
Schedule 8 Medical Examiner Service Standards

1. General

A Medical Examiner must be a registered health practitioner or hold accreditation in the profession and/ or speciality in connection with which they are to conduct examinations. Medical Examiners must also comply with all relevant registration standards and policies as necessary to maintain and renew their registration (for example, registration standards relating to the maintenance of adequate professional indemnity insurance or continuing professional development).

1.1 Professional Standards

The relationship between a Medical Examiner and a TAC Client undergoing an IME differs from that in a usual practitioner/patient relationship. Notwithstanding this difference, it is expected that recognised professional standards, ethical guidelines and the applicable law will be adhered to at all times.

1.2 Compliance with Service Standards

The TAC requires Medical Examiners approved to conduct examinations to comply with these service standards. Failure to comply may result in suspension or revocation of a Medical Examiner's approval.

2. Independence

2.1 The Medical Examiner must be independent of the TAC and any legal representatives of the TAC Client. The Medical Examiner agrees to take all reasonable measures to ensure they maintain independence.

2.2 The Medical Examiner agrees to notify the TAC immediately if they believe there has been an attempt by anyone to inappropriately influence a Medical Examiner Report (or Addenda Report or Supplementary Report) arising from a Medical Examination.

3. Appointments

3.1 Availability

Medical Examiners are expected to have appointments available within 21 days of a request or demonstrate that booked examinations are in place within 21 days of a request.

3.2 Scheduled appointment time

- (a) The TAC Client to be examined must not be kept waiting for the Medical Examination for an unreasonable time. The Medical Examiner should aim to see people within 30 minutes of the scheduled appointment time.
- (b) Where a TAC Client arrives late to the scheduled appointment, the Medical Examiner where practically possible, should provide the TAC Client a reasonable period of time before cancelling the appointment.

3.3 Cancellations

The Medical Examiner should notify the TAC of any appointments that need to be cancelled no later than 72 hours prior to the scheduled appointment where practical, or as soon as they become aware of the need for the cancellation.

3.4 Appropriate discipline

The Medical Examiner must not accept referrals from the TAC, or undertake a Medical Examination, if they are not qualified and experienced or hold the relevant impairment accreditation if requested, in the specialty for which the examination has been arranged. The Medical Examiner should ensure the TAC is notified as soon as is practical after they become aware of an inappropriate referral from the TAC.

3.5 TAC Client Identification

The Medical Examiner should verify the identity of the TAC Client by using an appropriate form of photo identification, such as a driver's licence. In the event that the TAC Client is unable to provide such identification, the Medical Examiner should proceed with the Medical Examination but document this in their Medical Examiner Report.

3.6 Telehealth referrals

A Telehealth examination is an audio-visual conference by the Medical Examiner and the TAC Client in relation to a Medical Examination. Medical Examiners must not accept Telehealth referrals where a clinically valid assessment cannot be undertaken (eg, where a TAC Client needs to be assessed physically to provide a complete and accurate report). Factors to consider are outlined in section 4.8. The Medical Examiner should notify the TAC as soon as is practical after they become aware of an inappropriate referral.

3.7 Accessibility

- (a) It is expected that the Medical Examiner's rooms are an accessible premises pursuant to the *Discrimination and the Victorian Equal Opportunity Act 2010* (Vic). If there are any access limitations, the Medical Examiner must notify the TAC as soon as possible.
- (b) If a TAC Client is unable to attend a Medical Examiner's rooms, either due to access limitations or the TAC Client's medical condition, the Medical Examiner may be asked to conduct a Medical Examination at another suitable location. This is subject to the Medical Examiner's consent and subject to reaching agreement with the TAC regarding the suitable location and travel arrangements.

3.8 Security

Security is available for support at examinations where a TAC Client has been identified as being a known risk for harm to self or other individuals:

- (a) the TAC will notify the Medical Examiner where there is a known risk about a TAC Client;
- (b) Medical Examiners have the choice to accept or reject a referral from the TAC where there is a known risk; and
- (c) if the Medical Examiner chooses to accept the referral, the TAC is required to offer security support to the Medical Examiner. This may include having attendance by a security officer at the Medical Examination. The TAC is responsible for arranging security attendance, and the cost for security attendance will be covered by the TAC.

