

Rule 215. Physical and Mental Examination of Parties and Other Persons.

(a) Notice; Motion; Order. In any action in which the physical or mental condition of a party or of a person in the party's custody or legal control is in controversy, the court, upon notice and on motion made within a reasonable time before the trial, may order such party to submit to a physical or mental examination by a licensed professional in a discipline related to the physical or mental condition which is involved. The motion shall suggest the identity of the examiner and set forth the examiner's specialty or discipline. The court may refuse to order examination by the examiner suggested but in that event shall permit the party seeking the examination to suggest others. A party or person shall not be required to travel an unreasonable distance for the examination. The order shall fix the time, place, conditions, and scope of the examination and designate the examiner. The party calling an examiner to testify at trial shall disclose the examiner as a controlled expert witness in accordance with these rules.

(b) Examiner's Fee and Compensation for Loss of Earnings. The party requesting the examination shall pay the fee of the examiner and compensation for any loss of earnings incurred or to be incurred by the party or person to be examined in complying with the order for examination, and shall advance all reasonable expenses incurred or to be incurred by the party or person in complying with the order.

(c) Examiner's Report. Within 21 days after the completion of the examination, the examiner shall prepare and deliver to the attorneys for the party requesting the examination and the party examined a written report of the examination, setting out the examiner's findings, results of all tests made, and the examiner's diagnosis and conclusions. The court may enforce compliance with this requirement. If the report is not delivered to the attorney for the party examined within the time herein specified or within any extensions or modifications thereof granted by the court, neither the examiner's report, the examiner's testimony, the examiner's findings, X-ray films, nor the results of any tests the examiner has made may be received in evidence except at the instance of the party examined or who produced the person examined. No examiner under this rule shall be considered a consultant.

(d) Impartial Medical Examiner.

(1) *Examination Before Trial.* A reasonable time in advance of the trial, the court may on its own motion or that of any party, order an impartial physical or mental examination of a party where conflicting medical testimony, reports or other documentation has been offered as proof and the party's mental or physical condition is thereby placed in issue, when in the court's discretion it appears that such an examination will materially aid in the just determination of the case. The examination shall be made by a member or members of a panel of physicians chosen for their special qualifications by the Administrative Office of the Illinois Courts.

(2) *Examination During Trial.* Should the court at any time during the trial find that compelling considerations make it advisable to have an examination and report at that time, the court may in its discretion so order.

(3) *Copies of Report.* A copy of the report of examination shall be given to the court and to the attorneys for the parties.

(4) *Testimony of Examining Physician.* Either party or the court may call the examining

physician or physicians to testify. Any physician so called shall be subject to cross-examination.

(5) *Costs and Compensation of Physician.* The examination shall be made, and the physician or physicians, if called, shall testify without cost to the parties. The court shall determine the compensation of the physician or physicians.

(6) *Administration of Rule.* The Administrative Director and the Deputy Administrative Director are charged with the administration of the rule.

Amended June 1, 1995, effective January 1, 1996; amended March 28, 2002, effective July 1, 2002; amended March 28, 2011, effective immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018.

Committee Comments

(March 28, 2011)

Paragraph (d) provides that a trial court may order impartial medical examinations only where the parties have presented conflicting medical testimony, reports or other such documentation which places a party's mental or physical condition "in issue" and, in the court's discretion, it appears that the examination will materially aid in the just determination of the case. Mere allegations are insufficient to place a party's mental or physical condition "in issue."

The impartial medical examiner cannot answer the ultimate legal issues in the case; rather, the examiner can render a medical opinion which can assist in the resolution of those issues.

Administrative Order

(Nov. 27, 2002)

In re Discovery Rules

The order entered March 28, 2002, amending various rules and effective July 1, 2002, shall apply to all cases filed after such effective date as well as all cases pending on such effective date, provided that any discovery order entered in any such case prior to July 1, 2002, shall remain in effect unless and until amended by the trial court.

Order entered November 27, 2002, effective immediately.

Committee Comment

(March 28, 2002)

This rule is amended to conform to the changes in terminology made in Supreme Court Rule 213.

Committee Comments

(Revised June 1, 1995)

This rule is derived from former Rules 17-1 and 17-2. The language of Rule 17-1 was not changed except that the time in which the examining physician shall present his findings has been extended to 21 days in paragraph (c) of Rule 215. Under former Rule 17-1(3) that period was 20 days. Paragraph (c) of the new rule also requires that the physician present his report 14 days before trial. Former Rule 17-1(3) required the physician to present his findings not later than 10 days before trial. These changes are consistent with the committee's general policy of establishing time periods in multiples of seven days.

Former Rule 17-2 has been revised as paragraph (d) of the new rule, but the substance is not changed, except that the provision is no longer limited to personal injury cases.

This rule is intended to provide an orderly procedure for the examination of civil litigants whose physical or mental condition is in controversy. Originally, the rule concerned only physicians. The new rule recognizes that a number of professionals in other health-related disciplines are licensed to perform physical and mental examinations and therefore the designation "licensed professional" is substituted for "physician." The new language was adopted to effectuate the objectives of the rule with minimal judicial involvement. The requirement of "good cause" was therefore eliminated as grounds for seeking an examination.

Timing is the critical consideration. Examining professionals under the rule fall within the classification of opinion witnesses under Supreme Court Rule 213(g) as opposed to consultants under Supreme Court Rule 201(b)(3). Consequently, the rule has been amended to require that the examination be scheduled in order that the report contemplated by subsection (c) is provided in accordance with the deadlines imposed by Supreme Court Rule 218(c). In addition, the failure to provide the attorney for the party who was examined with a copy of the examiner's report within the 21-day period specified by paragraph (c) will result in exclusion of the examiner's testimony, opinions, and the results of any tests or X-rays that were performed.

Supreme Court Rule 215 is the compilation of rules previously and independently suggested by the Illinois Judicial Conference Committee on Discovery Procedures and the Supreme Court Rules Committee. The new rule allows for physical and mental examinations of "licensed professionals" and not merely physicians. The contemplated circumstances include sociologists, psychologists or other licensed professionals in juvenile, domestic relations and child custody cases. The Committee feels that this will aid not only in the previously designated cases but in other circumstances where it may become necessary for such a "professional" to be utilized. In particular, smaller counties have had difficulty in finding psychiatrists because of their limited number and lack of availability. This rule should help to alleviate this problem. The requirement of "good cause" for seeking such an examination was eliminated from the rule. In addition, the reference to the Illinois State Medical Society has been stricken, and the Administrative Office of the Illinois Courts has been substituted in its place.