



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**

AFSCME Local 152, AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Labor & Public Employment

**LATE**

Testimony by  
Hawaii Government Employees Association  
February 10, 2009

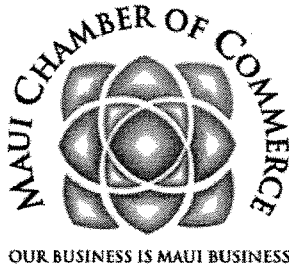
**H.B. 1288 – RELATING TO**  
**WORKERS' COMPENSATION**

The Hawaii Government Employees Association supports the purpose and intent of H.B. 1288. We believe that employees injured on the job deserve to be evaluated by an impartial physician selected with their agreement. As drafted, the bill provides a reasonable alternative to selection of an impartial physician in the event no mutual agreement is reached; and further, identifies fair timelines for scheduling the examinations.

Thank you for the opportunity to testify in support of H.B. 1288.

Respectfully submitted,

Nora A. Nomura  
Deputy Executive Director



**LATE**

**Testimony to the House Committee on Labor & Public Employment**  
**Tuesday, February 10, 2009 at 9:00a.m.**  
**Conference Room 309**

**RE: HOUSE BILL 1288 RELATING TO WORKERS' COMPENSATION**

Chair Rhoads, Vice Chair Yamashita and Members of the Committee:

The Maui Chamber of Commerce, a business organization with who mission it is to advance and promote a healthy economic environment for business, advocating for responsive government and quality education, while preserving Maui's unique community characteristics, strongly opposes this bill and asks that you do the same.

We are a membership driven organization comprised of over 900 members, 88% of which are small businesses with fewer than 25 employees, representing nearly 21,000 employees. We oppose this bill which relating to Workers' Compensation as it requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians.

Chambers across the state have carefully reviewed the issues involving the IME process and continue to explore how to improve the process for the injured workers and employers. Although we understand the intent of the bill, the Maui Chamber of Commerce does not support this bill for the following reasons:

- 1) In many cases, there is a necessity to retain physicians in specialties outside of Hawaii to conduct an IME. The physician community should be consulted to establish appropriate procedural guidelines for conducting IMEs.
- 2) The IME process is an essential part of the employers' discovery process to ensure proper treatment and to justify incurred costs. The right for an employer to select the physician of its choice to determine whether or not an injury is work related should not be subjected to the delay and costs associated with this procedure.

The employer and insurance carrier pay for 100% of the cost of the IME, therefore should be afforded the choice of the IME physician. The employee chooses his or her treating physician, so we believe the employer should be able to obtain a second opinion for his or her protection. Furthermore, it is the employee's treating physician, and not the IME physician, that is conducting the actual medical treatment. The IME physician's role is to evaluate the injury and treatment.

- 3) Proponents of this legislation believe that this change may decrease the adversarial nature that arises during disputes and eliminate the impression of bias in the IME. However, the vast majority of IMEs are conducted without incident or dispute. The opportunity for an employer IME can greatly enhance the likelihood of successful treatment and recovery.
- 4) Safeguards exist for IMEs. Hawaii's workers' compensation law requires full disclosure of the IME report to the injured employee. As a result, the employee will be able to determine whether the evaluation was accurate. If on the contrary, the employee or his or her personal physician will have the opportunity to contest the report.
- 5) The Department makes a determination based upon the evidence presented to the hearings officers. This bill appears to suggest that the IME report is the final say regarding the injured employee.

We believe the current system regarding independent medical examinations is working and that most IMEs occur by mutual agreement absent any statute. Only a very small percentage of workers' compensation claims require an ordered IME.

For these reasons, the Maui Chamber of Commerce does not support HB1288 and respectfully requests that the committee hold this measure.

Sincerely,

Pamela Tumpap  
President

**LATE**

Testimony to the House Labor & Public Employment Committee  
February 10, 2009  
9:00 a.m.

Re: HB 1288

I am Rick Tsujimura testifying on behalf of Hawaiian Airlines. Hawaiian Airlines is opposed to HB 1288 relating to Workers' Compensation.

This measure requires independent medical examinations and Permanent Impairment Rating Examinations to be performed by mutually agreed upon physicians.

Hawaiian believes that it is inherently unfair to allow one party to effectively choose both the treating physician and the physician who will review the treating physician's plan. Therefore, to balance the equation, the employer should have the right to select a physician to conduct the IME.

This measure, if passed, may increase the cost of workers' compensation premiums and the overall cost of doing business.

Thank you for the opportunity to submit testimony.

February 9, 2009

House of Representatives  
The Twenty-Fifth Legislature  
Committee on Labor and Public Employment  
Chairman Representative Karl Rhoads and  
Vice Chairman Kyle Yamashita and Committee Members

**LATE**

**TESTIMONY IN SUPPORT OF HB 1288**

My name is Debra Kawamoto and I am writing in support of HB 1288.