4. Examinations

4.1 Referrals

- (a) The Medical Examiner should pre-review all the documents sent with the referral from the TAC, including any Letter of Instruction, medical reports, x-rays and investigations.
- (b) This will allow the Medical Examiner to highlight specific questions and aspects of the Medical Examination that may not have been identified if the Medical Examiner relies exclusively on the TAC Client's recollection.

- (c) Review of the documentation prior to the scheduled appointment also provides the Medical Examiner with the opportunity to request the TAC to send additional material. This allows the Medical Examiner to consider all necessary information to ensure that the findings, opinions and recommendations from the Medical Examination are sound and complete. The reasons why the additional material is required must be articulated.

4.2 Expectation setting

- (a) Medical Examiners must ensure they present themselves in a professional manner at all times. Medical Examiners must also ensure their facilities and equipment used to conduct examination are clean, safe, and fit for purpose.
- (b) At the commencement of the Medical Examination, Medical Examiners must explain:
 - (i) the purpose and nature and what the TAC Client should expect as part of the Medical Examination;
 - (ii) their role as a Medical Examiner;
 - (iii) that their findings, opinions and recommendations will be contained in a Medical Examination Report (or Addenda Report or Supplementary Report, if requested by the TAC) which will be sent to the TAC and may also be sent to a TAC Client, legal representatives and/or treating practitioners;
 - (iv) that they are impartial, and reassure the TAC Client that the Medical Examination Report (or Addenda Report or Supplementary Report, if requested by the TAC) will record their objective clinical diagnosis and opinions and that it is not their role (as the Medical Examiner) to make claims related decisions; and
 - (v) the specialty in which they practice and its relevance to the Medical Examination.
- (c) Medical Examiners must not make value judgements or personal comments and/or advise the TAC Client of their findings, opinions or recommendations (including treatment) during the Medical Examination. The Medical Examiner must include all their findings, opinions and/or recommendations within the Medical Examination Report (or Addenda Report or Supplementary Report).
- (d) Medical Examiners should clearly answer queries raised by a TAC Client about the purpose or relevance of any questions, procedures or other aspects of the Medical Examination.
- (e) Medical Examiners should forewarn people if an examination, test or procedure is required which may be considered or interpreted as intrusive or cause some discomfort or pain. Medical Examiners must explain why the Medical Examination, test or procedure is necessary and reassure the TAC Client that it will not worsen their condition.

4.3 Conduct during the Medical Examination:

- (a) The Medical Examiner:
 - (i) must conduct the entire independent assessment in person, unless otherwise agreed with the TAC, including the history and Medical Examination, and
 - (ii) personally write the Medical Examination Report (and any Addenda Report or Supplementary Report, if requested by the TAC) with respect to a TAC Client; and
 - (iii) must not conduct any component of a Medical Examination without being in the room with a TAC Client, unless otherwise agreed between the Medical Examiner and a TAC Client (eg, a Telehealth-based Medical Examination).

- (b) It is acknowledged that special tests may be required and may be conducted by other parties, such as lung function testing, audiology or sleep studies.
- (c) The Medical Examiner must not record the Medical Examination in any way without the TAC Client's knowledge and consent. For specialities that require the Medical Examination to be recorded, consent from the TAC Client should always be obtained prior to the commencement of the Medical Examination. This consent must also be clearly documented within the Medical Examination Report.
- (d) It is expected that the Medical Examiner will treat TAC Clients undergoing Medical Examinations with the same professional standards of care, consideration and courtesy that a private patient would expect (as covered by the Ethical Guidelines for Conducting Independent Medical Assessments).¹ This also includes Medical Examinations conducted via Telehealth.

