

STATE OF HAWAII  
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

April 2, 2012

COMMENTS TO THE  
SENATE COMMITTEE ON WAYS AND MEANS

For Hearing on Wednesday, April 4, 2012  
9:10 a.m., Conference Room 211

BY

BARBARA A. KRIEG  
INTERIM DIRECTOR

**House Bill No. 466, S.D. 1**  
**Relating to Workers' Compensation**

TO CHAIRPERSON DAVID IGE AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide comments on H.B. 466, S.D. 1.

The purpose of H.B. 466, S.D. 1, is to require independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of the department of labor and industrial relations; allow for the use of an out-of-state physician under certain conditions; and appropriates unspecified funds.

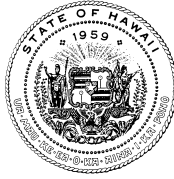
The Department of Human Resources Development (DHRD) has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. **In that regard, DHRD has significant concerns on Section 1 of this bill and strongly supports Section 3.**

With respect to **Section 1**, DHRD agrees with the underlying policy behind this proposal, which is to improve the fairness of the workers' compensation system and provide better quality care for those workers hurt on the job. However, as explained below, neither goal may be met by the mandatory provisions of this bill.

An independent medical examination conducted by a physician of the employer's choice is the primary tool that is available to the employer to help overcome the statutory presumption that a claim is for a covered work injury, to show that ongoing medical treatment may be unreasonable or unnecessary, and to determine whether a requested medical treatment, e.g., surgery, is reasonable and related to the work injury. Amending the statute in this fashion would deprive the employer of a very fundamental right to conduct its discovery, using physicians of its choice, to evaluate whether the employer is liable for the claim or medical treatment. (Conversely, employers are statutorily prohibited from selecting which physicians an injured worker chooses to treat his or her injury.) We note that our three most expensive workers' compensation benefits expenditures are medical care, services, and supplies; temporary total disability; and permanent partial disability, accounting for 93% of the \$39.7 million in total benefits we paid out from fiscal years 2007 to 2011. The extent of our liability, if any, for each of these benefits involves medical issues which require medical opinions. The inherent delay involved in trying to secure mutual agreement on an examining physician will increase our costs, particularly where ongoing temporary total disability benefits are being paid. Moreover, determination of whether an employee's medical treatment is reasonable or necessary would be prolonged by this bill, which would result in delayed treatment for injured employees.

With respect to **Section 3**, DHRD believes that an appropriation to provide for three additional hearings officers and two additional office assistant positions in the Disability Compensation Division would improve the Department of Labor's administration of workers' compensation claims in this State. Additional hearings officers, with office support, will help to reduce the waiting time for hearings and decisions on contested issues of compensability, medical treatment, and myriad other issues that arise in workers' compensation claims.

Thank you for the opportunity to provide comments on this measure.



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

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

April 4, 2012

To: The Honorable David Y. Ige, Chair, Michelle Kidani, Vice Chair, and  
Members of the Senate Committee on Ways and Means

Date: Wednesday, April 4, 2012  
Time: 9:10 a.m.  
Place: Conference Room 211, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 466 H.D. 3 S.D. 1 Relating to Workers' Compensation**

**I. OVERVIEW OF PROPOSED LEGISLATION**

H.B. 466 H.D. 3 S.D. 1 proposes to repeal Section 386-79, Hawaii Revised Statutes (HRS), relating to medical examinations by employer's physician, and to replace it with a new section by requiring physicians who perform independent medical examinations (IMEs) and permanent impairment rating examinations to be selected by mutual agreement between the employer and employee. If no agreement can be reached, the Department shall then appoint a qualified physician licensed in the relevant medical specialty and willing to conduct the examination within 45 calendar days of the request or as soon as practicably possible. The IME shall be paid for by the employer. This measure also allows for the use of an out-of-state physician under certain circumstances.

The Department supports this bill, as it will bring a greater assurance of impartiality in the IME and permanent impairment rating processes and, more importantly, has the potential to reduce the number of Workers' Compensation medical disputes.

**II. CURRENT LAW**

Currently, Section 386-79, HRS, specifies that the employee, when ordered by the director, shall submit to the examination by a qualified physician designated and paid by the employer. If an employee refuses to attend the examination, or obstructs in any way the examination, the claimant's rights to benefits are

suspended for the period during which the refusal or obstruction continues.

### **III. COMMENTS ON THE HOUSE BILL**

The Department supports the measure and offers the following comments:

1. The Department currently has a backlog of cases where disputes between the parties occur. For the issue of compensability, it could take 3 to 4 months to schedule a hearing from the time the request is made. For issues such as permanent disability, it could take 8 to 9 months for a hearing to be scheduled.

Decisions on issues of compensability and permanent disability rely primarily on the doctors' reports that are submitted by the parties. Therefore, in contested cases, the parties' primary concern is to have doctors' reports that support their position. Employers and Insurance Companies, as well as Claimants in many instances, would therefore look for IME doctors who will likely support their positions.

Employers or Insurance Companies, however, have an economic advantage over claimants, and creating a mechanism that would limit this dynamic of "shopping for medical experts" could possibly reduce the number of disputes, especially related to the issues of compensability and permanent disability.

2. Establishing a list of doctors who would be willing to conduct IMEs for the purposes of compensability or permanent disability under this bill becomes the responsibility of the Director of Labor. Issues such as willingness of doctors in different medical specialties and allowable fees for such evaluations will have to be addressed. Having the examinations done within forty-five days or as soon as practicably possible following selection of the doctor allows some flexibility in the scheduling timetable and may entice more doctors to participate on the list.
3. Where there are disagreements about medical stability (§386-31, §12-10-100 Determination of medical stabilization. Total disability.)—the Department believes the mechanism set forth in the measure will provide a fairer and more impartial method of dispute resolution as well as reduce the number of disputes.
4. The measure also provides for IMEs, where medical treatment is disputed, for claimants living out-of-state. The department would be burdened with having to compile a list of IME physicians living out of the State of Hawaii and having to arrange for an out-of-state claimant to return to Hawaii for the IME in

situations where the department decides to have the IME performed in Hawaii. Therefore, the department recommends using the same list of physicians be compiled by the department be used for out-of-state claimants, while having the employer continue to be responsible for arranging and paying for travel arrangements for claimants who must return to Hawaii for an IME.

5. The Department also recommends wording to say that the employer shall send the medical records to the IME physician.
6. The Department supports the proposal contingent on adequate funding provided in Section 3. Without adequate funding, the Director will not be able to implement the proposed procedures.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [jbsestak@prodigy.net](mailto:jbsestak@prodigy.net)  
**Subject:** Testimony for HB466 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 10:15:27 AM

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Testimony for WAM 4/4/2012 9:10:00 AM HB466

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Betty Sestak  
Organization: Hawaii Rehabilitation Counseling Assoc.  
E-mail: [jbsestak@prodigy.net](mailto:jbsestak@prodigy.net)  
Submitted on: 4/2/2012

Comments:  
Strong support to ensure that WC claimants receive unbiased opinions.

**From:** [andrew\\_chun@ktasuperstores.com](mailto:andrew_chun@ktasuperstores.com)  
**To:** [WAM Testimony](#)  
**Subject:** Oppose HB 466 HD3 SD1  
**Date:** Tuesday, April 03, 2012 8:36:00 AM

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Though there may have been good intentions with this bill, the unintended consequences would put an unfair burden on businesses, especially small, locally owned companies. This bill would further restrict the process, eventually leading to higher expenses because of the unclear direction in the language of the bill. Please oppose this bill so that it may be studied further at a later time. Andrew Chun KTA Super Stores Hilo, Hawaii 96720

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**From:** [bobs@times-supermarket.com](mailto:bobs@times-supermarket.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 3:16:54 PM

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Bob Stout  
Times Super Market  
Honolulu, HI 96819-1865

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system. This legislation goes hand in hand with the proposed sick leave bill. How in the world do you folks expect employers to pay for all of this without cutting back benefits and raising prices? Maybe you should hear both sides!

Thank you for the opportunity to submit comments.

Sincerely,

Bob Stout  
831-0811 X202



**From:** [barkle@alsco.com](mailto:barkle@alsco.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 4:56:50 PM

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Brian Arkle  
Alsco (American Linen Division)  
Honolulu, HI 96819-1048

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Thank you for the opportunity to submit comments.

