

**ILLINOIS STATE POLICE DIRECTIVE  
PER-038, THE MEDICAL REVIEW BOARD AND MEDICAL DUTY**

<b>RESCINDS:</b> PER-038, 2017-021, revised 03-27-2017.	<b>REVISED:</b> 03-12-2021 <b>2021-005</b>
<b>RELATED DOCUMENTS:</b> PER-007, PER-025, PER-027, PER-036, PER-039, PER-057	<b>RELATED CALEA STANDARDS:</b> 22.2.2, 22.2.4, 22.3.1

I. POLICY

The Illinois State Police (ISP):

I.A. Will establish a Medical Review Board (MRB) that will:

I.A.1. Make recommendations to the Director regarding an employee's working status when medically related issues affect their ability to perform the essential functions of their job.

I.A.2. Review medical duty agreements that exceed 180 consecutive calendar days.

I.A.3. Review non-service connected leaves that exceed 180 consecutive calendar days.

I.A.4. Review cases of employees reaching one year of 512 time.

I.B. May require employees to work under a medical action plan when the MRB determines through the MRB process it will benefit the employee's overall health and ability to function in the workplace.

I.C. Will monitor the employee's medical condition while working under a medical action plan and determine when a medical action plan is no longer needed.

I.D. Will establish a Medical Duty process (see Addendum 1).

II. AUTHORITY

II.A. 5 ILCS 120/1 et. seq, "Open Meetings Act"

II.B. 775 ILCS 5/1-101, et. seq., "Illinois Human Rights Act"

II.C. 29 U.S.C. 2601, et. seq., "Family and Medical Leave Act"

II.D. 29 U.S.C. 794, et. seq., "Americans with Disabilities Act", Title II

III. DEFINITIONS

III.A. Department consultants - the Department's legal advisor(s), medical doctors, and psychologists who serve as consultants/advisors to the MRB.

III.B. Full duty status - the ability to perform all job tasks that may be required of an ISP officer and participate in, and successfully complete, physical fitness testing in accordance with ISP Directive PER-045, "Wellness Program." For code personnel, the point when the employee can return to regular, assigned duties without restriction.

III.C. Medical action plan – specific physical and/or psychological requirements established for employees to follow when deemed necessary by the MRB.

III.D. Medical Duty Agreement – a signed agreement mutually agreed upon by the Department and the employee and predicated by medical documentation that details an employee's temporary working restrictions, ability to perform current duties, the period of applicability, and the terms of the medical duty agreement.

III.E. Medical Review Board – a board comprised of all ISP Deputy Directors, or designees, responsible for making recommendations to the Director regarding an employee's working status.

- III.F. Medical Review Board Coordinator - an individual within OHR assigned to administer the provisions of this directive.
- III.G. Service-connected sick time - authorized time taken off-duty because of an illness or injury contracted or suffered while on duty or work status.
- III.H. Vocational reassignment - alternative employment within the Department in a non-sworn status of an individual who is medically restricted on a permanent basis.

IV. RESPONSIBILITIES

IV.A. Each Deputy Director will:

IV.A.1. Each Deputy Director or his/her designee will serve as a voting member of the MRB.

- IV.A.1.a. In no case will voting members be of a lower rank than Assistant Deputy Director
- IV.A.1.b. A quorum is required to conduct MRB business. A quorum is a simple majority of the voting members of the MRB.

IV.A.2. Refer any medically related issue from his/her division to the MRB Chair if mutual agreement between the employee and the work unit or Division cannot be reached or if an issue is particularly complex by:

- IV.A.2.a. Providing to the MRB Chair all pertinent information.
- IV.A.2.b. Notifying all applicable persons who may participate in an MRB meeting by giving testimony for either side.
- IV.A.2.c. Preparing any additional data, records, or reports requested by the MRB.

