

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

—  
H.P. 791 - L.D. 1056

**An Act To Increase the Availability of Independent Medical Examiners  
under the Workers' Compensation Act of 1992**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** there is a long waiting list of injured workers in need of independent medical examinations due to the shortage of available independent medical examiners, which has been further exacerbated by the recent and unexpected retirement of a specialist who had 12 pending cases; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 39-A MRS §312, sub-§1,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**1. Examiner system.** The board shall develop and implement an independent medical examiner system consistent with the requirements of this section. As part of this system, the board shall, in the exercise of its discretion, create, maintain and periodically validate a list of not more than 50 health care providers that it finds to be the most qualified and to be highly experienced and competent in their specific fields of expertise and in the treatment of work-related injuries to serve as independent medical examiners from each of the health care specialties that the board finds most commonly used by injured employees. An independent medical examiner must be certified in the field of practice that treats the type of injury complained of by the employee. Certification must be by a board recognized by the American Board of Medical Specialties or the American Osteopathic Association or their successor organizations. The board shall establish a fee schedule for services rendered by independent medical examiners and adopt any rules considered necessary to effectuate the purposes of this section.

**Sec. 2. 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 or no other physician is reasonably available, a physician ~~who is not eligible to be assigned as an independent medical examiner if the physician has examined an~~ the employee at the request of an insurance company, employer or employee in accordance with section 207 or has been closely affiliated with the insurance company at any time during the previous 52 weeks is not eligible to serve as an. An independent medical examiner selected and paid for by an employer to examine an employee in accordance with section 207 is limited to 12 such examinations per calendar year and shall notify the board of the name of the employee, the employer or the insurance company that requested the examination and the date of the examination within 10 days of the date of the examination.

**Sec. 3. Report.** The Workers' Compensation Board shall submit a report that includes its findings and recommendations by January 15, 2013 to the joint standing committee of the Legislature having jurisdiction over workers' compensation matters regarding the board's review of the independent medical examiner selection process pursuant to the Maine Revised Statutes, Title 39-A, section 312 and the number of independent medical examiners who have examined employees in accordance with Title 39-A, section 207. The joint standing committee is authorized to introduce a bill related to the board's report to the First Regular Session of the 126th Legislature.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

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Approved ..... 2011

..... Governor