Sincerely,

Brian Arkle  
808-834-7503



Senator David Ige, Chair  
Senator Michelle Kidani, Vice Chair  
Committee on Ways & Means  
State Capitol, Honolulu, Hawaii 96813

HEARING      Wednesday, April 04, 2012  
                  9:10 am  
                  Conference Room 211

**RE:    HB466, HD3, SD1 Relating to Workers' Compensation**

Chair Ige, Vice Chair Kidani, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. In 2011, retail generated \$27.8 billion in sales and paid over \$1 billion in GET. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

**RMH strongly opposes HB466, HD3, SD1**, which requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of the department of labor and industrial relations; allows for the use of an out-of-state physician under certain conditions.

We do not dispute that an injured worker should receive quality and appropriate medical care as long as required.

From the employer's position, the IME process is a vital mechanism to ensure proper treatment for the injured employee and costs of the treatment incurred are justified. It is the only real tool an employer has in the discovery process to ensure the injured worker's claim is related to work and, if so, that the injured worker is receiving reasonable and necessary medical treatment.

Considering that the employer ultimately bears the entire cost of the IME, the employer should be able to choose the IME physician based on the physician's education, experience, and specialty. This measure erodes the ability of the employer to effectively and efficiently manage costs.

The members of the Retail Merchants of Hawaii respectfully request that you hold HB466, HD, SD1. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President



April 4, 2012

**TESTIMONY BEFORE THE SENATE COMMITTEE ON  
WAYS & MEANS ON HB 466 HD3 SD1  
RELATING TO WORKERS' COMPENSATION**

Thank you Chair Ige and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

HTA opposes this measure.

The independent medical examination (IME) is critical to employers to determine whether a claim is work related and whether prescribed medical treatment is reasonable and warranted. Employers are required to pay for an IME and should not be required to accept a compromised or assigned examiner.

This bill effectively removes the employers' only assurance that the process is working in a reasonable manner. Although the bill requires the IME to be mutually agreed on, claimants have nothing to lose by summarily disagreeing to any and all selections thereby allowing the Department of Labor to assign one.

This proposed process drags out the process and creates a hard "me against you" environment.

An employer's ability to rebut a claim or to end treatment and to determine settlements or impairment levels lies with the IME process. Restricting the selection of the IME eliminates the balance in the workers compensation system creating scenarios of skyrocketing costs.

Finally, having the claimant's physician be the sole decision maker on continuing treatment to attain medical stability is not right. An employer must have the ability to challenge that decision in a hearing to fairly determine the case.

Thank you.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [ggdietcoke@hotmail.com](mailto:ggdietcoke@hotmail.com)  
**Subject:** Testimony for HB466 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 2:35:57 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB466

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: gary f gallagher  
Organization: CASE MANAGEMENT WORKS  
E-mail: [ggdietcoke@hotmail.com](mailto:ggdietcoke@hotmail.com)  
Submitted on: 4/2/2012

Comments:

TO HONORABLE JOSH GREEN,M.D. CHAIR, CLARENCE K. NISHIHARA, VICE CHAIR, AND MEMBERS OF THE SENATE COMMITTEE ON JUDICIARY AND LABOR

RE: H.B. NO. 466 H.D.--RELATING TO WORKERS' COMP

FROM GARY F. GALLAGHER M.ED.,PSYCH., C.R.C.,C.I.R.S.,L.M.H.C  
PRESIDENT-CASE MANAGEMENT WORKS

I have been a vocational rehabilitation counselor working with injured workers (WC) in Hawaii for 35 years.

I am in support of H.B. 466 as its implementation should improve the I.M.E. and permanent impairment process. This bill should add a higher level of impartiality and produce the benefit of greater confidence in the I.M.E. determinations thus reducing the number of WC medical disputes.

When an injured worker attends an I.M.E. and viscerally disagrees with the determination it negatively affects their vocational rehabilitation (returning to work) and adds time and unnecessary costs to the workers compensation claim.

**From:** [jtoth@netenterprise.com](mailto:jtoth@netenterprise.com)  
**To:** [WAM Testimony](#)  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Please do not hurt small businesses: hold HB 466  
**Date:** Monday, April 02, 2012 5:01:46 PM

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J Toth  
NetEnterprise, Inc.  
Honolulu, HI 96813-2847

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

My name is J Toth and I am with NetEnterprise Inc., a Hawaii-based network services integrator with 45 employees.

Businesses in Hawaii already face increasing regulatory barriers and the high cost of doing business. As a business owner, I am keenly aware of the importance of employee benefits, not only as a social norm but also as a market demand. Artificially tampering with this balance, as HB 466 threatens, will only serve to damage the environment in which businesses must operate thereby further weakening the already fragile economy. As more businesses fail, more employees will be without jobs and without employee benefits. It will not benefit employees to hinder the ability of businesses to function, businesses that are essentially providing a livelihood for those same employees.

Restricting employers' ability to obtain an independent medical opinion will take away balance in the workers' compensation system and can lead to further abuses that only serve to raise the cost of doing business in Hawaii. It is always advised to obtain a second opinion when faced with a serious medical diagnosis. HB 466 will endanger the objectivity of that second opinion by effectively disallowing employers a voice in the selection of the physician.

Our company does our best to take care of the employees. They are an asset to the company and we work very hard to make sure to have a healthy and safe work environment. We provide a rather generous benefits and any increase in costs during this time may force us to restructure our benefits system.

I respectfully request that you hold this measure.

Thank you for the opportunity to submit comments.

Sincerely,

J Toth  
441-5000

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [jdeluz@teamedeluz.com](mailto:jdeluz@teamedeluz.com)  
**Subject:** Testimony for HB466 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 4:37:10 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB466

Conference room: 211  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Jacqueline De Luz Watanabe  
Organization: BIG ISLAND TOYOTA  
E-mail: [jdeluz@teamedeluz.com](mailto:jdeluz@teamedeluz.com)  
Submitted on: 4/2/2012

Comments:

Please consider opposing this bill as it will further disparately impact employers. I believe we have a common goal in getting people back to work and we have always diligently worked with the worker and the provider to make this happen in a positive manner. This bill will hamper everyone's ability and tie our hands in making a limited, and in my opinion detrimental decision that ultimately will hurt the individual who has already been injured!

Please support workers and employers by opposing this bill!



**From:** [ksanders@oceannetwork.tv](mailto:ksanders@oceannetwork.tv)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 9:21:42 PM

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Ken Sanders  
Ocean Network LLC  
Honolulu, HI 96734-3311

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Dear Committee,

I have a small business called Ocean Network LLC, headquartered here on Oahu. My name is Ken Sanders, the Chairman, Co-Founder and President. We are an Internet Broadcasting TV company.

My request to you is to not burden my start-up tech business, which will be good for our State, with more unwanted and unneeded regulations.

I love my employees and will always take good care of them, I think most employers feel the same. Most of us here are small businesses that can't afford any extra expenses like HB466 will cause.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Thank you for the opportunity to submit comments.

Sincerely,

Ken Sanders  
808-256-7263

# FAX TRANSMISSION

**JOSEPH F. ZUIKER**

A LAW CORPORATION  
1188 Bishop Street, Suite 1111  
Honolulu, Hawaii, 96813  
(808) 523-1142  
Facsimile (808) 534-0023

**Assisting Injured Workers Throughout Hawaii**

**To:** Hon. David Y. Ige, Chairman,      **Date:** April 2, 2012  
Senate Ways and Means  
Committee, Senator Michelle N.  
Kidani, Vice Chairperson - Hawaii  
State Capitol

**Fax #:**      **Pages:** 2, including this page

**From:** Joseph Zuiker



**Subject:** IME MUTUAL COOPERATION BILL (Workers Compensation -  
HB 466, HD3, SD1) - **Comments in support.**

Hearing: 4/4/12 at 9:10 a.m.

Comments:

Please pass HB 466, HD3, SD1 because "**Mutual Cooperation**" will do the following:

1. **Speed up work injury claims** through mutual selection of medical examiners. (No more fights over doctor bias. No more doctors getting millions of dollars from one or two insurance companies and then claiming that they are "independent medical examiners". And no more extended stop-loss payments caused by the current non-cooperation procedures.

2. **Cut workers compensation costs for Hawaii's small businesses** by getting injured workers properly diagnosed, properly treated and back to work faster. (Faster return to work means less weekly benefit costs for our business community and that reduces insurance premiums for employers.)
  
