

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 881

S.P. 289

In Senate, February 22, 2005

**An Act To Amend the Maine Workers' Compensation Act of 1992
To Facilitate Timely Independent Medical Examinations and
Benefit Payments**

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MAYO of Sagadahoc.
Cosponsored by Representative: SHIELDS of Auburn.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 39-A MRSA §312, sub-§2**, as enacted by PL 1991, c. 885,
Pt. A, §8 and affected by §§9 to 11, is amended to read:

6 **2. Duties.** An independent medical examiner shall render
7 medical findings on the medical condition of an employee and
8 related issues as specified under this section. The independent
9 medical examiner in a case may not be the employee's treating
10 health care provider and may not have treated the employee with
11 respect to the injury for which the claim is being made or the
12 benefits are being paid. Nothing in this subsection precludes
13 the selection of a provider authorized to receive reimbursement
14 under section 206 to serve in the capacity of an independent
15 medical examiner. A physician who has examined an the employee
16 at the request of an insurance company, employer or employee in
17 accordance with section 207 during the previous 52 weeks is not
18 eligible to serve as an independent medical examiner.

20
21 **SUMMARY**

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23 The purpose of this bill is to expand the number of
24 qualified medical professionals who are eligible to perform
25 independent and more timely medical assessments relating to
26 workers' compensation medical benefits.

28 In a recent case, Lydon v. Sprinkler Services, 841 A2d 793
29 (Me. 2004), the Law Court concluded that the Maine Revised
30 Statutes, Title 39-A, section 312, subsection 2 precludes the use
31 of a physician as an independent medical examiner if that
32 physician has examined any employee, not merely the employee
33 whose case is at issue. This bill specifies that it is a
34 physician who examines "the" employee, not any employee, at the
35 request of an insurance company during the previous 52 weeks who
36 is prohibited from serving as an independent medical examiner.