In 2006, I was an injured worker struggling through our complicated worker's compensation system. The primary reason I am in support of this bill, is because of my own personal frustrating experience with an IME physician. Upon submitting my work comp claim, it took another 3 months for me to actually see this appointed IME physician for my evaluation. Although the physician said it was a pretty "simple" case and "straightforward", it still took him another 4 months to complete my report, despite my monthly phone calls to his office to follow up on the status of the report. The phone calls got me nowhere and his lack of response was extremely frustrating for me. Ironically, I ended up getting my copy of the report for the first time to review, on the day of my scheduled hearing with the Department of Labor. A total of 7 months after my claim was submitted. After having gone through this experience, I believe I would have preferred to have at least been given an option to choose from a list of mutually recommended physicians rather than just being assigned one, as the outcome might have been different.

Despite the fact that I was unemployed and not compensated at all, for almost a year in-a-half, I have successfully completed vocational rehab and am currently working for Vocational Management Consultants. Working as a Vocational Tech, I assist other VR counselors and their clients. On a daily basis, I witness the stress and frustration of our injured clients, many who are not properly diagnosed or fairly evaluated by their assigned IME physician. These clients are often times, also without proper medical care and treatment, which only delays their recovery and their ability to return to work and live productive lives. In this last year, while working at VMC and also serving as the Secretary for the Hawaii Injured Workers Alliance, I have learned so many things about IME physicians and the current system and I firmly believe, changes need to be made soon.

I cannot go back and change MY experience, but I still believe that I have a responsibility to help prevent other injured workers from going through any further hardship and frustrations. I do not believe we can change the whole work comp system, but passing HB 1288, will be a major step forward in improving the system and helping future injured workers, many who could be your family member, relative or friend. I strongly urge all of you to pay attention to the testimonies of the injured workers and those that are directly involved with them and support the passing of HB1288.

Thank you.

Debra A. Kawamoto

**yamashita1- Kathy**

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**From:** hawaii dot [hi.dot@usa.net]  
**Sent:** Monday, February 09, 2009 8:41 PM  
**To:** LABtestimony  
**Subject:** Testimony for HB 1288

**LATE**

Aloha,

My name is Dorothy Browne and I would like to submit testimony in support of HB 1288. I am a workers' compensation claimant who was injured at Costco over 5 years ago. I support the bill because I was sent to an independent chiropractic examination for a closed head injury. I should have been sent to a neurologist.

I have been denied treatment as a result of this poor assessment of my injury. This required me to get an attorney. All of this has caused me physical, emotional and financial hardship.

Please help injured workers in the State of Hawaii get proper medical care. We want to get well and need to get back to work to support our families and be happy, productive people. Please pass this bill!

Mahalo for your support.

Sincerely,

Dorothy Browne  
74-5533 Luhia St., #B-1A  
PMB 671  
Kailua-Kona, HI 96740

February 7, 2009

House of Representatives – Labor Committee  
Hawaii State Capitol, Room 306  
415 South Beretania Street  
Honolulu, HI 96813

LATE

Dear Chair and Finance Committee Members:

Re: House Bill 1288

I am writing in support of HB 1288. Never in the history of Worker's Compensation reform, has a measure come before you that is so simple in design that could do so much for our conflict-ridden Worker's Compensation System. This piece of legislation was crafted by experienced Worker's Compensation participants and is the product of the effort of treating physicians, vocational rehabilitation counselors, physical therapists, and injured workers and self-less workers compensation attorneys dedicated to improving our own local Worker's Compensation System.

Unfortunately WC has degenerated over the last two decades into a conflict-ridden free-for-all driven primarily by insurers who have chosen to put profits before people and the bottom line before common sense. By seeking common ground and choosing a truly objective third party evaluator for industrial cases so much can be accomplished to efficientize our system.

The reason this measure will work in helping to both lower costs and insure care is that it has already been implemented successfully in a similar litigious-based healthcare delivery system here in the islands – Hawaii's No-Fault auto injury system. **Parties have been utilizing an agreed upon IME concept for over 5 years with dramatic improvement in patient outcomes and a reasonable but effective cost containment effect on the payer, on the insurer, and ultimately, on the premium payer.**

Those who oppose this bill are either myopic, uninformed, or unfortunately, have a vested interest in the present level of system conflict. This is indeed fortunate because our system is now, not only locally, but also nationally one of the most litigious and patient unfriendly in the nation. Likewise, the 90% community physician "silent boycott" presently being practiced by local physicians is "writing on the wall" which should be heeded if we are going to restore some measure of equity and efficiency in our system.

There are so many things that our system needs to restore it to the efficient safety net it was originally designed and envisioned to be for Hawaii's injured workers. House Bill 1288 is, in essence, a gentle and long overdue remedy.

Thank you for supporting this law which will go a long way toward adding a level of efficiency sorely needed and desperately missing.

Sincerely,

D. Scott McCaffrey, M.D.  
Occupational and Rehabilitative Medicine

DSM:lrc