3. **Publicize a very progressive pro-business piece of legislation** to Hawaii's perennial business climate critics on the Mainland. ( This "Mutual Cooperation" proposal is a big deal for Hawaii's injured workers, a cost-cutting procedure to benefit Employers and Insurance Carriers and a big boost for our business reputation on the Mainland.)

Please pass this legislative proposal and begin the era of Mutual Cooperation in Hawaii.

Respectfully submitted,

Joseph Zuiker  
Attorney at Law

**From:** [gprice@diamondbakery.com](mailto:gprice@diamondbakery.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 5:46:39 PM

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George Price  
Diamond Bakery Co, Ltd.  
Honolulu, HI 96817-4405

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

My Name is George Price and I am the Controller for Diamond Bakery Company, Ltd. - Hawaii's largest manufacturer of Cookies and Crackers. Our company has been sharing Heartwarming Aloha with the world for over 90 years. We oppose the terms of HB466 for the following reasons:

Our company does our best to take care of our employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

Thank you for your time and consideration.

Thank you for the opportunity to submit comments.

Sincerely,

George Price



## **HAWAII MEDICAL ASSOCIATION**

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814  
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

### **TO: COMMITTEE ON WAYS AND MEANS**

**Senator David Y. Ige, Chair**

**Senator Michelle N. Kidani, Vice Chair Rep. Marilyn B. Lee, Vice Chair**

**DATE: Wednesday, April 4, 2012**

**TIME: 9:10 a.m.**

**PLACE: Conference Room 211**

FROM: Hawaii Medical Association

Dr. Roger Kimura, MD, President

Linda Rasmussen, MD, Legislative Co-Chair

Dr. Joseph Zobian, MD, Legislative Co-Chair

Dr. Christopher Flanders, DO, Executive Director

Lauren Zirbel, Community and Government Relations

Re: **HB 466 RELATING TO WORKERS' COMPENSATION**

In Support

Chairs & Committee Members:

The Hawaii Medical Association supports this measure, which, once enacted, will improve our Workers Compensation System by reducing conflict and litigation. Today's practice of unilaterally choosing an IME evaluator by the insurer lends itself to extremist physicians who pander to carriers for such lucrative referrals by providing opinions that allow care and benefit cessation to the detriment of legitimate patients in need. Such carrier behavior not only causes needless suffering and prolongs cases but also places additional burden on our state health and welfare programs which are already dangerously stressed.

Hawaii's No Fault Auto System, the closest type of care delivery, has used agreed-upon IME's for decades with excellent results and little of the patient abuses we see perpetrated in Work Comp for this very reason.

Further study is needed on the negative impact carrier-chosen IME's have on our citizenry as well as our other social safety nets. Please add this long overdue reason, fairness and conflict prevention to our Workers Compensation System by voting "yes" on this bill.

#### **OFFICERS**

**PRESIDENT - ROGER KIMURA, MD, PRESIDENT ELECT - STEVE KEMBLE, MD**

**IMMEDIATE PAST PRESIDENT – MORRIS MITSUNAGA, MD, SECRETARY - THOMAS KOSASA, MD, TREASURER – WALTON SHIM, MD, EXECUTIVE DIRECTOR – CHRISTOPHER FLANDERS, DO**

**From:** [Laurie Hamano](#)  
**To:** [WAM Testimony](#)  
**Subject:** HB 466  
**Date:** Monday, April 02, 2012 2:58:01 PM

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Committee on Ways and Means  
Senator David Ige, Chair  
Senator Michelle Kidani, Vice Chair

Notice of Decision Making

Relating to Workers Compensation

**In Support of HB 466,HD3, SD1**

My name is Laurie H. Hamano. I am a vocational rehabilitation counselor as well as business owner. I have been able to see the workers compensation system deal with injured workers from both sides of the spectrum.

If HB 466 is passed both sides of the perspective of workers compensation would reap the benefits; 1) reducing the amount of costly IME's 2) focusing on fairness in the system so that the injured workers is heard and medically taken care of, 3) reducing the amount of delay on the injured workers' medical benefits and vocational rehabilitation benefits.

Please support this HB 466 as this is one way to help the workers compensation system move forward and allowing the injured workers to return to the community as a productive member.

Laurie H. Hamano, M.Ed. CRC, LMHC  
President of Vocational Management Consultants, Inc.

My address and phone number is:  
715 S. King Street Suite 410  
Honolulu, HI 96813  
#5388733

**From:** [Lisa Cook](#)  
**To:** [WAM Testimony](#)  
**Subject:** HB466 HD3 SD1  
**Date:** Tuesday, April 03, 2012 7:00:29 AM

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Dear Chair Senator David Y. Ige and Vice Chair Senator Michelle N. Kidani and the Ways and Means Committee

RE: HB466 HD3 SD1

Ku Aloha Ola Mau opposes this bill as it will create changes in the processes that would be detrimental for those employees who sincerely need worker's comp due to the additional steps that would slow the process down. It would also allow those employees who choose to willfully abuse the system to be able to do so. Ku Aloha Ola Mau works hard to provide benefits to employees to ensure their safety, health and wellness. Employers of service industries know that their greatest assets are its employees and it is never the employers intent to prevent workers from being supported especially in their line of work. There are many reasons to oppose the bill, however it is important to note that employers Do NOT ALL have the position to "get away with" not taking care of their employees and many, including Ku Aloha, cherish their employees as "family". This legislation was created for employers who abuse their power but punishes employees and employers who do the best for their staffs.

Thank you for this opportunity to provide testimony.

Lisa Cook, ACSW, LSW  
Executive Director  
Ku Aloha Ola Mau  
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THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

**COMMITTEE ON WAYS AND MEANS**

Sen. David Y. Ige, Chair  
Sen. Michelle N. Kidani, Vice Chair

Hearing: Wednesday, April 4, 2012

Time: 9:10 a.m.

Place: Conference Room 211, State Capitol

**TESTIMONY OF ILWU LOCAL 142**

**RE: HB 466, HD 3, SD 1, RELATING TO WORKERS COMPENSATION**

Chairman Ige, Vice Chair Kidani, and Members of the Ways and Means Committee:

Thank you for the opportunity to present testimony regarding HB 466, HD3, SD 1. We enthusiastically support this measure.

This bill amends Section 386-79 HRS to require the mutual selection of examining physicians to conduct independent medical examinations and permanent impairment ratings for injured workers once they have attained medical stability. It also prohibits conducting both an independent medical examination under Section 386-79 HRS and a permanent impairment rating simultaneously without the consent of the injured worker.

HB 466, HD 3, SD 1 will preserve the integrity of the independent medical examination and permanent impairment rating process. Physicians jointly selected recognize that they are being hired to conduct an independent and objective assessment of medical status or permanent impairment, and that future referrals are dependent on their impartiality, not their ability to please those who retain them. The requirement of mutual selection also serves to offset the enormous economic advantage insurers have in adjudication compared to individual employees, who cannot afford the substantial costs associated with these evaluations and thus literally cannot afford to acquire the medical proof necessary to prove their claims.

In recent years, some insurers have often tried to consolidate independent medical examinations and permanent impairment ratings, though they are designed to serve entirely separate functions, the former to assess medical treatment and progress, the latter to measure the extent of permanent disability. Combining the two separate functions is inappropriate because often employees have not truly reached maximum medical improvement and deserve further medical care. Physicians also often predict recovery will occur and that there will be no permanent impairment, when they cannot possibly

know the outcome of future treatment before that treatment has been concluded. In either instance, the right of the injured worker to care or compensation is sacrificed for the expedience of employers and insurers.

On still other occasions, insurers have tried to use a finding that an injured worker has no permanent impairment as a means of subverting the employee's right to vocational rehabilitation, since a finding that an employee has, or may have, a permanent impairment is a necessary condition for receiving vocational rehabilitation under Section 386-25(b) HRS. HB 466, HD 3, SD 1 would end such abuses, restore neutrality, and promote fairness and objectivity among evaluating physicians.

In past years, certain government employers have argued that this measure will not promote cooperation between the parties and will increase cost. This is inaccurate.

In fact, Employers who oppose this bill sometimes wish to use their superior economic resources to tilt the medical evaluation process in their favor. They recognize that if joint selection of examiners becomes the norm of operation, then there will be no economic incentive for evaluators to favor one side or another. However, what these short-sighted Employers fail to recognize is that if true objectivity exists in the evaluation process, both industry and injured workers will benefit. That is, everyone within the system will strive to arrive at authentic determinations of disability. Adversarial posturing will be minimized, and resources can be directed toward either the rehabilitation of honest injuries or restitution of real rather than feigned impairment. This outcome is ultimately cost effective for all parties, and the correct result for our community as a matter of public policy.