4.4 Standards of professional behaviour

The standards of professional behaviour as outlined in the 'Good Medical Practice: A code of Conduct for Doctors in Australia'² (**Code of Conduct**) should be applied, including:

- (a) being courteous, alert to the concerns of the TAC Client and ensuring that the Medical Examiner has the TAC Client's consent;
- (b) explaining to the TAC Client the Medical Examiner's area of expertise, their role, and the purpose, nature and extent of the assessment to be conducted in the Medical Examination;
- (c) anticipating and seeking to correct any misunderstandings that the TAC Client may have about the nature and purpose of the Medical Examination;
- (d) providing an impartial Medical Examination Report (and Addenda Report or Supplementary Report, if requested by the TAC);
- (e) recognising that, if the Medical Examiner discovers an unrecognised, serious medical problem during their Medical Examination, they have a duty of care to inform the TAC Client and/or their treating doctor;
- (f) being honest and not misleading when writing a Medical Examiner Report (and Addenda Report or Supplementary Report, if requested by the TAC) and certificates and only signing documents the Medical Examiner believes to be accurate;
- (g) taking reasonable steps to verify the content before the Medical Examiner signs a Medical Examiner Report (and Addenda Report or Supplementary Report, if requested by the TAC) and not omitting relevant information deliberately;
- (h) preparing or signing documents and a Medical Examiner Report (and Addenda Report or Supplementary Report, if requested by the TAC), within a reasonable and justifiable timeframe, as per Standard 7.3 of the Code of Conduct;
- (i) making clear the limits of the Medical Examiner's knowledge and not giving opinion beyond those limits when providing an opinion; and
- (j) ensuring a gown or other covering is always offered if a TAC Client is asked to undress, and the Medical Examiner should excuse themselves or move out of the TAC Client's line of sight while the TAC Client is undressing.

4.5 Tests

- (a) As a general rule, additional tests may only be permitted where the findings of the Medical Examination would otherwise be unreliable.

¹ Australian Medical Association – Ethical Guidelines for Independent Medical Assessments 2010

² Medical Board of Australia – Good Medical Practice: A code of conduct for Doctors in Australia, March 2014, page 19

- (b) Medical Examiners must **not** initiate any tests or imaging without the TAC Client's consent and prior consideration by their treating health practitioner.
- (c) If the Medical Examiner requires further tests or imaging, this should be included as a recommendation in their Medical Examination Report. This must include an explanation as to why they are unable to provide a complete assessment without the requested test, imaging or pathology. Where a complete and reliable Independent Impairment Assessment cannot be provided due to additional imaging being required, this explanation must also detail the table(s) and/or text from the AMA 4th Edition Guides relevant to the imaging requested. The TAC will forward any recommendations to the TAC Client's treater for consideration.
- (d) It is acknowledged that special tests may be required and may be conducted by other parties, such as lung function testing, audiology or sleep studies. An addiction medicine specialist may conduct a breathalyser test, urine drug test and blood test(s) if considered necessary to provide an opinion. The TAC Client must provide their consent.

4.6 Length of appointment

Medical Examiners must allocate sufficient time to allow for a comprehensive and complete Medical Examination to be carried out. Extra time may be required if an interpreter is being used or the case is extremely complex.

4.7 Interpreters

- (a) The TAC will arrange for a qualified interpreter to attend the Medical Examination, if required. It is preferred that family (including children under the age of 18 years) and friends do not act as interpreters. If difficulties arise with the interpreting arrangements during a Medical Examination, the Medical Examiner must immediately notify the TAC.
- (b) Medical Examiners must be sensitive to the presence of an interpreter if the TAC Client to be examined is asked to undress and to ensure discretion is afforded.

4.8 Third party attendance

- (a) The TAC Client being examined or the Medical Examiner may agree to a third party to be an observer to the Medical Examination, or to provide assistance during the Medical Examination.
- (b) If the TAC Client being examined insists on the presence of a family member or friend for moral support during the Medical Examination, this may be acceptable provided that the Medical Examiner considers this appropriate in the circumstance. The family member or friend must not be allowed to disrupt the Medical Examination. The family member or friend may assist in clarifying aspects of the TAC Client's medical and injury history, but they must not be permitted to interfere with the normal interchange between the Medical Examiner and the TAC Client being examined.
- (c) The Medical Examination Report (and Addenda Report or Supplementary Report, if requested by the TAC) should clearly articulate the difference in history provided by the TAC Client and the family member or friend.
- (d) The TAC Clients attending a psychiatric examination will normally be seen without family members or friends because of the TAC Client and private nature of the questions asked. If the Medical Examiner determines it is suitable to proceed with the Medical Examination in the presence of a family member or friend, this should be documented in the Medical Examination Report.

