

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 617

S.P. 232

In Senate, February 17, 2009

**An Act To Amend the Maine Workers' Compensation Act of 1992
To Remove Independent Medical Examiners**

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 GERZOFSKY of Cumberland.
Cosponsored by Speaker PINGREE of North Haven and
Senators: BARTLETT of Cumberland, JACKSON of Aroostook, MARRACHÉ of Kennebec,
Representative: BERRY of Bowdoinham.

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

2 **Sec. 1. 39-A MRSA §110, sub-§1, ¶C**, as enacted by PL 1991, c. 885, Pt. A, §8
3 and affected by §§8 to 11, is repealed.

4 **Sec. 2. 39-A MRSA §207, first ¶**, as amended by PL 2001, c. 278, §1, is further
5 amended to read:

6 An employee being treated by a health care provider of the employee's own choice
7 shall, after an injury and at all reasonable times during the continuance of disability if so
8 requested by the employer, submit to an examination by a physician, surgeon or
9 chiropractor authorized to practice as such under the laws of this State, to be selected and
10 paid by the employer. The physician, surgeon or chiropractor must have an active
11 practice of treating patients. For purposes of this section, "active practice" may be
12 demonstrated by having active clinical privileges at a hospital. A physician or surgeon
13 must be certified in the field of practice that treats the type of injury complained of by the
14 employee. Certification must be by a board recognized by the American Board of
15 Medical Specialties or the American Osteopathic Association or their successor
16 organizations. A chiropractor licensed by the Board of Chiropractic Licensure, who has
17 an active practice of treating patients may provide a 2nd opinion when the initial opinion
18 was given by a chiropractor. Once an employer selects a health care provider to examine
19 an employee, the employer may not request that the employee be examined by more than
20 one other health care provider, ~~other than an independent medical examiner appointed~~
21 ~~pursuant to section 312~~, without prior approval from the employee or a hearing officer.
22 This provision does not limit an employer's right to request that the employee be
23 examined by a specialist upon referral by the health care provider. Once the employee is
24 examined by the specialist, the employer may not request that the employee be examined
25 by a different specialist in the same specialty, ~~other than an independent medical~~
26 ~~examiner appointed pursuant to section 312~~, without prior approval from the employee or
27 the board. The employee has the right to have a physician, surgeon or chiropractor of the
28 employee's own selection present at such an examination, whose costs are paid by the
29 employer. The employer shall give the employee notice of this right at the time the
30 employer requests an examination.

31 **Sec. 3. 39-A MRSA §209, sub-§3**, as enacted by PL 1991, c. 885, Pt. A, §8 and
32 affected by §§9 to 11, is amended to read:

33 **3. Limitation on reimbursement.** In order to qualify for reimbursement for health
34 care services provided to employees under this Title, health care providers providing
35 individual health care services and courses of treatment may not charge more for the
36 services or courses of treatment for employees than is charged to private 3rd-party payors
37 for similar services or courses of treatment. An employer is not responsible for charges
38 that are determined to be excessive or treatment determined to be inappropriate ~~by an~~
39 ~~independent medical examiner appointed pursuant to section 312~~ or by the insurance
40 carrier, self-insurer or group self-insurer pursuant to section 210, subsection 7 or the
41 board pursuant to section 210, subsection 8.

42 **Sec. 4. 39-A MRSA §312**, as amended by PL 2005, c. 24, §§1 and 2, is repealed.

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Sec. 5. 39-A MRSA §355-C, sub-§6, as enacted by PL 2001, c. 448, §5, is repealed.

SUMMARY

This bill removes the independent medical examiner system from the Maine Workers' Compensation Act of 1992.