An additional constructive feature of HB 466, HD 3, SD 1 is that it provides an unspecified amount of funding for three full-time equivalent hearing officer positions and two full-time permanent office assistants. This is a direly needed supplement to the Disability Compensation Division's existing staff, who have worked valiantly to maintain the prompt adjudication of claims, but have gradually been overwhelmed because of budgetary cutbacks that have caused delay and resultant unnecessary cost increases. Restoring these personnel will help claims move more rapidly through the system and shorten the unnecessary payment of temporary total disability and restore workers more swiftly to productive employment. Funding additional staff at the Disability Compensation Division is an extremely modest price to pay for helping to reduce the overall expenditure of benefits through timely adjudication of claims.

We note that HB 466, HD 3, SD 1 as proposed is also repealed June 30, 2017, when Section 386-79 HRS as it now exists will be reenacted. In our view, this is an unnecessary limitation that is not warranted and we endorse removing this restriction.

HB 446, HD 3, SD 1 without the June 30, 2017 repeal provision is an enlightened measure that will confer benefits to all participants in the workers' compensation system and we vigorously support its passage.

TESTIMONY BEFORE THE SENATE  
COMMITTEE ON WAYS AND MEANS

Wednesday, April 4, 2012  
9:10 a.m.

HB 466, HD3, SD1  
RELATING TO WORKERS' COMPENSATION

By Marleen Silva  
Director, Workers' Compensation  
Hawaiian Electric Company, Inc.

Chair Ige and Vice Chair Kidani, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **strongly oppose H.B. 466, H.D. 3, S.D.1.** Our companies represent over 2,000 employees.

This bill mandates that independent medical examinations (IME's) and permanent impairment ratings be performed by physicians mutually agreed upon by the employer and the injured employee or appointed by the Director of the Department of Labor and Industrial Relations.

In any proceeding for the enforcement of a claim for compensation under the current statutes, statutory presumption places the burden of proof on employers to present substantial evidence to the contrary. An "independent" medical examination is paid for by the employer and serves as an objective tool to help employers clarify issues related to statutory presumption, excessive treatment, or reasonableness of a surgical procedure. By requiring that the IME be mutually agreed upon, this bill severely compromises the employer's right to defend a claim and to conduct discovery to better evaluate a claim.

The requirement of "mutual agreement" on the selection of the IME physician may also delay medical treatment for an injured employee because there is no time frame specified in the proposed legislation defining how long the employer and employee may take to agree on the selection of a physician before the Director of Labor appoints a physician. There is also a risk of abuse of the intent of this proposal since there is no requirement that injured employees object in good faith to any IME physician selected by the employer.

The current statutes have numerous safeguards in place to allow injured employees full disclosure of an employer / insurance carrier's IME report, the right to seek their own medical opinion if they disagree, and an appeal process if the parties cannot agree. A majority of IME's are conducted under the current statutes without incident or dispute today.

There are a limited number of physicians in the State who are qualified to perform Permanent Impairment Rating Examinations, as such these types of evaluations are currently performed by mutual agreement between parties and without any need for mandate by legislation.

**For these reasons, we strongly oppose H.B. 466, H.D. 3, S.D. 1 and respectfully request this measure be held.**

Thank you for this opportunity to submit testimony.

**From:** [michael@martinandmacarthur.com](mailto:michael@martinandmacarthur.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 4:06:45 PM

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Michael Tam  
Martin & MacArthur  
Honolulu, HI 96819-3136

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Aloha,

I am the Hawaii-born, native Hawaiian owner of Martin & MacArthur, the only fine furniture company that actually makes Koa furniture here in Hawaii. We have 30 fine craftsmen and about 65 retail workers.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Michael Tam  
845-6688



**From:** [rob@molokaichamber.org](mailto:rob@molokaichamber.org)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 5:36:40 PM

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Robert Stephenson  
P.O. Box 515  
Kaunakakai, HI 96748-0515

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The Molokai Chamber of Commerce opposes this measure as it would place an undue burden, both financially and administrative on our already struggling small businesses.

We respectfully ask that you hold this measure in committee and help our small businesses help themselves to stay in business.

Respectfully submitted,  
Robert Stephenson, President & CEO, Molokai Chamber of Commerce.

Thank you for the opportunity to submit comments.

Sincerely,

Robert Stephenson, President Molokai Chamber of Commerce  
8086460928





**Testimony to the Senate Committee on Ways and Means  
Wednesday, April 4, 2012; 9:05 a.m.  
Conference Room 211  
Hawaii State Capitol**

**RE: HOUSE BILL 466 HD3 SD1 RELATING TO WORKERS' COMPENSATION**

Chair Ige, Vice Chair Kidani, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes HB 466 HD3 SD1, relating to Workers' Compensation.**

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The mutual goal of employers and injured workers should be to obtain reasonable and necessary medical treatment for the injured worker and return the injured worker to work as a valued and productive employee.

This measure provides an injured worker can only be determined to be medically stable and a permanent impairment rating be scheduled if the injured worker's attending physician deems it so. It further requires independent medical examinations (IME) and permanent impairment ratings of injured workers be performed by a mutually agreed upon IME physician. If there is no agreement, the IME physician is appointed by the Department of Labor (DOL) from a list it maintains of "qualified physicians" whose fees are governed by the DOL.

The Chamber has carefully reviewed the issues involving the workers' compensation system and the IME process. It continues to explore how to improve workers' compensation for both injured workers and employers. The Chamber disputes the intent of this bill and strongly opposes this bill for the following reasons:

1. If medical stability and scheduling of permanent impairment rating can only be determined by the attending physician, employers will lose the right to challenge the determination and request a hearing for DOL review of the medical evidence. As attending physicians profit from treating injured workers, there is no incentive for an attending physician to determine an injured worker is medically stable. It appears the intent of this bill is to keep injured workers' in the workers' compensation system

indefinitely. The increased cost including extended and unnecessary medical treatment, temporary disability benefits, vocational rehabilitation, permanent impairment, etc. will skyrocket along with workers' compensation premiums. If this bill contemplates changing the current system into a "no fault" system, it should place a cap (e.g. 2 years) on workers compensation benefits as other states do.

2. The IME process is an essential part of an employer's discovery to ensure the medical treatment and costs for the injured worker are appropriate. The right for an employer to choose a physician to render expert medical opinion concerning whether or not an injury is work related or whether medical treatment is reasonable and necessary should not be subject to the limitations and costs associated with this bill.

The employer and insurance carrier pay for 100% of the cost of the IME and should be able to choose an IME physician based on education, experience, and specialty. Just as the employee chooses his or her attending physician, so we believe the employer should be able to obtain a second opinion from an IME physician of its choosing. Furthermore, it is the employee's attending physician, and not the IME physician, that conducts actual medical treatment. The IME physician's role is simply to evaluate diagnoses, causation, treatment, and impairment and provide recommendations which benefit all parties including the injured worker.

3. This bill precludes combining examination and rating without the employee's written consent. The IME physician should be permitted to combine IME and permanent impairment rating without requiring the employee's written consent where the IME physician finds the employee is medically stable. To require the employer to schedule a separate rating is unnecessary, inconvenient, inefficient, and costly.
4. Proponents of this bill assert this change will decrease the adversarial nature which arises during disputes and eliminate the impression of bias in the IME. We believe it will have the opposite effect. Currently, 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, recovery and resolution of the claim without the need to take the matter to hearing before the DOL at significant savings in time and resources of all parties.
5. Safeguards exist for IMEs. Hawaii's workers' compensation law currently requires employers to provide justification and obtain an order from the DOL where the injured worker does not agree to IME. The DOL also requires full disclosure of the IME report to the injured employee. As a result, the employee is able to review the report with his attending physician or other representative to determine whether the IME was accurate or whether the employee desired to contest the report. The employee may obtain an alternate permanent impairment rating if he chooses. In some cases, employers will voluntarily authorize a second IME and rating where there is disagreement with the first IME.

Where employer disputes an attending physician's opinion that the employee is not medically stable, the employer should not be precluded from obtaining IME and permanent impairment rating. The employer should be allowed to present expert medical opinion for DOL determination. Once again, the employee is always free to have his attending physician contest the report.

