

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1585

S.P. 556

March 20, 2007

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

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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 MARRACHÉ of Kennebec.  
Cosponsored by Representative PERRY of Calais and Senator: PERRY of Penobscot,  
Representatives: FISCHER of Presque Isle, MILLS of Farmington.

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

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

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

15 A. The employee;

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

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

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

21 **2-A. Determination of eligibility to serve.** The board shall determine the eligibility  
22 of a physician to serve as an independent medical examiner. The board's determination  
23 of an independent medical examiner's eligibility may not be raised as an issue in the  
24 dispute resolution process for the claim of an employee. All matters pertaining to the  
25 eligibility of a physician to serve as an independent medical examiner and all  
26 communications with physicians regarding such eligibility must be directed through the  
27 office of medical and rehabilitation services within the board. Determinations by the  
28 board regarding a physician's eligibility to serve as an independent medical examiner  
29 constitute final agency action.

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

31 **5-A. Deposition of independent medical examiner.** A deposition of an  
32 independent medical examiner may take place only in accordance with section 309,  
33 subsection 3. The subject matter of a deposition of an independent medical examiner  
34 must be confined to the claim of an employee and the medical questions arising from that  
35 claim.

## 36 SUMMARY

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

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

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

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