



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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LATE TESTIMONY

February 4, 2008

To: The Honorable Alex Sonson, Chair
and Members of the House Committee on Labor and Public Employment

Date: February 5, 2008
Time: 8:30 a.m.
Place: Conference Room 309, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

**Testimony in Opposition
to
H.B. 2387– Relating to Workers’ Compensation**

I. OVERVIEW OF CURRENT PROPOSED LEGISLATION

House Bill 2387 proposes to amend Section 386-80, Hawaii revised Statutes (“HRS”) by requiring the director to appoint a qualified physician to conduct an impartial examination and pay for the examination from the Special Compensation Fund (“SCF”) or other funds. The Act is to take effect July 1, 2008.

II. CURRENT LAW

Currently, Section 386-80 indicates that the Director may appoint a physician, and the fees to pay for the examination would be from funds appropriated by the legislature for the use of the department.

III. HOUSE BILL

The Department opposes this bill for the following reasons:

1. The language is overly broad and does not identify when the director would be required to appoint an examiner.
2. If the SCF is required to pay for all ordered examinations, assessments against

insurance carriers and self-insured employers pursuant to section 386-152, HRS, may increase dramatically.

3. Currently most IMEs are performed by agreed upon examiners and the employer/insurance carrier pays for the examination. If the director is required to appoint an examiner, employers may be encouraged to not agree on an examiner since the SCF would pay for the examination.
4. This proposal appropriates funds to the Department to pay for ordered IMEs. This appropriation may adversely impact the spending priorities articulated in the Executive Supplemental Budget for FY 2009.