IV.B. MRB

IV.B.1. Ex officio advisors to the MRB, may attend all MRB meetings and deliberations and will include:

- IV.B.1.a. A representative from the Legal Office to address Legal issues
- IV.B.1.b. A representative from the Office of Labor Relations and Special Projects (OLR) to address Labor issues
- IV.B.1.c. A representative from the Office of Human Resources (OHR), to address personnel issues.
- IV.B.1.d. The MRB Coordinator (MRBC)
- IV.B.1.e. A medically knowledgeable department representative as determined by the MRB Chair
- IV.B.1.f. The Equal Employment Opportunity Program Manager

IV.B.2. The Deputy Director of the Division of Justice Services (DJS), or designee, will act as the chair and will provide a recording secretary for all MRB meetings. The Chair will provide all divisions with a copy of the MRB's current procedures.

IV.B.3. The Department may employ or appoint additional consultants to the MRB as needed.

IV.B.4. The MRB will promulgate MRB operational procedures, subject to the approval of the Director.

IV.B.5. The MRB will accept or reject, by a simple majority of the MRB quorum, any action and recommendation.

IV.B.6. MRB recommendations can include, but are not limited to, the following:

- IV.B.6.a. Additional medical, psychological, physical, or vocational evaluations (i.e. by physicians, professional specialists, etc.)

- IV.B.6.b. Appropriate disability or sick leave status
- IV.B.6.c. Full duty status
- IV.B.6.d. Medical duty agreement
- IV.B.6.e. Leave of absence
- IV.B.6.f. Vocational reassignment
- IV.B.6.g. Resignation/termination

- IV.B.7. The MRB may mandate medical action plan requirements based upon recommendations made by a health care provider to assist an employee's ability to function in the workplace.
- IV.B.8. The MRB will submit all of their accepted recommendations to the Director for approval. In the event the MRB does not reach consensus, all recommendations will be submitted to the Director.
- IV.B.9. Once the Director forwards his/her decision to the MRB, the Chair will notify the employee in writing.

## V. PROCEDURES

### V.A. Referral to the MRB

- V.A.1. The Director or the applicable Deputy Director may make a referral to the MRB when:
  - V.A.1.a. An employee returns from a medical leave of absence, requests a medical duty agreement, and a mutual agreement between the employee and the work unit concerning the medical duty agreement could not be reached.
  - V.A.1.b. An employee has received a return to work release from his/her physician but command has concerns about the employee's ability to return to work. In such cases, the employee may be relieved of duty, with pay, pending the MRB's review of the matter.
  - V.A.1.c. Circumstances indicate an abuse of sick time and/or medication (see ISP Directives PER-025, "Timekeeping," "PER-027, "Sick Time – Sworn," and PER-057, "Drug Testing and Awareness," Addendum 2, "Prescription Drug Testing").
  - V.A.1.d. A review of an employee's medical/fitness status by the MRB would be beneficial.
- V.A.2. The work unit Commander who has an employee on a non-service connected leave more than 180 days will refer them to the MRB.
- V.A.3. The work unit Commander who has an employee reaching one year of 512 time will refer them to the MRB.
- V.A.4. For each new case the MRB reviews, at the time the case is first presented to the MRB, the employee will be invited to appear before the MRB to present pertinent facts including testimony, records, reports, etc., regarding the case.
  - V.A.4.a. The employee may bring an attorney, representative, or union steward to appear with him/her; however, the attorney, representative, or union steward shall not address the MRB unless the medical condition of the employee prevents him/her from speaking clearly. In such a situation, the attorney, representative, or union steward may assist the employee in providing information or responding to questions.
  - V.A.4.b. Neither a court reporter or videotaping will be allowed.
- V.A.5. A representative from the employee's chain-of-command may also appear before the MRB to present facts germane to each case.

