

§ 97-27. Medical examination; facts not privileged; refusal to be examined suspends compensation; other medical opinions; autopsy.

(a) After an injury, and so long as the employee claims compensation, the employee, if so requested by his or her employer or ordered by the Industrial Commission, shall submit to independent medical examinations, at reasonable times and places, by a duly qualified physician who is licensed and practicing in North Carolina and is designated and paid by the employer or the Industrial Commission, even if the employee's claim has been denied pursuant to G.S. 97-18(c). The independent medical examination shall be subject to the following provisions:

- (1) The injured employee has the right to have present at the independent medical examination any physician provided and paid by the employee.
- (2) Notwithstanding the provisions of G.S. 8-53, no fact communicated to or otherwise learned by any physician who may have attended or examined the employee, or who may have been present at any examination, shall be privileged with respect to a claim before the Industrial Commission.
- (3) Notwithstanding the provisions of G.S. 97-25.6 to the contrary, an employer or its agent shall be allowed to openly communicate either orally or in writing with an independent medical examiner chosen by the employer regardless of whether the examiner physically examined the employee.
- (4) If the examiner physically examined the employee, the employer must produce the examiner's report to the employee within 10 business days of receipt by the employer, along with a copy of all documents and written communication sent to the independent medical examiner pertaining to the employee.
- (5) If the employee refuses to submit to or in any way obstructs an independent medical examination requested and provided by the employer, the employee's right to compensation and to take or prosecute any proceedings under this Article shall be suspended pursuant to G.S. 97-18.1 until the refusal or objection ceases, and no compensation shall at any time be payable for the period of obstruction, unless in the opinion of the Industrial Commission the circumstances justify the refusal or obstruction. When the employer seeks to suspend compensation under this subdivision, it shall not be necessary for the employer to have first obtained an order compelling the employee to submit to the proposed independent medical examination. Any order issued by the Commission suspending compensation pursuant to G.S. 97-18.1 shall specify what action the employee should take to end the suspension and reinstate the compensation.

(b) In any case arising under this Article in which the employee is dissatisfied with the percentage of permanent disability as provided by G.S. 97-31 and determined by the authorized health care provider, the employee is entitled to have another examination solely on the percentage of permanent disability provided by a duly qualified physician of the employee's choosing who is licensed to practice in North Carolina, or licensed in another state if agreed to by the parties or ordered by the Commission, and designated by the employee. That physician shall be paid by the employer in the same manner as health care providers designated by the employer or the Industrial Commission are paid. The Industrial Commission must either disregard or give less weight to the opinions of the duly qualified physician chosen by the employee pursuant to this subsection on issues outside the scope of the G.S. 97-27(b) examination. No fact that is communicated to or otherwise learned by any physician who attended or examined the employee, or who was present at any examination, shall be privileged

with respect to a claim before the Industrial Commission. Provided, however, that all travel expenses incurred in obtaining the examination shall be paid by the employee.

(c) The employer, or the Industrial Commission, has the right in any case of death to require an autopsy at its expense. (1929, c. 120, s. 27; 1959, c. 732; 1969, c. 135; 1973, c. 520, s. 2; 1977, c. 511; 1991, c. 636, s. 3; 2011-287, s. 9; 2012-135, s. 5.)