6. Where the employer and injured worker disagree on IME physician, this bill provides for the DOL to appoint an IME physician within 7 days from a list it maintains of qualified physicians with limited fees, licensed to practice in Hawaii. Notwithstanding the addition of 3 full time hearings officer and 2 full time assistants under this bill, this is impractical given the DOL's limited resources. It will be extremely challenging for the DOL to maintain an updated list of qualified physicians agreeable to conduct examinations and ratings for all medical specialties required particularly where some specialties are not available in Hawaii for workers' compensation. It will also be difficult for the DOL to process requests within 7 days. While hiring additional personnel is recommended, such personnel should be utilized to process existing work overload.

Moreover, the experienced physicians who currently perform IMEs will no longer be willing to do so. The quality of IMEs and permanent impairment ratings will decrease. There are no criteria to ensure physicians on the list are in fact qualified. The list may include physicians without proper certification or training in IMEs and ratings. The physician community should be consulted on this matter. Employers will lose what little confidence they have in the workers' compensation system thereby increasing litigation and making it more difficult to resolve cases amicably.

7. This bill suggests the IME report is the final say regarding the injured worker. This is simply not the case. Where conflict cannot be resolved (and currently in the vast majority of cases it is), the DOL makes a determination based upon all of the evidence presented to the hearings officers. The IME report is but one piece of evidence. Passage of this bill will result in increased rather than decreased conflict.

In summary, we believe it wholly inappropriate for the attending physician to be the sole determiner of the injured workers' medical stability where same is disputed. The current system regarding medical stability and IMEs is working. Most IMEs occur by mutual agreement absent any statute. Only a very small percentage of workers' compensation claims require an ordered IME. This will change if this bill passes. The significant impact of this bill is not to be taken lightly. It will undoubtedly result in increased costs, litigation and erode all confidence in the workers' compensation system.

For these reasons, the Chamber does not support HB 466 HD3 SD1 and respectfully requests the committee holds this measure.

Thank you very much for the opportunity to testify.

Testimony of  
American Insurance Association  
1015 K Street, Suite 200  
Sacramento, California 95814 - 3803

**TO:** Senator David Y. Ige  
Chair, Committee on Ways and Means  
Via Email: *WAMTestimony@Capitol.hawaii.gov*

**DATE:** April 3, 2012

**RE: H.B. 466, H.D.3, S.D.1 – Relating to Workers’ Compensation**  
**Hearing Date: Wednesday, April 4, 2012 at 9:10 a.m.**  
**Conference Room 211**

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The American Insurance Association (AIA) respectfully opposes H.B. 466, H.D.3, S.D.1 Relating to Workers’ Compensation.

AIA is the leading property-casualty insurance trade organization, representing approximately 300 insurers that write more than \$100 billion in premiums each year. AIA member companies offer all types of property-casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

H.B. 466, H.D.3, S.D.1 requires independent medical examinations and permanent impairment rating examinations to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of Labor and Industrial Relations and allows for the use of an out-of-state physician under certain conditions. .

AIA opposes H.B. 466, H.D.3, S.D.1. AIA believes that the current system regarding independent medical examinations is well-established, and we believe that it is working. AIA is also concerned that requiring the selection of an IME physician by mutual agreement may delay the delivery of medical treatment in certain cases, and may also increase costs. AIA opposes H.B. 466, H.D.3, S.D.1 and respectfully requests that it be held.

Thank you very much for the opportunity to submit testimony on this measure.

Steven Suchil  
Assistant Vice President/Counsel  
State Affairs  
Western Region

TESTIMONY IN SUPPORT OF H.B. NO. 466, H.D. 2, S.D.1  
RELATING TO WORKERS' COMPENSATION  
COMMITTEE ON WAYS AND MEANS

Wednesday, April 4 2012, 9:10 a.m.

Mr. Chairman, members of the Committee, I am attorney Wayne Mukaida. I have been in practice since 1978. Since 1989, I have devoted a substantial portion of my legal practice to representing injured workers. I support H.B. 466, H.D. 2, S.D.1 relating to Workers' Compensation and mutually agreed upon "Independent Medical Examinations."

Under the current system, one of the most serious problems in the workers' compensation system is allowing insurance carriers to force injured workers to be examined by physicians favored by the carriers. There is simply no basis for anyone to honestly and logically argue against a process which selects a fair physician.

In fact, a system of having the insurer and the injured worker mutually agree upon a physician is already in place when it is time for the extent of permanent injuries to be rated or measured. This system of a mutually choosing a physician to rate injuries has been proven to work in many thousands of cases over many years. Many attorneys who represent injured workers cannot think of an instance where there was no agreement on the selection of a rating physician and the need for a hearings officer had to intervene.

If the concern about moving the bill forward is the budgetary concern about having to fund more positions for more hearings officers, then the funding provision in Section 3, and the requirement in the second paragraph of the bill that the Director maintain a list of physicians should be stricken, and the bill allowed to move forward. As demonstrated in the rating context, more likely than not, the parties can reach an agreement on a physician and significantly more hearings and intervention by the Director will not be required.

Please note that Standing Committee Report No. 2263 erroneously refers the the "Director" as being the "Director of Health". The term should refer to the Director of the Department of Labor and Industrial Relations.

I. THERE ARE POWERFUL FINANCIAL INCENTIVES FOR AN  
EMPLOYER'S PHYSICIAN TO PROVIDE OPINIONS IN THE  
CARRIER'S FAVOR.

There are physicians who regularly prepare reports favorable to employers/carriers. The financial rewards to carriers' physicians who provide opinions in favor of carriers can be very substantial. Carriers' physicians are paid an approximate average of over \$2,000.00 per examination; 3

examinations per week yields \$6,000.00; 50 weeks a year yields an income of \$300,000.00. Carriers' physicians can, of course, do more than 3 examinations per week. At least one physician reported receiving over a million dollars from a single carrier.

Carriers' physicians whose income is from examinations paid for by carriers are very susceptible to making sure that their livelihoods are kept intact. The financial incentives for carriers' physicians to provide reports favoring carriers are therefore very powerful and are reflected in their reports.

A carrier can readily obtain a physician's opinion to fit its needs because the carrier's physician can presently state any opinion with impunity. The carrier's physician is free to opine, regardless of the facts, that the injury:

- (1) did not occur,
- (2) should have already healed,
- (3) was a temporary aggravation of a pre-existing condition, and has healed,
- (4) was entirely pre-existing, or
- (5) was due to non-work related conditions.

The carrier then uses that opinion to deny coverage or to deny treatment. The carrier's physician is also free to opine that a worker's condition is stable, and that further care is not needed.

There is no requirement that the carrier's physician explain why a worker could do his job for years, but is not able to do his job after the injury.

Although the carrier's physician knows that his opinion will directly affect the injured worker, the carrier's physician does not feel any obligation to the worker. The reason that an carrier's physician feels free is that he claims that he has no doctor-patient relationship with the worker. The carrier's physician is free from liability and can give the carrier the opinions the carrier wants without responsibility for the devastating consequences to the injured worker.

The carrier's physician is so empowered because a Hawaii U.S. District Court decision held that the carrier's physician had no duty to the injured worker. Although the employer's physician knows that the impact of his opinion can be devastating to the worker, the physician claims that he is under no duty to the worker, and therefore is not liable for any adverse consequences.

## II. "INSURER MEDICAL EXAMINATIONS" RESULT IN LONGER PERIODS OF DISABILITY AND HIGHER INDEMNITY PAYMENTS.

One of the criticisms of Hawaii's workers' compensation system is that the rate of indemnity payments higher than that of other states. One of the reasons for the higher rate of payments is the delay in allowing injured workers to get the appropriate care. The longer it takes to receive

medical care, the longer it takes for an injured worker to get better, the longer it takes before an injured worker can return to work, and the higher the amount of indemnity payments. If injured workers are allowed to receive appropriate medical care on a timely basis they would, no doubt, be able to return to the work force sooner and the total indemnity payments would drop.

One factor which prevents timely receipt of medical care is the current use of “insurer medical examinations.” If insurer medical examinations were truly “independent” examinations, and had the goal of restoring an employee’s health and getting an employee back to work, then there would be no problem.

