

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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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**

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Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script, reading "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 **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 **SUMMARY**

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

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.