

Office of Drug Enforcement and Program Compliance
49 CFR Part 40 Interpretation

Question: In a "shy bladder" situation, if the physician conducting the medical examination is not the MRO, can that physician report his/her conclusions directly to the employer? Also, if a company has a corporate or contract physician, can that physician perform the examination?

Response: 49 CFR Part 40, Section 40.25(f)(iv) states in part *"The MRO shall refer the individual for a medical evaluation ... Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing."* The rule does not preclude the MRO from performing this medical evaluation if the MRO has the expertise and is willing to conduct this evaluation. The Department's requirement that the MRO review the results of the medical evaluation is related to the fact that the MRO may have additional information on the circumstances surrounding the attempt to provide the urine specimen, other pertinent information regarding the collection process, problems or lack of problems during previous collections, etc. All reporting to the employer regarding the final determination on the results of a urine specimen is accomplished by the MRO. This includes the findings and conclusions of the medical examination.

If a company has a physician on the staff or has a contract physician, this individual can perform the medical examination if he/she has the required expertise. The company should ensure that the MRO is informed of this arrangement and makes the referral to that particular physician. However, the requirement still exists to submit the findings of the evaluation to the MRO, who then reports his/her conclusions to the employer. A company may also designate their staff physician or contract physician as the MRO if that individual meets the regulatory criteria.