If one steps back to take an overview, an obvious question is why would anyone not want a mutually agreed upon evaluator? Unfortunately, too often the goal of an insurer medical examination is not altruistic. The goal is often to enable an insurer to escape liability, although the employee was injured on the job and is entitled to treatment. An insurer can attempt to escape liability if the insurer can obtain a physician’s opinion in its favor.

A. “INSURER MEDICAL EXAMINATIONS” AT THE BEGINNING OF A CASE ARE OFTEN DEVASTATING TO INJURED WORKERS.

The use of “insurer medical examinations” results in delays which have devastating consequences to injured workers.

After an injury is reported by a worker, the workers’ compensation statute allows an insurer to contest the claim. The insurer can contest the claim even though the injury was witnessed and is obvious.

§12-10-73 of the Administrative Rules requires the insurer to support a denial with a “report” within 30 days of the denial, however, the Rule also provides that the insurer can request extensions of time. The insurers often request extensions for months after the injury.

There are also administrative delays. The Department of Labor can take months to schedule a hearing. A notice of hearing is not issued until one month prior to a hearing. A decision on a hearing is frequently not issued until 60 days after the hearing (60 days is the maximum period allowed under §386-86).

Therefore, it would not be uncommon for an injured worker to have to wait for more than a half year before a determination is made that a work injury was suffered. All this time, the worker might be without medical care and without income. He might be without a personal health plan because he is a new employee or is a part-time employee. His personal health plan might deny coverage because the employee is claiming a work injury. His personal health plan coverage will end after 3 months because the employer can stop paying for the worker’s health insurance and the employee will not be able to afford to pay COBRA premiums for his coverage. He might be not be eligible for TDI coverage, nor have any available sick leave.

All too often, the devastating results are that the injured worker and his family lose their health coverage and are evicted from their residence.

B. “INSURER MEDICAL EXAMINATIONS” IN THE MIDDLE OF CASES ARE ALSO DEVASTATING.

“Insurer medical examinations” can also have a devastating impact in the middle of a case. Such examinations are often scheduled to contest the need for surgery. The resulting delays are the same as stated above. The injured worker has to endure the pain and suffering during the extensive period of delay. The delay also results in higher indemnity payments.

One major cause of delay in treatment is the use of “insurer medical examinations.” The enactment of this bill would reduce delays in treatment, and reduce total indemnity payments and benefit both employers and employees.

III. REQUIRING THE USE OF MUTUALLY AGREED PHYSICIANS HAS WORKED IN PRACTICE.

Current practice at the Disability Compensation Division requires the use of a mutually agreed upon physician to conduct rating examinations. This has been the practice for years and has been effective. There is no reason why the same system cannot work for non-rating examinations.

H.B. 466 should be amended by deleting the second, third and fourth paragraphs and Section 3 which require the Director to select a physician in the event that an agreement cannot be reached, require an exam within 30 days, and prohibits combining an IME with a rating exam. The present system regarding the selection of a rating physician works without these provisions in place, and it may not be feasible to obtain an exam within 30 days.

IV. AN EMPLOYEE SHOULD BE ENTITLED TO TAKE REASONABLE ACTIONS DURING AN EXAMINATION.

The sixth paragraph in H.B. 466 which begins with the phrase “If an employee refuses to submit to, or in any way obstructs such examination” should be amended. The phrase virtually strips the employee from any ability to protect him/her self during an examination.

If an employee reasonably believes that a physician is acting inappropriately, that employee should be free to take steps to protect him/her self without fear that benefits would be terminated.



The phrase should be amended as follows: “If an employee unreasonably refuses to submit to, or ~~in any way~~ unreasonably obstructs such examination... .”

The sixth paragraph must also be amended to provide that benefits not be suspended until after a hearing on the issue. Due process requires a hearing on the reason for any refusal of obstruction.

V. THE SEVENTH PARAGRAPH REGARDING LICENSING MUST BE AMENDED.

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The seventh paragraph in H.B. 466 requires the IME and rating physician to be licenses under Chapter 453, H.R.S., which refers to medical doctors. However, the workers compensation statute defines “physician” in §386-1 as follows:

"Physician" includes a doctor of medicine, a dentist, a chiropractor, an osteopath, a naturopath, a psychologist, an optometrist, and a podiatrist.

Workers compensation care can be by any of the named professionals. It would not be appropriate for only an MD to review care provided by a dentist, nor any other professional. Therefore, the seventh paragraph would have to be amended to allow for examinations by other professionals listed in the statute.

VI. THE DEFINITION OF “MEDICAL STABILITY” SHOULD BE DELETED.

The second paragraph of section b, which defines “medical stability” should be deleted. The term has been modified by the American Medical Association in its *Guides to the Evaluation of Permanent Impairment* in its various editions, and adding another definition in the statute would only serve to add confusion.

VII. CONCLUSION.

There are physicians who conduct employer's examinations who properly consider the facts and who provide opinions which are medically sound. Attorneys representing injured workers will readily agree to have their clients examined by such physicians. Responsible insurers utilize the services of such physicians because those carriers know that proper medical treatment with a correct diagnosis will result in getting the injured worker back to work sooner, which is the correct and fair result.

The problem with insurers' examinations lies with certain physicians and insurers who are willing to use improper opinions to unfairly cut off benefits to injured workers. The inherent disparity of the financial resources of an insurer versus an injured worker, who is frequently without income, makes the playing field inherently uneven in the insurer's favor. The workers'

compensation system certainly does not need the unrestrained opinions of insurers' physicians to allow insurers to deny benefits to injured workers.

The most efficient and immediate means to handle these concerns is the use of agreed upon physicians. This has already proven to work with respect to "rating" examinations. In order to assess the extent of any permanent injury, a "rating" examination is conducted. The current system requires the insurer and the injured worker to agree upon the selection of physician to conduct the rating examination. Over the years, in just about every case, an agreement is reached between the carrier and the injured worker.

This mutual agreement system of choosing rating physicians can also work for IMEs. Carriers and representatives of injured workers are familiar with the work of the various physicians, and the fact that the ratings physicians selection process has worked over the years is proof that use of mutually agreed upon physicians can also work for IMEs.

The major focus of H.B.466 is to require that insurers and injured workers agree upon the examiners. While the bill will not remedy all IME problems, the bill will go a long ways towards forging a more just system.

Thank you for considering my testimony.

WAYNE H. MUKAIDA

Attorney at Law

888 Mililani St., PH2

Honolulu, HI 96813

Tel: 531-8899

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§386- Medical examinations; selection of physicians.** (a) Following an injury and after a claim is filed by the injured employee, the employer, upon mutual agreement of the parties, may appoint a qualified physician, paid by the employer, to conduct an independent medical examination or a permanent impairment rating examination of the injured employee, and make a report to the employer. The employee or the employee's representative shall be promptly provided with a copy of the report of the independent medical examination or permanent impairment rating examination.

Any physician mutually selected by the employer and employee or appointed by the director shall examine the employee within forty-five calendar days of selection or appointment or as soon as practicably possible.

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

In no event shall the director, appellate board, or court order more than one employer-requested independent medical examination and one permanent impairment rating examination per case, unless valid reasons exist with regard to the medical progress of the employee's treatment or where major surgery and elective surgery, or either, is contemplated.

If an employee unreasonably refuses to submit to, or unreasonably obstructs the examination, the employee's right to claim compensation for the work injury may be suspended until the refusal or obstruction ceases and no compensation shall be payable for the period during which the refusal or obstruction continues. There shall be no suspension of compensation unless a decision of the Director is issued after a full hearing.

The cost of conducting the ordered independent medical examination or permanent impairment rating examination shall be limited to the complex consultation charges governed by the medical fee schedule established pursuant to section 386-21(c).

A physician selected to perform an independent medical examination or permanent impairment rating examination, as provided in this subsection, shall be currently licensed pursuant to Hawai'i law; except that upon approval by the director, a physician who resides outside the State of Hawai'i and is licensed in another state as a physician equivalent to a Hawai'i license, may be selected if there is no State of Hawaii-licensed physician available in a relevant medical specialty. Further, if the claimant does not reside in Hawaii, a physician who resides outside the State of Hawaii and is licensed in the state of the out-of-state claimant's residence as a physician equivalent to a license under Hawai'i law may be selected. Upon approval of the director, a physician who resides outside the state of the out-of-state claimant's residence and is licensed in another state as a physician equivalent to a license under Hawai'i law may be selected if there is no physician available in a relevant medical specialty in the out-of-state claimant's state of residence.