### V.B. Required documentation

- V.B.1. Sworn employees shall have their physician complete a Medical Evaluation Report form, ISP 2-379 (this form is available from the ISP Document Library at <https://isp.portal.illinois.gov/generalinfo/Lists/Document%20Library>), prior to returning to duty following any absence in excess of ten days due to the employee's medical or psychological condition or in accordance with ISP Directive PER-045, "Wellness Program."
  - V.B.2. Code employees shall have their physician complete a Physician's Statement (CMS-95) prior to returning to duty, following any absence in excess of ten days due to the employee's medical or psychological condition (the form is available from the ISP Document Library at <https://isp.portal.illinois.gov/generalinfo/Lists/Document%20Library>).
  - V.B.3. The employee shall have his/her physician list any restrictions as well as the period those restrictions will be in effect on the ISP 2-379 or CMS-95 when applicable. Incomplete forms will be returned to the employee so the physician can clarify the status of the employee.
- V.C. Appeal Process
- V.C.1. An employee who disagrees with the MRB's decision may submit, through the chain-of-command, a written appeal to the Director within ten calendar days of the employee's receipt of the decision.
  - V.C.2. Written appeals submitted to the Director must include all pertinent information and documentation relevant to that case.
  - V.C.3. The Director's decision on any appeal will be forwarded to the MRBC who will notify the employee, the appropriate Deputy Director, and the MRB members.
- V.D. Abuse of Medical Duty Agreement
- V.D.1. The chain-of-command will ensure the provisions in this directive are not abused.
  - V.D.2. When there are indications of possible abuse in a medical duty agreement, the supervisor of that employee may require the employee to submit a Medical Evaluation Report (ISP 2-379) for sworn employees or a Physician's Statement (CMS-95) for code employees for completion by the employee's personal physician. The supervisor will forward a summary finding of such an inquiry to the appropriate Deputy Director for final review and recommendation.
- V.E. Director's Authority
- In the event of extraordinary circumstances relating to an employee's medical condition and situation, the Director may authorize a variance from the procedures and requirements of this directive.

## VI. CONFIDENTIALITY

- VI.A. Meetings of the MRB are not subject to the Open Meetings Act.
- VI.B. Information discussed at the MRB, due to the medically-related nature of the issues presented, shall remain confidential and shall not be released in the absence of an order of a court or tribunal of competent jurisdiction in response to a relevant meritorious legal claim.

| Indicates new or revised items.

**-End of Directive-**

**ILLINOIS STATE POLICE DIRECTIVE  
PER-038, THE MEDICAL REVIEW BOARD AND MEDICAL DUTY  
ADDENDUM 1, MEDICAL DUTY PROCEDURES**

<b>RESCINDS:</b> PER-038, 2017-021, revised 03-27-2017.	<b>REVISED:</b> 03-12-2021 <b>2021-005</b>
<b>RELATED DOCUMENTS:</b> PER-007, PER-025, PER-027, PER-036, PER-039, PER-057	<b>RELATED CALEA STANDARDS:</b> 22.2.2, 22.2.4, 22.3.1

I. Medical Duty Agreement

I.A. A signed agreement mutually agreed upon by the Department and the employee and predicated by medical documentation that details an employee's temporary working restrictions, ability to perform current duties and alternative duties, the period of applicability, and the terms of the medical duty agreement.

I.A.1. At the discretion of the District/Zone Commander/Bureau Chief/Laboratory Director or above, employees may be placed in a medical duty agreement for up to 90 calendar days.

I.A.2. At the discretion of the appropriate Deputy Director, the medical duty agreement may be extended up to a total of 180 calendar days. The Director must approve recommendations of the Medical Review Board (MRB) for any extension beyond that time.

**NOTE:** These times are applicable per each qualifying medical condition.

I.A.3. Discussion and determination of a medical duty agreement will be accomplished by:

- I.A.3.a. The employee
- I.A.3.b. The employee's District Zone Commander/Bureau Chief/Laboratory Director
- I.A.3.c. The appropriate Deputy Director, or designee
- I.A.3.d. The Office of Labor Relations and Special Projects (OLR)
- I.A.3.e. The Legal Office

I.B. When requesting/working a medical duty agreement, it is the employee's responsibility to provide the following:

I.B.1. A written request through the chain-of-command with a completed Physician's Statement (CMS-95) for code personnel, or Medical Evaluation Report (ISP 2-379) for sworn personnel. Both forms are available in the ISP Document Library at <https://isp.portal.illinois.gov/generalinfo/Lists/Document%20Library>.

