

38-859. Medical boards; purposes; composition; medical examinations

A. The purposes of a medical board are to:

1. Identify a physical or mental condition or injury that existed or occurred prior to the member's date of membership in the system and for which benefits may otherwise be limited by section 38-844, subsection D.
2. Evaluate a member's eligibility for an accidental disability pension.
3. Evaluate a member's eligibility for an ordinary disability pension.
4. Evaluate a member's eligibility for a temporary disability pension.
5. Evaluate a member's eligibility for a catastrophic disability pension.
6. For the purposes of section 38-846, determine through appropriate medical evidence the proximate cause of death for members who are killed in the line of duty if the death occurs more than one year after the date of injury.

B. For the purpose of determining a disability, the medical board shall be composed of a designated physician or physicians working in a clinic other than the employer's regular employee or contractee. Employees employed after October 1, 1992 shall undergo a medical examination for the purpose of identifying a physical or mental condition or injury that existed or occurred prior to a member's date of membership in the system and for which benefits may otherwise be limited by section 38-844, subsection D, and for this purpose, the medical board shall be composed of a designated physician or physicians working in a clinic that may be the employer's regular employee or contractee.

C. A finding of accidental, ordinary, temporary or catastrophic disability shall be based on medical evidence by a designated physician or a physician working in a clinic that is appointed by the local board pursuant to section 38-847, subsection D, paragraph 9 that established the disability. The local board shall resolve material conflicts in medical evidence. If required, the local board may employ other physicians or clinics to report on special cases. With the approval of the local board, a designated physician or physicians working in a clinic that is employed by the local board may employ occupational specialists to assist the designated physician or physicians working in a clinic in rendering an opinion.

D. All employees shall undergo medical examinations before a designated physician or a physician working in a clinic that is appointed by the local board pursuant to and for the reasons prescribed in this article. An employee who fails to comply with this subsection waives all rights to disability benefits under this article.

E. The examining physician or clinic shall report the results of examinations to the local board, and the secretary of the local board shall preserve the report as a permanent record. Medical examinations conducted pursuant to this article shall be conducted by a physician and shall not be conducted or utilized for the purposes of hiring, advancement, discharge, job training or other terms, conditions and privileges of employment unrelated to the receipt of or qualification for pension benefits or service credits under the system.

F. This section does not affect or impair the right of an employer to prescribe medical or physical standards for employees or prospective employees.