(b) When an injured employee has attained medical stability as determined by the injured employee's attending physician, the employer may appoint a physician, paid by the employer and selected by agreement of the parties, who shall conduct a permanent impairment rating examination of the injured employee pursuant to subsection (a).

SECTION 2. Section 386-79, Hawaii Revised Statutes, is repealed.

~~["§386-79 Medical examination by employer's physician. After an injury and during the period of disability, the employee,~~

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

~~If an employee refuses to submit to, or in any way obstructs such examination, the employee's right to claim compensation for the work injury shall be suspended until the refusal or obstruction ceases and no compensation shall be payable for the period during which the refusal or obstruction continues.~~

~~In cases where the employer is dissatisfied with the progress of the case or where major and elective surgery, or either, is contemplated, the employer may appoint a physician or surgeon of the employer's choice who shall examine the injured employee and make a report to the employer. If the employer remains dissatisfied, this report may be forwarded to the director. Employer requested examinations under this section shall not exceed more than one per case unless good and valid reasons exist with regard to the medical progress of the employee's treatment. The cost of conducting the ordered medical examination shall be limited to the complex consultation charges governed by the medical fee schedule established pursuant to section 386-21(c)."]~~

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on October 1, 2012; provided that this Act shall be repealed on June 30, 2017, and section 386-79, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of section 2 of this Act.

**From:** [annleighton@hawaiiantel.net](mailto:annleighton@hawaiiantel.net)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 6:46:42 PM

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ANN CABREIRA  
P O Box 135  
Kapaa, HI 96746-0135

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

ANN CABREIRA  
8088225099

**From:** [anne@islandhonda.com](mailto:anne@islandhonda.com)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 5:11:37 PM

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Anne Oishi  
110 Hana hwy.  
Kahului, HI 96732-2303

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

Thank you for the opportunity to submit comments.

Sincerely,

Anne Oishi

**From:** [manager@iegfcu.com](mailto:manager@iegfcu.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Tuesday, April 03, 2012 8:31:58 AM

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Bernard A. Balsis, Jr.  
375 Kekuanoa St.  
Hilo, HI 96720-4360

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Thank you for the opportunity to submit comments.

Sincerely,

Bernard A. Balsis, Jr.  
8089616691





**From:** [nimboy44@aol.com](mailto:nimboy44@aol.com)  
**To:** [WAM Testimony](#)  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 9:46:41 PM

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Bill Quinlan  
58-115 napoonala place  
Haleiwa, HI 96712-8703

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

Thank you for the opportunity to submit comments.

Sincerely,

Bill Quinlan

**From:** [bob.hester@hyatt.com](mailto:bob.hester@hyatt.com)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 3:51:46 PM

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Bob Hester  
2424 Kalakaua Avenue  
Honolulu, HI 96815-3233

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The Worker's Compensation cost to an employer are already high. HB 466 will do nothing for an employer but force them to pay higher cost for operating a business in Hawaii. Enough is enough. Such a bill will have high economic impact on Hawaii employers to pay more when the workers compensation system in Hawaii already needs an overall.

Please tell me a Workers Compensation system in the United States where an employee can be off work with a potential injury, receive workers compensation paid by the employer and participate in his/her own business making money on the side. This can ONLY happen in Hawaii due to the present loose workers compensation laws. The current laws allow employees to cheat workers compensation funds from the system while working other jobs.

Thank you for the opportunity to submit comments.

Sincerely,

Bob Hester

**From:** [armltd@hawaii.rr.com](mailto:armltd@hawaii.rr.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 5:46:50 PM

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Bob Miller  
PO Box 669  
Haleiwa, HI 96712-0669

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

In these tough economic times, businesses must be able to control their costs in a reasonable manner.

I support the concept of Worker's Compensation, but businesses and their insurers must retain the tools to insure that unscrupulous employees do not defraud the system and increase costs for all of us.

I suspect there are far more incidents of unscrupulous employees attempting to defraud employers and their insurers than there are of employers requesting "unneeded examinations". This proposed bill is likely to have a much larger negative effect on costs than the small probable benefit of eliminating a few unnecessary employer requested examinations.

Please leave well enough alone and vote no on HB 466.

Thank you for the opportunity to submit comments.

Mahalo,

Bob Miller

**From:** [bonnie.kiyabu@hyattwaikikibeach.com](mailto:bonnie.kiyabu@hyattwaikikibeach.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Tuesday, April 03, 2012 8:41:40 AM

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Bonnie Kiyabu  
175 nPaoakalani Avenue  
Honolulu, HI 96815

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

We need your support. Thank you for your time.

Thank you for the opportunity to submit comments.

Sincerely,

Bonnie Kiyabu  
808-931-4311

**From:** [bsavage@pointprotects.com](mailto:bsavage@pointprotects.com)  
**To:** [WAM Testimony](#)  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Tuesday, April 03, 2012 6:01:49 AM

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Brandon Savage  
2940 W Maple Loop Dr, Suite 204  
Lehi, UT 84043-5662

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Thank you for the opportunity to submit comments.

Sincerely,

Brandon Savage

8889438764



**From:** [brianb@teamclean.biz](mailto:brianb@teamclean.biz)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 5:06:31 PM

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Brian Keala Benz  
1441 Kapiolani Blvd., Suite 202  
Honolulu, HI 96814-4400

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

I agree with the Chamber regarding HB466  
My name is Brian Keala Benz and I am the President/CEO of Team Clean, Inc.  
We are a Commercial Professional Cleaning company.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Thank you for the opportunity to submit comments.

Respectfully Yours

Brian Keala Benz  
808-944-8255

**From:** [bgoo@teachest.com](mailto:bgoo@teachest.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 6:11:37 PM

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Byron Goo  
80 Sand Island Access Rd #203  
Honolulu, HI 96819-4904

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Electricity and fuel costs are increasing and out of control. This bill will add further costs to our overhead which we will have to pass onto consumers.

Thank you for the opportunity to submit comments.

Sincerely,

Byron Goo  
8085919400

**From:** [cai@citymill.com](mailto:cai@citymill.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt local businesses: hold HB 466  
**Date:** Tuesday, April 03, 2012 8:31:58 AM

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Carol Ai May  
660 North Nimitz Highway  
Honolulu, HI 96817-5032

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Dear Chair Ige and Members of the Committee,

My name is Carol Ai May and I am Vice President, and part owner of 113 year old City Mill Company Ltd., a family owned and operated kamaaina business. We are a fair and honest place of work. We work hard to treat our employees with respect, as family, and a "Best Place to Work." In fact, we have been a "Best Place to Work" for 5 years.

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Carol Ai May

**From:** [carol@kingautocenter.com](mailto:carol@kingautocenter.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not injure businesses: hold HB 466  
**Date:** Monday, April 02, 2012 3:46:51 PM

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Carol Furtado  
4330 Kukui Grove St  
Lihue, HI 96766-1674

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

As we continue to struggle through the barely survivable economy dealing with another cost nightmare may be the end of some small businesses.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

The employer is paying for the IME therefore should have the option to select the physician.

Thank you for the opportunity to submit comments.

Sincerely,

Carol Furtado

**From:** [cmatsutani@ymcahonolulu.org](mailto:cmatsutani@ymcahonolulu.org)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 3:11:34 PM

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Carolyn Matsutani  
1441 Pali Highway  
Honolulu, HI 96813-2050

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

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Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Carolyn Matsutani  
808-541-5487

## **Testimony**

### **Committee on Ways and Means**

#### **HB 466, HD3**

#### **Relating to Workers' Compensation**

**Submitted April 2, 2012**

**By Christopher R. Brigham M.D.**

Chair Ige, Vice Chair Kidani, and members of the committees:

My name is Christopher R. Brigham, M.D. and I am speaking in opposition to HB 466, HD3, which amends Section 386-79, Medical Examination by Employer's Physician. I would like to share a perspective of a physician who for nearly three decades has devoted his professional efforts to improving our ability to fairly define the impact of an injury and provide guidance facilitates returned function. I have served as a consultant to many entities, including the United States Department of Labor and the United Nations, published over 200 articles on impairment and disability assessment, and most recently served as the Senior Contributing Editor, *AMA Guides to the Evaluation of Permanent Impairment, Sixth Edition*. Although I reside in Hawaii, my involvement in performing independent medical evaluations (IMEs) is very minimal, less than once a month – this is not the focus of work.

