

JAN 23 2009

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 **selection of physicians.** (a) After an injury and during the
5 period of disability, the employee, whenever ordered by the
6 director of labor and industrial relations, shall submit to
7 examination, at reasonable times and places, by a duly qualified
8 physician or surgeon designated as provided in subsection (b)
9 and paid by the employer. The employee shall have the right to
10 have 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



1 refusal or obstruction ceases and no compensation shall be
2 payable for the period during which the refusal or obstruction
3 continues.

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

12 Employer requested examinations under this section shall
13 not exceed more than one per case unless good and valid reasons
14 exist with regard to the medical progress of the employee's
15 treatment. The cost of conducting the ordered medical
16 examination shall be limited to the complex consultation charges
17 governed by the medical fee schedule established pursuant to
18 section 386-21(c).

19 (b) The examining physician specified in subsection (a)
20 shall be selected by mutual agreement between the employer and
21 the injured employee. Where the parties cannot agree upon the
22 examining physician, the physician shall be selected from a list



1 of three qualified physicians provided by the director. The
2 employer and employee shall each remove one potential physician
3 from the list and the remaining physician shall be designated to
4 conduct the examination. The director shall maintain a list of
5 qualified physicians in relevant medical subspecialties who are
6 licensed to practice medicine in the State and willing to
7 undertake such examinations. Any party to a claim may request a
8 list of examining physicians from the director and the list
9 shall be provided within seven calendar days of receipt of the
10 request."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.
14

INTRODUCED BY: Shianne Chun Oakland

David Y. Lee

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Report Title:

Workers' Compensation; Medical Examinations

Description:

Requires that an independent physician be selected by mutual agreement between injured employee and employer to conduct medical examinations in cases where major and elective surgery, or either, is contemplated or in cases where an employee or employer is dissatisfied with the medical progress.