4.9 Telehealth attendance

- (a) The TAC does **not** accept audio-only Medical Examinations via phone and does not accept Telehealth-based Medical Examinations for complex cases or as outlined in section 3.6, where a clinically valid assessment cannot be undertaken remotely.

- (b) Telehealth-based Medical Examinations must only occur where:
 - (i) it is clinically appropriate;
 - (ii) the Medical Examination can be undertaken in its entirety, safely and in accordance with professional standards (refer to section 4.3). This includes ensuring physical and cultural safety for the TAC Client being examined;
 - (iii) the TAC Client prefers a Telehealth appointment;
 - (iv) the person understands the process of Telehealth including being asked for consent if any part of the Medical Examination is to be recorded in any way;
 - (v) a physical examination is not required to provide a complete and accurate Medical Examiner Report (and Addenda Report or Supplementary Report, if requested by the TAC);
 - (vi) an appropriate technology platform is used that provides adequate audio and visual quality for the length of the assessment, and the software meets applicable security and privacy laws;
 - (vii) risk mitigation strategies are in place where there is a potential risk to the mental or physical health of the TAC Client being examined (eg, the Medical Examiner or other providers have ascertained the location / address of the TAC Client being examined and any other parties present at the location / address); and
 - (viii) the Medical Examination Services are provided within Australia for both the Medical Examiner and the TAC Client being examined, unless otherwise agreed between the Medical Examiner and the TAC Client.
- (c) Where a Medical Examination is conducted by Telehealth attendance, the Medical Examination Report must:
 - (i) specify if the Telehealth attendance was audio and visual;
 - (ii) confirm that it was clinically appropriate to conduct the Medical Examination by Telehealth;
 - (iii) document that the TAC Client being examined was informed of the Telehealth process and agreed to this mode of Medical Examination; and
 - (iv) state what software was used to conduct the Medical Examination by Telehealth.
- (d) Refer to the TAC's Telehealth Policy (forming part of Schedule 14) for more information.

5. Conflicts of interest

5.1 Expectations

Medical Examiners must not accept a referral from the TAC, or undertake a Medical Examination, if a Conflict of Interest might arise (or be perceived to arise) unless the Medical Examiner has notified the TAC, and the parties have agreed in writing on a process to manage the conflict. It is not possible to give an exhaustive list of situations where a Conflict of Interest might arise, but some examples are:

- (a) if the Medical Examiner has provided treatment or Medical Examination Services to the TAC Client previously (other than in their role as a Medical Examiner); or
- (b) the Medical Examiner has a financial or commercial interest in any capacity with the Medical Examination Services previously provided or being provided to the TAC Client.

5.2 Providing treatment

The TAC considers it is a Conflict of Interest for a Medical Examiner to provide treatment or Medical Examination Services to a TAC Client after they have undergone an Independent Medical Examination by that Medical Examiner.

6. Contact with treating healthcare practitioners

6.1 Contact with treater

- (a) A Medical Examiner must not contact a TAC Client's treating healthcare practitioner without the TAC Client's written consent unless the Medical Examiner has an overarching legal, ethical or professional obligation to do so.
- (b) The Medical Examiner will articulate in the Medical Examination Report if they require further information from a treating practitioner to assist them in providing sound and evidence-based opinions. The TAC will obtain this information (if possible) and provide it to the Medical Examiner with a request for an Addenda Report or Supplementary Report.

6.2 Reports

Medical Examiners must adhere to the TAC's report template.