I.B.2. Documentation stating the date of the onset of the condition.

I.B.3. A history of the testing performed along with the results, diagnosis, current treatment, and prescribed medications.

I.B.4. Documentation of any surgical procedure performed and its results.

I.B.5. A prognosis that will include an estimate as to when the individual may return to full duty status.

I.B.6. If the medical condition continues beyond 30 calendar days, additional medical reports will be submitted to the employee's District/Zone Commander/Bureau Chief/Laboratory Director every 30 days.

I.C. The OLR and the Legal Office will:

I.C.1. Assist, advise, and counsel the requesting employee and his/her appropriate supervisor(s) in reaching an agreement on the duties to be performed in a medical duty agreement, and any restrictions set.

- I.C.2. Approve all medical duty agreements prior to implementation.
- I.D. Such an agreement must not violate the terms of any collective bargaining agreement.
- I.E. The Department will NOT create and/or establish a position, including vocational reassignments, for those persons in a medical duty agreement; however, a concerted effort must be made by the District/Zone Commander/Bureau Chief/Laboratory Director to find applicable duties within a reasonable distance of the employee's permanent assignment.
- I.F. The requesting employee's District/Zone Commander/Bureau Chief/Laboratory Director will make an effort to allow the requesting employee to take on duties that match the requesting employee's capabilities and experience to the extent feasible given the needs of the Department.
- I.G. When the employee's restrictions prevent them from returning to their current position, the Medical Review Board Coordinator (MRBC) will be contacted to assist with identifying alternative duties within a reasonable distance of their permanent assignment.
  - I.G.1. When necessary, the MRBC will contact the Chief of Staff in each division for assistance.
  - I.G.2. OLR will ensure an AFSCME union representative is included in the decision-making process for code personnel.
- I.H. When the parties agree on the contents of a medical duty agreement, the employee's District/Zone Commander/Bureau Chief/Laboratory Director will prepare a medical duty agreement (assistance can be obtained from the OLR and the Legal Office). The supervisor of the affected employee will acknowledge and route the signed agreement through the chain-of-command to the OLR and then the Legal Office for approval.
  - I.H.1. While an employee is on a medical duty agreement, the employee will provide medical documentation to his/her immediate supervisor every 30 days.
  - I.H.2. Failure to comply with the terms of the medical duty agreement, including providing medical documentation, may result in the revocation of the medical duty agreement/service-connected benefit time. If the District/Zone Commander/Bureau Chief/Laboratory Director terminates the medical duty agreement or service-connected benefits are terminated, the employee will utilize benefit time in accordance with ISP Directives PER-025, "Timekeeping," or PER-027, "Sick Time - Sworn."
- I.I. The District/Zone Commander/Bureau Chief/Laboratory Director, or his/her designee, will complete and forward a form ISP 2-483 (this form is available from the ISP Document Library at <https://isp.portal.illinois.gov/generalinfo/Lists/Document%20Library>), to the Workers' Compensation Coordinator before the tenth of each month and will include a listing of all employees under their supervision on medical duty agreements for the prior month.
  - I.I.1. Update all medical duty agreements as often as required by each case circumstance, or at least quarterly.
  - I.I.2. Review all documents concerning a return to duty or when requesting a release from a medical duty agreement to full duty status.
- I.J. The Office of Human Resources (OHR) will select physicians to conduct medical examinations to determine if a vocational reassignment is warranted. Those examinations will be at the expense of the ISP.

| Indicates new or revised items.

**-End of Addendum-**