Medical Information Package, composed of medical documents related to the medical panel.

### **Requesting additional information**

**2.11(1)** After a request for a medical panel has been received, the Medical Panels Commissioner may request the Workers' Compensation Board, Appeals Commission or worker provide any additional records and information that it considers necessary to make a medical finding.

**2.11(2)** To facilitate a request for advice or information relevant to the medical issue or matter, the Medical Panel Commissioner may request the Workers' Compensation Board to arrange an independent medical examination of the worker or arrange such testing or imaging as may be required.

**2.11(3)** The Medical Panels Commissioner, on the request of a chair of a medical panel, may:



- (a) arrange for tests or assessments of the worker;
- (b) compile medical information relevant to the medical issue or matter; and
- (c) request additional records and information, including personal information, from the Workers' Compensation Board, Appeals Commission or worker.

**2.11(4)** The Chair of a medical panel may request that the Medical Panels Commissioner invite a physician, including the worker's treating physician, and any other health provider holding a practice permit under the Health Professions Act whom the medical panel considers appropriate, to provide input.

**2.11(5)** The Chair of a medical panel may request the Medical Panels Commissioner to seek advice or information relevant to the medical issue or matter from any one or more of the following: physicians, medical specialists, and health care providers who hold a practice permit under the Health Professions Act.

**2.11(6)** "When information is received under rule 2.11, it must be shared with each member of the medical panel, the WCB, and the worker."

### **Application to reschedule a medical examination**

**2.12(1)** If a party needs to reschedule a medical examination, they must inform the Medical Panels Program at the earliest possible opportunity.

**2.12(2)** The Medical Panels Commissioner determines if the medical examination will be rescheduled.

**2.12(3)** All parties must be notified if a medical examination is rescheduled.

### **Interpreters**

**2.13(1)** The Medical Panels Commissioner may decide that an interpreter be present at a medical examination and is responsible for related costs.

## Summary overview of this Part:

This Part describes what will happen at a medical examination. It also describes medical panel reports and their distribution.

### Who attends a medical examination?

**3.1(1)** Medical examinations are conducted in private and are not open to the public.

**3.1(2)** The employer does not attend the medical examination.

**3.1(3)** At the discretion of the Medical Panels Commissioner, a medical examination may be attended by the following:

- (a)** the three physicians who have been selected as members of the medical panel;
- (b)** the worker;
- (c)** up to three additional people selected by the worker, including a representative, medical professional advisor, or support person;
- (d)** the Medical Panels Registrar;
- (e)** the Medical Panels Commissioner;
- (e)** an interpreter; and
- (f)** any other person for the purposes of training, quality assurance or other business operations of the Medical Panels Program.

### Respectful proceedings

**3.2(1)** The Medical Panel Chair has the authority to control proceedings to ensure that a medical examination is conducted in a manner that is respectful of all parties, medical panel members, and Medical Panels Program staff.

**3.2(2)** A disruptive, disrespectful or threatening person may be ordered by the Medical Panel Chair to leave or be removed from the examination.

**3.2(3)** The medical panel office has zero tolerance for rude, abusive or threatening behaviour. The Medical Panel Commissioner in his sole discretion, may restrict the access of an individual exhibiting these behaviours to the medical panel process on terms and conditions the Commissioner deems appropriate.

### **Recording the medical examination**

**3.3(1)** A medical examination may be audio recorded by the Medical Panels Program at the discretion of the Medical Panels Commissioner.

**3.3(2)** No other recording of the medical examination is permitted.

### **Failure to cooperate or attend**

**3.4(1)** If a worker fails to cooperate during the medical examination or assessment or is unwilling to attend a medical examination or assessment, the Medical Panels Commissioner may establish a medical panel to be held in the absence of the worker.

**3.4(2)** If a worker does not attend a scheduled medical examination or assessment, the Medical Panels Commissioner may make any direction they consider appropriate, including:

**(a)** proceeding with the medical examination in a manner the Medical Panels Commissioner determines appropriate; or

**(b)** adjourning the medical examination or assessment to a later date, subject to any conditions the Medical Panels Commissioner determines appropriate.

### **Information the medical panel must consider**

**3.5** In conducting a medical examination, the medical panel must consider the contents of the Medical Information Package, any additional information obtained by the Medical Panels Program, as well as all relevant information submitted by a party to the appeal.

### **Questioning by the medical panel**

**3.6** The medical panel may question a worker at a medical examination, including asking questions about the information before it.

### **In-person medical assessment by the medical panel**

**3.7(1)** The medical panel may conduct a physical assessment and exam of the worker in the course of the medical examination.

**3.7(2)** At the discretion of the Medical Panels Commissioner, a medical assessment may be attended by the following:

- (a) the worker;
- (b) the three physicians who have been selected as members of the medical panel; and
- (c) a chaperone.

