

40-3115. Mental or physical examination of injured person; written report of examination; availability of report to injured person; evidentiary effect. (a) Whenever the mental or physical condition of an injured person covered by personal injury protection benefits is material to any claim that has been or may be made for past or future personal injury protection benefits, such person, upon request of an insurer or self-insurer, shall submit to a mental or physical examination by a physician or physicians. The cost of any such examination requested by an insurer shall be borne entirely by the insurer or self-insurer. Any such examination shall be conducted within the city or county of residence of the insured, but if there is no qualified physician to conduct the examination within such city or county, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Insurers are authorized to include reasonable provisions in motor vehicle liability insurance policies for mental and physical examination of those claiming personal injury protection benefits.

(b) If requested by the person examined, the insurer or self-insurer causing the examination to be made shall deliver to such person a copy of every written report concerning the examination rendered by the examining physician, at least one (1) of which shall set out his findings and conclusions in detail. After such request and delivery, the insurer or self-insurer causing the examination to be made shall be entitled upon request to receive from the person examined every written report available to him, or his representative, concerning any examination, previously or thereafter made, of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered, or by taking the deposition of the examiner, the person examined shall be deemed to have waived any privilege he may have, with respect to the claim for personal injury protection benefits, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same mental or physical condition.

History: L. 1974, ch. 193, § 15; Feb. 22.