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

15 ~~If an employee refuses to submit to, or in any way~~  
16 ~~obstructs such examination, the employee's right to claim~~  
17 ~~compensation for the work injury shall be suspended until the~~  
18 ~~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(c).] (a) After an injury and after a claim is~~  
17 ~~filed by the injured employee, the employer, upon mutual~~  
18 ~~agreement of the parties, may appoint a qualified physician,~~  
19 ~~paid by the employer, which physician shall conduct an~~  
20 ~~independent medical examination of the injured employee, or a~~  
21 ~~permanent impairment rating examination of the injured employee,~~  
22 ~~and make a report to the employer.~~



1       If the parties cannot agree on a physician to perform the  
2 independent medical examination, or permanent impairment rating  
3 examination, the employer may request in writing that the  
4 director, from the director's list of qualified physicians,  
5 appoint a physician licensed in a relevant medical specialty,  
6 licensed to practice in Hawaii, and willing to undertake such  
7 examination within seven calendar days of the director's receipt  
8 of the request. Any physician mutually selected by the employer  
9 and employee or selected by the director shall examine the  
10 employee within thirty days of selection. The director shall  
11 keep and maintain a list of qualified physicians including their  
12 respective qualifications.

13       In no event shall an independent medical examination and a  
14 permanent impairment rating examination be combined into a  
15 single medical examination unless the injured employee consents  
16 in writing prior to the scheduling of the examinations.

17       In no event shall the director, appellate board, or court  
18 order more than one employer requested independent medical  
19 examination and one permanent impairment rating per case unless  
20 good and valid reasons exist with regard to the medical progress  
21 of the employee's treatment.

22



1 If an employee unreasonably refuses to submit to, or in any  
2 way unreasonably obstructs an examination, the employee's right  
3 to claim compensation for the work injury shall be suspended  
4 until the unreasonable refusal or obstruction ceases and no  
5 compensation shall be payable for the period during which the  
6 refusal or obstruction continues. The cost of conducting the  
7 ordered medical examination shall be limited to the complex  
8 consultation charges governed by the medical fee schedule  
9 established pursuant to section 386-21(c).

10 (b) Physicians selected to perform independent medical  
11 examinations or permanent impairment rating examinations as  
12 provided in subsection (a) shall:

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

16 (2) Currently hold and have held an active professional  
17 and occupational license for the five consecutive  
18 years prior to the examination.

19 (c) When an injured employee has attained medical  
20 stability as determined by the injured employee's attending  
21 physician, the employer may appoint a physician, paid by the  
22 employer and selected by agreement of the parties, who shall



1 conduct a permanent impairment rating examination of the injured  
2 employee pursuant to section (a).

3 For the purposes of this subsection, "medical stability"  
4 means that the injured employee's medical condition is static  
5 and well stabilized that no further improvement in the injured  
6 employee's work-related condition can be expected from further  
7 medical treatment and that continued medical care will only  
8 prevent deterioration of the condition."

9 SECTION 2. Statutory material to be repealed is bracketed  
10 and stricken. New material is underscored.

11 SECTION 3. This Act shall take effect on July 1, 2059.



**Report Title:**

Workers' Compensation; Independent Medical Examinations;  
Permanent Impairment Rating Examinations

**Description:**

Requires independent medical examinations and Permanent  
Impairment Rating Examinations to be performed by mutually  
agreed upon physicians. Effective 07/01/2059. (HB2929 HD1)