### **Adjournment during the medical examination**

**3.8** During the medical examination, the medical panel may adjourn at any time, and reschedule to a new time, date or location or until conditions specified by the medical panel are met.

### **Medical panel reports**

**3.9(1)** Only the members of the medical panel may make medical findings in the medical panel report.

**3.9(2)** The reports of a medical panel are binding on the Workers' Compensation Board, the Appeals Commission and all other parties.

**3.9(3)** The reports of a medical panel are final and conclusive and not open to question or review in any court.

**3.9(4)** The report must be in writing and:

- (a) include findings of fact on which the report is based;
- (b) state the conclusion(s) reached; and
- (c) give reasons for the conclusion(s) reached.

**3.9(5)** The report must be signed by the chair of the medical panel and the chair may sign on behalf of the other members of the medical panel.

**3.9(6)** The Medical Panels Program provides copies of the report to:

- (a) the worker;
- (b) the employer;
- (c) the Workers' Compensation Board; and
- (d) the Appeals Commission, if the Appeals Commission requested the medical panel.

## Clarification

**3.10(1)** The referring body may seek additional clarification from the medical panel on its medical panel report.

**3.10(2)** Requests for clarification must be in writing and addressed to the Medical Panels Commissioner.

## Technical errors and omissions

**3.11(1)** After a report is signed, the medical panel that heard the matter and wrote the report has no further authority to review and change its signed report, other than to correct:

- (a)** obvious slips or typographical errors;
- (b)** errors of calculation;
- (c)** misstatements and technical errors; or
- (d)** omissions in its report.

**3.11(2)** These corrections may be made without first giving notice to the parties but the parties must subsequently be notified of the correction.

## Summary overview of this Part:

This Part describes how documents are filed with the Medical Panels Program and how documents are sent to parties. It also addresses the date at which these rules come into force.

### Providing documents to the Medical Panels Program

**4.1** Documents may be provided to the Medical Panels Program by ordinary or registered mail, courier, personal delivery, fax, or email to MP@gov.ab.ca.

### Service of court documents on the Medical Panels Program

**4.2 A** court process may be served on the Medical Panels Program by serving the Medical Panels Commissioner, Medical Panels Registrar, or by other means prescribed by the Alberta Rules of Court.

### Sending documents

**4.3(1)** A document permitted or required to be sent or given by the Medical Panels Program may be sent by ordinary or registered mail, courier, personal delivery, fax, email, or any other means approved by the Medical Panels Program.

**4.3(2)** A document that is permitted or required by these rules to be sent is presumed to have been received if it is sent by a method described in rule 4.3(1) and is sent to the last known postal address, fax number or email address provided by that person.

### Repeal of former rules

**4.4** This is the first version of the rules of the Medical Panels Program.

### Coming into force

**4.5** These rules come into force on June 1, 2022 and apply to all medical panels established on or after that date.

  
\_\_\_\_\_  
Douglass M Tadman QC  
Medical Panel Commissioner

June 1, 2020

\_\_\_\_\_  
Date

## Appendix A: Definitions

**Appeals Commission** means the Appeals Commission continued under section 10 of the Workers' Compensation Act and includes a panel of the Appeals Commission if so authorized under section 13.1(2) or 13.1(2.2) of the Workers' Compensation Act.

**Case Eligibility List** means the list of eligible physicians sent to the parties of a medical panel procedure to choose from.

**College of Physicians and Surgeons** means the body that regulates and is responsible for overseeing physicians practicing medicine in Alberta.

**Medical Assessment** means an in-person physical medical assessment and exam of the worker conducted by one or all of the physicians selected for a medical panel.

**Medical Examination** means the process by which the Medical Panel review and gathers medical information related to the matter, including an in-person medical examination and discussion with a worker.

**Medical Information Package** means the package of the worker's medical information that will be reviewed by the medical panel.

**Medical Panel** means the physicians appointed by the Medical Panels Commissioner to conduct the Medical Examination and deliver a report.

**Medical Panel Chair** means a member of the medical panel selected as chair by the Medical Panels Commissioner.

**Medical Panels Commissioner** means the Medical Panels Commissioner as appointed under section 46.2(1) of the Workers' Compensation Act.

**Medical Panels Program** means the independent program of the Appeals Commission established to conduct medical panels.

**Party** means a person with a direct interest in a medical panel.

**Referring Body** means the body that referred the matter to the Medical Panels Program being either the Workers' Compensation Board or the Appeals Commission.

**Worker** means the individual whose medical conditions will be examined by the medical panel in order to report on a matter related to their Workers' Compensation Board claim.

**Workers' Compensation Board** means the Workers' Compensation Board as established under the Workers' Compensation Act.



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