



Virginia Workers' Compensation Commission

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New Attorney Rules

Rule 4.2 Notice

At a meeting held on July 9, 2009, the Commission adopted the following version of Rule 4.2, effective immediately.

Rule 4.2:

Each party shall promptly provide the other parties with copies of any medical records they receive as they receive them. Unless otherwise directed by the Commission or these Rules, the parties shall not file medical records with the Commission until a hearing request is filed. The requesting party shall promptly file medical records supporting the request, if applicable. After a hearing request has been filed, the parties shall file with the Commission only medical records that are related to the hearing request. These records shall be filed upon receipt by the party filing them, and are required reports subject to the provisions of 65.2-902. A party is not required to file copies of medical records that another party has already filed.

A medical care provider attending an injured employee shall, upon request from an employer or an employee, furnish a copy of required reports, at no cost except for a nominal copying charge.

A medical care provider is entitled to a reasonable fee for preparation of a narrative report written in response to a request from a party if the report requires significant professional research or preparation.

Foreign Attorneys

Effective July 1, 2007, the Commission's policy concerning participation in cases pending before it by attorneys who are not licensed to practice law in Virginia was superseded by amended Supreme Court Rule 1A:4. The amended Rule requires the following:

1. The out-of-state attorney must complete a notarized application form and deliver it to local counsel (an active member of the Virginia State Bar in good standing) with whom the out-of-state attorney is associating. The form is available at:

http://www.courts.state.va.us/courts/scv/forms/pro_hac_vice_form.pdf

2. Local counsel must file with the Clerk of the Commission the following items:
 - a. The completed, signed, notarized application;
 - b. A check in the amount of \$250.00 payable to the Supreme Court of Virginia;
 - c. A Motion for admission of the foreign attorney pro hac vice;
 - d. A proposed Order admitting the foreign attorney.

3. Upon receipt of the above items, the Clerk's Office will confirm with the Supreme Court that the foreign attorney has not entered an appearance in more than 12 cases before Virginia tribunals during the past 12 months.

4. If the foreign attorney is not barred by the 12-case rule, then the Clerk will refer the application to the Chief Deputy Commissioner for review and entry of the Order.

This Rule applies to each and every case in which attorneys who are not licensed to practice law in Virginia wish to participate, regardless of the type of case or its posture (e.g. initial and change-in-condition workers' compensation cases, Petition and Order settlements, Reviews, Peer Review, and cases concerning the Birth-Related Neurological Injuries Compensation Act and the Criminal Injuries Compensation Fund), and out-of-state attorneys may not make an appearance until an Order granting admission has been entered. If the out-of-state attorney wishes to appear in more than one case, a separate application package must be filed, and the \$250.00 fee paid, for each case.

The complete text of amended Supreme Court Rule 1A:4 is available at:
http://www.courts.state.va.us/courts/scv/forms/pro_hac_vice_rule_inst.pdf