

**WSR 22-07-111  
PERMANENT RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed March 23, 2022, 11:28 a.m., effective April 23, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule is needed to clarify when an independent medical examination (IME) can be requested by labor and industries and self-insurers in order to resolve an appeal to the board of industrial insurance appeals.

Citation of Rules Affected by this Order: New WAC 296-23-401.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030.

Other Authority: RCW 51.36.070.

Adopted under notice filed as WSR 22-01-203 on December 21, 2021.

Changes Other than Editing from Proposed to Adopted Version: In the first sentence, "reassume and" was added. The end of the sentence was removed as it's unnecessary. The last sentence was removed because the sentence purported to regulate the board of industrial insurance appeals.

A final cost-benefit analysis is available by contacting Suzy Campbell, Department of Labor and Industries, Legal Services, P.O. Box 44270, Olympia, WA 98504-4270, phone 360-902-5003, fax 360-902-5029, email suzanne.campbell@Lni.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 23, 2022.

Joel Sacks  
Director

**OTS-3262.3**

NEW SECTION

**WAC 296-23-401 Can the department schedule an examination or order a self-insured employer to schedule an examination after receipt of an appeal to the board of industrial insurance appeals (BIIA)?**

Following receipt of an appeal by any party, the department may reassume and schedule, or may order the self-insured employer to schedule, an examination.

The self-insured employer may also schedule an examination regarding an appeal if a request has been approved by the department.

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