
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, the~~
5 ~~employee, whenever ordered by the director of labor and~~
6 ~~industrial relations, shall submit to examination, at reasonable~~
7 ~~times and places, by a duly qualified physician or surgeon~~
8 ~~designated and paid by the employer. The employee shall have~~
9 ~~the right to have a physician or surgeon designated and paid by~~
10 ~~the employee present at the examination, which right, however,~~
11 ~~shall not be construed to deny to the employer's physician the~~
12 ~~right to visit the injured employee at all reasonable times and~~
13 ~~under all reasonable conditions during total disability.~~

14 ~~If an employee refuses to submit to, or in any way~~
15 ~~obstructs such examination, the employee's right to claim~~
16 ~~compensation for the work injury shall be suspended until the~~
17 ~~refusal or obstruction ceases and no compensation shall be~~



1 ~~payable for the period during which the refusal or obstruction~~
2 ~~continues.~~

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

10 ~~Employer requested examinations under this section shall~~
11 ~~not exceed more than one per case unless good and valid reasons~~
12 ~~exist with regard to the medical progress of the employee's~~
13 ~~treatment. The cost of conducting the ordered medical~~
14 ~~examination shall be limited to the complex consultation charges~~
15 ~~governed by the medical fee schedule established pursuant to~~
16 ~~section 386-21(e).] After an injury and during the period of~~
17 ~~disability, where the employer is dissatisfied with the progress~~
18 ~~of the case or where major or elective surgery, or both, is~~
19 ~~contemplated, the employer upon mutual agreement of the parties~~
20 ~~may appoint a physician who shall examine the injured employee~~
21 ~~and make a report to the employer, and the report may constitute~~



1 substantial evidence. If the employer remains dissatisfied,
2 this report may be forwarded to the director.

3 In the event that the parties cannot by mutual agreement
4 appoint a physician, the employer may request that the director,
5 from the director's list of physicians, designate three
6 physicians who agree to be subject to peer review and to abide
7 by fair, impartial, and ethical examination and reporting
8 standards in examining an injured employee for the appropriate
9 injury, provided that the examination shall proceed from the
10 following procedures:

11 (1) The employer shall request in writing that the
12 director designate three physicians who the director
13 deems are appropriate for the subject injury to
14 examine the injured employee;

15 (2) Within ten calendar days from the director's receipt
16 of the request, the director shall designate in order
17 three physicians from the director's approved rotating
18 list whom the director deems appropriate to examine
19 the injured employee for the subject injury, and shall
20 notify the employer and injured employee;

21 (3) Within five days from the receipt of the notice of the
22 designations from the director, the employer shall



1 schedule an examination of the injured employee to be
2 conducted by the physician designated at the top of
3 the order; provided further that the examination shall
4 be scheduled to be conducted not later than thirty
5 days from the date that the director designates the
6 three physicians;

7 (4) In the event that the physician designated at the top
8 of the order is unable to examine the injured
9 employee, the employer shall schedule the examination
10 of the injured employee to be conducted by the
11 physician designated second from the top of the order;
12 and

13 (5) In the event that the physician designated second from
14 the top of the order is unable to examine the injured
15 employee, the employer shall schedule the examination
16 of the injured employee to be conducted by the
17 physician designated third from the top of the order.

18 After utilizing the foregoing procedures, if the employer
19 remains dissatisfied, the employee, whenever ordered by the
20 director of labor and industrial relations, shall submit to
21 examination, at reasonable times and places, by a duly qualified
22 physician designated and paid by the employer. The employee



1 shall have the right to have a physician designated and paid by
2 the employee present at the examination, which right, however,
3 shall not be construed to deny to the employer's physician the
4 right to visit the injured employee at all reasonable times and
5 under all reasonable conditions during total disability.
6 Employer requested examinations under this section shall not
7 exceed more than one per case unless good and valid reasons
8 exist with regard to the medical progress of the employee's
9 treatment.

10 If an employee unreasonably refuses to submit to, or in any
11 way unreasonably obstructs an examination, the employee's right
12 to claim compensation for the work injury shall be suspended
13 until the unreasonable refusal or obstruction ceases and no
14 compensation shall be payable for the period during which the
15 refusal or obstruction continues. The cost of conducting the
16 ordered medical examination shall be limited to the complex
17 consultation charges governed by the medical fee schedule
18 established pursuant to section 386-21(c)."

19 SECTION 2. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



H.B. NO. 2929

1 SECTION 3. This Act shall take effect upon its approval.

2

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Report Title:

Workers' Compensation; Independent Medical Examinations

Description:

Requires independent medical examinations to be performed by mutually agreed upon physicians, and by employer's physician.

