

MAINE STATE LEGISLATURE

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L.D. 499

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STATE OF MAINE SENATE 120TH LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 155, L.D. 499, Bill, "An Act to Clarify the Qualifications for Health Care Providers Conducting Employer-requested Examinations"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 39-A MRSA §207, first ¶, as amended by PL 1999, c. 365, §1, is further amended to read:

An employee being treated by a health care provider of the employee's own choice shall, after an injury and at all reasonable times during the continuance of disability if so requested by the employer, submit to an examination by a physician, surgeon or chiropractor authorized to practice as such under the laws of this State, to be selected and paid by the employer. The physician, surgeon or chiropractor must have an active practice of treating patients ~~or have discontinued an active practice not more than 2 years before the date of the examination.~~ For purposes of this section, "active practice" may be demonstrated by having treating active clinical privileges at a hospital. A physician or surgeon 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. A chiropractor licensed by the Board of Chiropractic Licensure, who has an active practice of treating patients ~~or who discontinued an~~

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~~active-practice-not-more-than-2-years-before-the-examination,~~ may provide a 2nd opinion when the initial opinion was given by a chiropractor. Once an employer selects a health care provider to examine an employee, the employer may not request that the employee be examined by more than one other health care provider, other than an independent medical examiner appointed pursuant to section 312, without prior approval from the employee or a hearing officer. This provision does not limit an employer's right to request that the employee be examined by a specialist upon referral by the health care provider. Once the employee is examined by the specialist, the employer may not request that the employee be examined by a different specialist in the same specialty, other than an independent medical examiner appointed pursuant to section 312, without prior approval from the employee or the board. The employee has the right to have a physician, surgeon or chiropractor of the employee's own selection present at such an examination, whose costs are paid by the employer. The employer shall give the employee notice of this right at the time the employer requests an examination.

Sec. 2. 39-A MRSA §207, as amended by PL 1999, c. 365, §1, is further amended by adding after the first paragraph a new paragraph to read:

The health care provider examining an employee under this section shall, prior to commencing the examination, advise the employee fully of all records, documents and other communications that the health care provider has available in conducting the examination. The health care provider shall also advise the employee and the employee's health care provider of the scope and purpose of the requested examination and all persons with whom the health care provider has communicated in preparation for the examination. Simultaneously with providing an oral or written report to the employer, the health care provider shall provide the same information to the employee and, if requested by the employee, to the employee's health care provider.'

SUMMARY

This amendment removes from the bill the language limiting employers to a single 2nd opinion and the language prohibiting physicians from relying on information acquired after examination of the patient in preparing the medical opinion. It also repeals current law allowing a physician, surgeon or chiropractor to conduct a 2nd-opinion examination if that provider discontinued active practice within 2 years of the exam. It removes the provision requiring 50% of a provider's time to be spent on treating patients and it provides that a person may use hospital

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2 privileges to demonstrate that the person has an active practice
of treating patients only if the privileges are active clinical
4 privileges. Finally, it requires a health care provider
conducting a 2nd-opinion examination to give a copy of the
6 results to the employee's health care provider only if the
employee requests that it be given to the provider.

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