

**MEDICAL BOARD ENFORCEMENT REPORT**

DATE REPORT ISSUED: April 4, 2013  
DEPARTMENT: Enforcement Program  
SUBJECT: Expert Reviewer Reimbursement Rate  
STAFF CONTACT: Laura Sweet

REQUESTED ACTION:

Direct staff to prepare a Budget Concept Proposal in order to increase compensation for expert reviewers.

STAFF RECOMMENDATION:

Recommend a Budget Concept Proposal be prepared in order to increase expert reviewer compensation to \$200.00 per hour for record review and report writing and \$250.00 per hour for testifying for all specialties except for neurosurgery. In neurosurgery cases, recommend compensation be increased to \$300.00 per hour for record review and report writing and \$400.00 per hour for testimony. This increased scale of pay will only be provided to experts who have attended the 8-hour training course for expert reviewers and who have successfully prepared a sample expert opinion.

EXECUTIVE SUMMARY:

The expert reviewer program is among the most critical aspects of the enforcement program. A poorly considered and articulated expert opinion can result in decreased public protection. Such an opinion can result in charges not being filed against a physician who has violated the Medical Practice Act; can result in charges being filed that ultimately cannot be supported; or can result in an accusation being dismissed if the expert cannot adequately testify in a manner to support the opinion rendered. To ameliorate these problems, 8 hours of formal, interactive training was instituted in May 2012. The objective of the course is to improve the quality of the opinions received, improve testifying skills, and improve statewide uniformity. Experts are compensated for their attendance at this training with CME credits (10 currently). Experts are also asked to prepare a sample expert opinion where specific feedback is then provided.

Ideally, an expert should have completed this training and provided a satisfactory sample expert opinion prior to being utilized in a “real” case to ensure public protection will not be compromised by an untrained individual rendering such an important product. This vetting process, to date, has not been feasible due to the notoriously below-market rate of payment the board issues to its experts.

During calendar year 2011, the expert reviewer program requested feedback from experts via questionnaires and received consistent responses regarding the low pay. The following are some of the comments taken, verbatim, regarding reimbursement:

- “Rate increase for time, as this is time spent away from family or other cases. My usual minimum rate is \$350/hr. to 500/hr. Understanding the importance of MBC review, a rate of \$250/hr. would be much more reasonable + allow for faster reviews.”
- “The reimbursement rate is quite low in comparison to the private market – since it is a service the value should likely come closer to the difference of these two extremes! i.e. \$350/hr.”
- “The pay is low compared with other professional activities, but I am willing to continue, as it is a necessary service.”
- “I think reimbursement should be higher --- comparable to medical-legal review reimbursement.”
- “Although I feel that my time and experience are worth much more than \$150/hr, and I am certainly more handsomely rewarded in my work on med-mal cases, I am willing to work for the MBC at far less than my med-mal. rate because I am aware of the limitations imposed by state budgetary constraints.”
- “Pay is significantly below average.”
- “The work is difficult and I think the hourly reimbursement is too low.”
- “Median rate for medico-legal evaluations for neurosurgeons is \$500-\$800/hr. While I understand MBC cannot pay this rate, there would be more willingness to participate if rate (sic) were a little higher.”

The Board has had significant difficulty procuring neurosurgery experts as evidenced by the few experts available in this specialty to review cases. Currently, after recruiting using articles in the *Newsletter*, the *American Board of Neurosurgeon’s Newsletter* and by corresponding with academic institutions, the Board has a total of 9 experts. It is also nearly impossible to get an expert review turnaround in 30 days for neurosurgery cases; typically it is closer to 60 days (and sometimes longer).

The Board cannot hope to amass a pool of qualified, vetted experts unless it is willing to pay more for its deservedly high expectations. A physician’s time is a precious resource and the rate of compensation must reflect this reality.

The Board has instituted a training program to ensure the experts know and understand the requirements. Those who have attended should have their pay scale increased as they have taken the time in addition to volunteering to spend an 8 hour day on the weekend obtaining extra training in the review process.

FISCAL CONSIDERATIONS:

Please see attached spreadsheet.

PREVIOUS MBC AND/OR COMMITTEE ACTION:

Expert reviewers for the Board were initially paid, in 1994, \$75.00 per hour to review materials and prepare a report and \$100.00 for testimony. In April 2001, the rate was increased to \$100.00 per hour to review materials and write a report and \$200.00 per hour for testimony. In October 2007, rates increased to \$150 per hour for record review/report writing and remained at \$200.00 per hour for testimony.

**MEDICAL BOARD EXPERT REVIEW RATES  
PROPOSED NEW RATES**

TYPE OF SERVICE	CURRENT RATES	CURRENT ANNUAL EXPERT EXPENSES FY 2011/2012 DATA	PROPOSED RATE INCREASE BY	PROPOSED NEW RATES	PROPOSED ANNUAL EXPERT EXPENSES	DIFFERENCE	% INCREASE OF EXPERT EXPENSES FROM PREVIOUS FY
<b>*REVIEW/REPORT CASE REVIEW NEUROSURGERY ONLY</b>	\$ 150/HR	\$ 33,000	\$ 150/HR	\$ 300/HR	\$ 66,000	\$ 33,000	100
<b>TESTIFYING NEUROSURGERY ONLY</b>	\$ 200/HR	\$ 1,600	\$ 200/HR	\$ 400/HR	\$ 3,200	\$ 1,600	100
<b>*REVIEW/REPORT CASE REVIEW ALL OTHER SPECIALTIES</b>	\$ 150/HR	\$ 1,276,000	\$ 50/HR	\$ 200/HR	\$ 1,702,000	\$ 426,000	33
<b>TESTIFYING ALL OTHER SPECIALTIES</b>	\$ 200/HR	\$ 60,750	\$ 50/HR	\$ 250/HR	\$ 76,000	\$ 15,250	25

\*INCLUDES THE FOLLOWING ACTIVITY CODES:

R-RECORD REVIEW/REPORT PREPARATION

RPC – CASE REVIEW/QUESTION DEVELOPMENT FOR PC EXAM

PC – PROFESSIONAL COMPETENCY EXAM

AG – CONFERENCE WITH DEPUTY ATTORNEY GENERAL

MC –PHONE/PERSONAL DISCUSSION WITH DISTRICT MEDICAL CONSULTANT OR INVESTIGATOR