HOUSE DOCKET, NO. 2391 FILED ON: 1/20/2011

HOUSE . . . . . No. 2290

The Commonwealth of Massachusetts

PRESENTED BY:

Garrett J. Bradley

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to impartial medical examiners.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Garrett J. Bradley	*3rd Plymouth*

HOUSE DOCKET, NO. 2391 FILED ON: 1/20/2011

HOUSE . . . . . No. 2290

By Mr. Bradley of Hingham, a petition (accompanied by bill, House, No. 2290) of Garrett J. Bradley relative to the appointment of an impartial physician to examine injured workers in workers' compensation cases. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1826* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to impartial medical examiners.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 152 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding after section 9B, the following section:-

Section 9C. An administrative judge or administrative law judge before whom a conference or hearing is scheduled, may appoint a duly qualified impartial physician to examine and make a report of the injured employee. The fee paid to the impartial medical physician for this service shall be a reasonable amount set by the division, and the insurer shall remit payment directly to the impartial physician promptly upon receipt of the approved fee. The report of the impartial physician shall be admissible as evidence in any proceeding before the department or a member thereof, provided that the employee and the insurer have seasonably been furnished with copies thereof.

SECTION 2. Section 11A of said chapter, as so appearing, is hereby amended by striking out subsection 2 and by inserting in place thereof the following subsection:-

(2) Wherever an impartial medical examiner is appointed under section nine, the impartial examiner shall examine the employee and make a report. The report of the impartial medical examiner shall, where feasible, contain a determination of the following:

16 Whether or not a disabling condition exists, (ii) whether or not any such disability is total
17 or partial and permanent or temporary in nature, and (iii) whether or not a personal injury alleged
18 or found to have been arising out of and in the course of the employee's employment probably
19 caused or was a contributing cause of said disabling condition. Said report shall also indicate the
20 examiner's opinion as to whether or not a medical end result has been reached and what
21 permanent impairments or losses of function have been discovered, if any. Where the injury
22 claimed is mental or emotional in nature, such report shall contain the said examiner's opinion as
23 to whether or nor any disabling mental or emotional condition has as its significant or
24 predominant contributing cause, an event or series of events within the employment.

25 Failure of an employee to report to an impartial medical examination after due notice and
26 without cause, and failure to submit to such examiner all relevant medical records, medical
27 reports, medical histories, and any other relevant information requested which are in the
28 possession of control of the employee without good reason, shall constitute sufficient cause for
29 suspension of benefits pursuant to section forty five. The report of the impartial medical
30 examiner shall be admitted into evidence at the hearing. Either party shall have the right to
31 engage the impartial medical examiner to be deposed for purpose of cross-examination. The fact
32 that the impartial examiner has not treated the employee shall not constitute sufficient reason for
33 finding any report of an impartial examiner inadequate. The fee for the provision of a deposition
34 by any impartial medical examiner engages under this section shall be a reasonable amount
35 proved by the commissioner, and shall be paid by the deposing party directly to the physician
36 promptly upon receipt of the report; provided, however, that if the decision of the administrative
37 judge is in favor of the employee, the cost of such deposition shall be added to the amount
38 awarded to the employee and be paid by the insurer under the provisions of this chapter. In
39 reviewing and updating said roster, the senior judge shall utilize the criteria developed by the
40 health care services board pursuant to section thirteen.