

By Mr. Koutoujian of Waltham, petition of Peter J. Koutoujian relative to certain medical examinations under the motor vehicle policy and bond laws. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO CERTAIN MEDICAL EXAMINATIONS.

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

1 The third paragraph of section 34M of chapter 90 of the
2 General Laws is hereby amended by striking out the third and
3 fourth sentences and inserting in place thereof the following five
4 sentences:— The injured person shall submit to physical examina-
5 tion by practitioners registered or licensed under the provisions of
6 chapter one hundred and twelve selected by the insurer as often as
7 may be reasonably required, but in no event no more frequently
8 than once each six months; provided such examination is con-
9 ducted in an accessible location at a convenient time and within a
10 reasonable distance from the injured person's residence; and fur-
11 ther provided, that the practitioner shall be actively engaged in the
12 practice of his profession and a majority of such practice and
13 income shall not derive from witness fees and examinations of
14 persons not under the practitioner's care and treatment. Where
15 practical, the specialty of the examining practitioner shall be the
16 same as that of the treating practitioner whose treatment and/or
17 opinion is intended to be reviewed by the insurer. The injured
18 person may be accompanied during any examinations conducted
19 at the request of an insurance carrier by an individual of his or her
20 choosing and may videotape or otherwise record the examination.
21 The injured person shall do all things reasonably necessary to
22 enable the insurer to obtain medical reports related to the injury
23 and other needed information to assist in determining the amounts
24 due. Non-cooperation of an injured party shall be a defense to an

25 insurer in any suit for benefits authorized by this section if the
26 insurer is prejudiced and failure of an insurer to pay benefits in
27 the event of such non-cooperation shall not in any way affect the
28 exemption from tort liability granted herein.