

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

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Legislative Document

No. 1641

S.P. 632

In Senate, December 23, 2013

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### **An Act To Amend the Workers' Compensation Laws as They Pertain to Employee Representation**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 23, 2013. Referred to the Committee on Labor, Commerce, Research and Economic Development pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator PATRICK of Oxford.  
Cosponsored by Representative HERBIG of Belfast and  
Senators: BOYLE of Cumberland, GERZOFSKY of Cumberland, JACKSON of Aroostook,  
VITELLI of Sagadahoc, Representatives: BRIGGS of Mexico, CAMPBELL of Newfield,  
GILBERT of Jay, THERIAULT of Madawaska.

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

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

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

31 **SUMMARY**

32 This bill amends the laws governing workers' compensation to provide that an injured  
33 employee is entitled to have a union representative or other representative of the  
34 employee's own selection present at an examination by an employer-selected health care  
35 provider.