6.3 Content and structure

- (a) The Medical Examiner should consider their audience when preparing Medical Examination Reports (and Addenda Reports and Supplementary Reports). Medical Examination Reports (and Addenda Reports and Supplementary Reports) are used by non-medically trained staff of the TAC and may also be disclosed to the TAC Client, their legal practitioners and treating healthcare professionals. Medical Examination Reports (and Addenda Reports and Supplementary Reports) may also be subject to requests made under the *Freedom of Information Act 1982* (Vic).
- (b) Medical Examiners must comprehensively address all the points raised or questions asked in the Medical Examiner Report Template and the Letter of Instruction. It is mandatory that the questions and answers are included in the Medical Examiner Report (and Addenda Report and Supplementary Report) so that the Medical Examiner Report (and Addenda Report and Supplementary Report) can be read as a stand-alone document.
- (c) If the Medical Examiner Report does not address all requirements and instructions of the Medical Examiner Report Template or Letter of Instruction, and a further request is required to address these requirements, this will be in the form of an Addenda Report. In this circumstance it is expected that the response will be supplied at no further cost to the TAC.
- (d) Medical Examiners should ensure their comments in the Medical Examination Report (and Addenda Report and Supplementary Report) relate to their professional opinion and recommendations as to assist the TAC to make relevant decisions in accordance with the Transport Accident Act.
- (e) The Medical Examination Report (and Addenda Report and Supplementary Report) should:
 - (i) be limited to matters of professional opinion and not contain comments about what decision the Medical Examiner considers should be made by the TAC, unless there is a specific question in the Letter of Instruction (or as otherwise requested by the TAC) asking such; and
 - (ii) use plain language and avoid the use of jargon or language that is too technical. Where technical language is necessary, a brief explanation of what any technical terms or phrases mean must be provided.

- (f) The Medical Examiner must provide evidence-based opinions by:
 - (i) referencing a detailed and accurate history and an appropriate and thorough clinical Medical Examination;
 - (ii) containing clear and unambiguous professional opinions and, where required, recommendations based on science and with reference to best practice medicine or best clinical practice;
 - (iii) presenting an evidence-based approach to evaluating symptoms, clinical findings and presenting recommendations including references to peer reviewed studies, current biomedical models and/or industry approved guidelines;
 - (iv) noting if there is insufficient clinical information to present an evidence-based opinion; and
 - (v) document reasons for all opinions expressed and relate those opinions to the information provided, examination findings, the history obtained, and their clinical knowledge.
- (g) The Medical Examiner must ensure the Medical Examination Report:
 - (i) is impartial and independent and does not contain any value judgements or TAC Client's comments;
 - (ii) contains only relevant information and does not disclose any Personal Information obtained about the TAC Client that is not relevant to the clinical findings, opinions or recommendations;
 - (iii) does not contain descriptions of a TAC Client's appearance or demeanour during the Medical Examination or as otherwise observed, except to the extent that it is relevant to the findings, opinions or recommendations made (eg, as part of a Medical Examination relating to an assessment of mental state) and only where this relevance is articulated; and
 - (iv) is free of advocacy and/or bias for any party.
- (h) Repeated issues in relation to quality concerns, or the content and structure of reports, may result in the suspension or revocation of a Medical Examiners approval to undertake Medical Examinations for the TAC.

7. Court and Tribunal attendance

7.1 Court and tribunal obligations

Medical Examiners must be available to attend and give evidence in court proceedings, if required. Some proceedings may be held in regional areas.

7.2 Obligations as expert witnesses

Medical Examiners must be familiar with their obligations as an expert witness in accordance with *Form 44A - Expert Witness Code of Conduct in the Supreme Court (Chapter 1 Expert Witness Code Amendment) Rules 2016*, together with Rule 44.03 of the *Supreme Court (General Civil Procedure) Rules 2015*, Rule 44.03 of the *County Court Civil Procedure Rules 2018*, VCAT Practice Note – PNVCAT 2 Expert Evidence dated 8 December 2022, section 10(3) of the *Civil Procedure Act 2010* (Vic), and part 4.6 of the *Civil Procedure Act 2010* (Vic).