WEST VIRGINIA CODE: §23-4-8B

§23-4-8b. Occupational Pneumoconiosis Board; procedure; autopsy.

The Occupational Pneumoconiosis Board, upon reference to it by an appropriate party of a case of occupational pneumoconiosis, shall notify the employee, or in case he or she is dead, the claimant, and the employer, as well as the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, to appear before the board at a time and place stated in the notice. If the employee is living, he or she shall appear before the board at the time and place specified and submit to the examination, including clinical and X-ray examinations, required by the board. If a physician licensed to practice medicine in the state makes an affidavit that the employee is physically unable to appear at the time and place designated by the board, the board shall, on notice to the proper parties, change the place and time as may reasonably facilitate the hearing or examination of the employee or may appoint a qualified specialist in the field of respiratory disease to examine the claimant on behalf of the board. The employee, or in case he or she is dead, the claimant, and employer shall also produce as evidence to the board all reports of medical and X-ray examinations which may be in their respective possession or control, showing the past or present condition of the employee. If the employee is dead, the notice of the board shall further require that the claimant produce necessary consents and permits so that an autopsy may be performed, if the board so directs. When in the opinion of the board an autopsy is considered necessary to accurately and scientifically ascertain and determine the cause of death, the autopsy examination shall be ordered by the board, which shall designate a duly licensed physician, a pathologist, or any other specialists determined necessary by the board, to make the examination and tests to determine the cause of death and certify his or her or their written findings, in triplicate, to the board. The findings shall be public records. In the event that a claimant for compensation for the death refuses to consent and permit the autopsy to be made, all rights for compensation are forfeited.

The employee, or if he or she be dead, the claimant, and the employer, shall be entitled to be present at all examinations conducted by the board and to be represented by attorneys and physicians.

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