
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 386-79, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§386-79 Medical examination by employer's physician.**

4 After an injury and [~~during the period of disability,~~] after a
5 claim is filed by the employee, whenever ordered by the director
6 [~~of labor and industrial relations~~], shall submit to
7 examination, at reasonable times and places, by a duly qualified
8 physician or surgeon [~~designated~~] pursuant to this section and
9 paid by the employer. Physicians selected to perform
10 independent medical examinations as provided by this section
11 shall:

12 (1) Be licensed in Hawaii; provided that for claimants
13 whose residency is not Hawaii, the physicians shall be
14 licensed in the state where the claimant resides;

15 (2) Be subject to peer review;

16 (3) Currently hold and have held an active professional
17 and occupational license under title 25 for the five
18 consecutive years prior to the examination; and



1 (4) Be known in the local medical community to have been
2 in the practice of treating injured employees and
3 conducting independent medical examinations for the
4 employers.

5 The independent medical examiner shall be selected by
6 mutual agreement between the employee and the employer within
7 fourteen calendar days of a request by either party for an
8 independent medical examination; provided that if no mutual
9 agreement is reached within ten calendar days from the
10 notification of failure to reach mutual agreement, the director
11 shall provide the employer and employee with the names of three
12 independent medical examiners, from a list compiled and
13 maintained by the director, from which to choose. If the
14 employer and employee are unable to choose an independent
15 medical examiner, then within ten calendar days, the director
16 shall appoint an independent medical examiner from the names
17 provided to the employer and employee. The employee shall have
18 the right to have a physician or surgeon designated and paid by
19 the employee present at the examination, which right, however,
20 shall not be construed to deny to the employer's physician the
21 right to visit the injured employee at all reasonable times and
22 under all reasonable conditions during total disability.



1 If an employee unreasonably refuses to submit to, or in any
2 way obstructs [~~such~~] the independent medical examination, the
3 employee's right to claim compensation for the work injury
4 [~~shall~~] may be suspended, only upon order of the director, until
5 the refusal or obstruction ceases and no compensation shall be
6 payable for the period during which the refusal or obstruction
7 continues.

8 ~~[In cases where the employer is dissatisfied with the
9 progress of the case or where major and elective surgery, or
10 either, is contemplated, the employer may appoint a physician or
11 surgeon of the employer's choice who shall examine the injured
12 employee and make a report to the employer. If the employer
13 remains dissatisfied, this report may be forwarded to the
14 director.~~

15 ~~Employer requested examinations under this section shall
16 not exceed more than one]~~ In no event shall the director, the
17 appellate board, or any court order more than one independent
18 medical examination per case unless good and valid reasons exist
19 [with regard to the medical progress of the employee's
20 treatment]. The cost of conducting the ordered medical
21 examination shall be limited to the complex consultation charges



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1 governed by the medical fee schedule established pursuant to
2 section 386-21(c)."

3 SECTION 2. This Act shall apply to any medical examination
4 conducted under chapter 386, Hawaii Revised Statutes, after its
5 effective date.

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect on July 1, 2008.

9

INTRODUCED BY: 


JAN 18 2008

Report Title:

Workers' Compensation; Independent Medical Examinations

Description:

Requires that the physician performing an independent medical examination be licensed in the State for 5 years, be subject to peer review, and be known in the local medical community to have been in the practice of treating injured employees and conducting independent medical examinations for the employers. Repeals authority of employer to appoint a physician to examine the employee where the employer is dissatisfied with the progress of the case or where surgery is contemplated. Prohibits more than one independent medical examination per case.

