

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Assist the Independent Medical Examiner Program for Workers' Compensation

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 39-A MRSA §312, sub-§2, as amended by PL 2005, c. 24, §1, is further amended to read:

2. Duties. An independent medical examiner shall render medical findings on the medical condition of an employee and related issues as specified under this section. The independent medical examiner in a case may not be the employee's treating health care provider and may not have treated the employee with respect to the injury for which the claim is being made or the benefits are being paid. Nothing in this subsection precludes the selection of a provider authorized to receive reimbursement under section 206 to serve in the capacity of an independent medical examiner. Unless agreed upon by the parties, a physician who is not eligible to serve as an independent medical examiner if that physician has examined an employee at the request of an insurance company, employer or employee in accordance with section 207 during the previous 52 weeks is not eligible to serve as an independent medical examiner.:

A. The employee;

B. Ten or more employees at the request of an insurance company, employer or employee in accordance with section 207; or

C. Ten or more employees who were referred to the physician either directly or indirectly by counsel for the employee during the previous 52 weeks.

Sec. 2. 39-A MRSA §312, sub-§2-A is enacted to read:

2-A. Determination of eligibility to serve. The board shall determine the eligibility of a physician to serve as an independent medical examiner. The board's determination of an independent medical examiner's eligibility may not be raised as an issue in the dispute resolution process for the claim of an employee. All matters pertaining to the eligibility of a physician to serve as an independent medical examiner and all communications with physicians regarding such eligibility must be directed through the office of medical and rehabilitation services within the board. Determinations by the board regarding a physician's eligibility to serve as an independent medical examiner constitute final agency action.

Sec. 3. 39-A MRSA §312, sub-§5-A is enacted to read:

5-A. Deposition of independent medical examiner. A deposition of an independent medical examiner may take place only in accordance with section 309, subsection 3. The subject matter of a deposition of an independent medical examiner must be confined to the claim of an employee and the medical questions arising from that claim.

SUMMARY

This bill makes the following changes to the laws governing independent medical examiners under the Maine Workers' Compensation Act of 1992.

1. It specifies that a physician is ineligible to serve as an independent medical examiner if that physician has examined the employee, 10 or more employees at the request of an insurance company, employer or employee or 10 or more employees who were referred to the physician either directly or indirectly by counsel for the employee during the previous 52 weeks.

2. It provides that the Workers' Compensation Board shall determine the eligibility of a physician to serve as an independent medical examiner, that the board's determination may not be raised as an issue in the dispute resolution process for the claim of an employee and that such determinations constitute final agency action. It also specifies that all matters pertaining to the eligibility of a physician to serve as an independent medical examiner must be directed through the board's office of medical and rehabilitation services.

3. It specifies that the subject matter of a deposition of an independent medical examiner must be confined to the claim of an employee and the medical questions arising from that claim.