Although superficially HB 466, HD3 may superficially appear appealing to some, closer scrutiny will revealed that the bill is ill-conceived and self-serving to certain stakeholders, including treating physicians who provide treatment that is not consistent with practice guidelines and current medical standards. Tragically there are certain treating physicians whose practice patterns are detrimental to injured workers; this includes physician dispensing of unwarranted and harmful medications (including opioids) yet very profitable to those providers. It appears that some of these providers and their associated colleagues have been strong advocates for the passage of HB 466, HD3 since it would provide them with more opportunities to continue these practice patterns. Therefore it is essential that the Committee look more closely at the implications of this bill and why certain stakeholders are advocating for its passage.



HN 466, HD3 addresses perceived problems that do not exist (such as the myth that IMEs are biased and not fact based). It will result in decreased ability to assure proper care and decision making, and result in unnecessary costs for the State of Hawaii. My comments will focus on specific fallacies reflected in this bill and I will provide you with facts to support these opinions.

It is my observation, and that of many others, both in Hawaii and elsewhere, that some physicians tragically are using injured workers as pawns for their financial gain – this is inexcusable, and could well be, or should be, the subject of investigative reporting – it would be insightful, however a great embarrassment to our State. The problems with care include inappropriate diagnosis, faulty assessments of the cause of conditions, needless disabling, and bad treatment, including office dispensing of opiates (narcotics) and other addictive medications. Increased use of opiates has contributed to the overall increases in rates of overdose death and nonmedical use. The majority of the opiates are prescribed by a small number of physicians. One study in California that revealed that 3% of physicians accounted for 62% of the opiates prescribed; it is probable that we would have similar findings here. The proliferation of high-volume prescribers can have a large impact on state use of opiates and overdose death rates.

I encourage members of the Committee to review the comments on this legislation at “Managed Care Matters” which is one of the most respected national resources on workers compensation and managed care issues. This includes “Money buying bad policy - the Hawai'ian version” (<http://www.joepaduda.com/archives/002270.html>), “Hawaii's (likely) evisceration of the workers' comp system”, February 15, 2012), (<http://www.joepaduda.com/archives/002274.html>, February 20, 2012), and “The Hawaiian political charade” and (<http://www.joepaduda.com/archives/002275.html>, February 21, 2012). The February 20, 2012 article concluded:

What does this mean for you?

Beware of strategies by certain stakeholders who are attempting to alter the workers' compensation system through legislation to be more "friendly" to them - even if it results in increased costs (human and financial).

Recognize that some of these stakeholders may well be seeking influence through contributions to key legislative decision makers; Money talks. Recognize despite its beauty, not all is perfect in Hawaii - it is a wonderful place to visit, however you probably would not want to have a business or be injured there.

The February 21, 2012 article stated “Workers comp is a very, very soft target for profiteering physicians and the various businesses that have sprung up to suck money out of employers' premium checks. They are organized, very well-funded, and aggressive.” I urge Members of the Committee to review what is being discussed nationally about this bad legislation and to understand the agendas of the proponents for this bill.

I have been involved in the review of independent medical and impairment evaluations throughout the United States. Based on several years of experiences and the review of several thousands of evaluations nationally, it is concluded that the evaluations in Hawaii are consistently of higher quality than in other jurisdiction. The knowledge and skills required to perform independent medical evaluations are not taught in medical school. In Hawaii a relatively small percentage of the physicians have focused on developing a strong skill set in performing these assessments. This requires complexity significantly greater than occurs with traditional medical treatment. Most of the physicians performing IMEs in Hawaii are members of the Academy of Independent Medical Examiners of Hawaii, are Certified Independent Medical Examiners, and perform evaluations consistent with standards published in the *Guides Newsletter*, a publication of the American Medical Association. My observation is that credible, well-qualified treating physicians welcome the involvement of skilled independent medical examiners.

Most IMEs are at the referral of defense, since typically plaintiff counsel seek opinions of treating physicians who they have ongoing relationships with. My experience is that with the reports that I have reviewed are they are fair, and the same report would be issued whether requested by defense or plaintiff. As discussed, there are a small number of treating physicians who appear to cause the greatest problems in the workers' compensation system. In reviewing these cases, the diagnoses are often multiple and questionable; whereas with more skilled treating physicians the diagnoses are supportable. The same occurs for the assessment of whether a problem is work-related or not and for treatment; i.e. controversy occurs more often with these questionable physicians. It is these questionable physicians who are threatened by the IME process.

I would like to review with you some of the concerns that I have with the Bill. First, it is unlikely that the injured employee would agree to being seen by an independent medical examiner, e.g. having mutual agreement by the injured employee and employer is unlikely. Unfortunately most injured workers are not able to discern when care is wrong, and therefore maintain allegiance with their treating physicians, particularly when these physicians have their patients become addicted to their practice patterns and the narcotics prescribed.

HB 466, HD3 also appears to presume that agreed medical examinations (AMEs) are of higher quality and more beneficial; this is not the case. In California there is a process of having Agreed Medical Examiners (AME) and this has led to further litigation and poor quality reports. We have reviewed several thousands of California AME reports and found that 88% of these reports had significant erroneous impairment ratings, compared to 10% or less being erroneous in Hawaii. Why the difference? With an AME process there tends to be more involvement of physicians lacking the necessary skill set and those physicians most qualified may choose not to participate in a system where there are unreasonable time frames and reimbursement schedules. With great certainty passage of HB 466, HD3 will result in poor quality assessments and therefore foster litigation.

It is irrational to separate the independent medical evaluation and a permanent impairment rating and to limit to one IME per case. In performing an IME, and impairment rating may be one of the issues that must be addressed. In performing impairment rating, the physician needs to also assess clinical issues, causation, and maximum medical improvement. During the lifecycle of a claim there maybe needs for different IMEs to deal with different questions and issues. Some injuries also require involvement of different types of specialties, thus a single IME would not be useful. It is also irrational to require a physician to be licensed for five years in Hawaii prior to performing IMEs; how long a physician has been licensed in a specific jurisdiction is not reflective of how skilled that physician is. The knowledge and skills to perform IMEs can be assessed by specialty certification examinations and monitoring the performance of the evaluators; HB 466, HD3 does not address this.

It will be challenging for the State to have an effective process to assign and coordinate designated evaluations. There are several factors that are considered in selecting an appropriate physician to perform an evaluation; this is not merely on the basis of their specialty, rather on skills to address specific issues, such as causation and impairment assessment. At a time of tight budgets, it is absurd to implement a change that will increase costs and complexity, and responding to problems that do not exist. If there was a desire for improvement in workers' compensation in the State of Hawaii, I would suggest that we follow examples of what has worked well in other jurisdictions, implementing evidence-based practice guidelines and taking steps to reduce litigation.

For these reasons, I strongly oppose HB 466 and respectfully request the committee holds this measure. It is unneeded, very bad legislation. Its passage would adversely impact injured employees and the State of Hawaii, and ultimately be an embarrassment to our State.

**From:** [csaunders@sunetric.com](mailto:csaunders@sunetric.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Monday, April 02, 2012 3:26:48 PM

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Chris Saunders  
905 Kalaniana'ole highway Box #21  
Kailua, HI 96734-4653

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Thank you for the opportunity to submit comments.

Sincerely,

Chris Saunders  
351-1007

**From:** [CHRISTIE E KAAN](#)  
**To:** [WAM Testimony](#)  
**Subject:** HB 466, HD3, SD1 (SSCR2263)  
**Date:** Monday, April 02, 2012 2:12:32 PM

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[HB 466, HD3, SD1](#)  
[\(SSCR2263\)](#)

[Status & Testimony](#) RELATING TO WORKERS' COMPENSATION.

Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of the department of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates unspecified funds. Effective 10/1/12. Section 3 effective 7/1/12. Repeals on 6/30/2017. (SD1)

**COMMENT:**

This bill should not be passed. The search for a qualified/preferred IME physician can be a challenge. Sometimes it takes months before the employer is able to secure IME physician/date. Having IME physician that is mutually agreed upon by both employers and employees (or appointed by the DLIR) will futher delay the process and would even more difficult for an out of state physician.

**From:** [conniem@ihs-hawaii.org](mailto:conniem@ihs-hawaii.org)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Monday, April 02, 2012 3:36:40 PM

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Connie Mitchell  
546 Kaaahi St.  
Honolulu, HI 96817-4630

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

I represent the Institute for Human Services, Inc. a non-profit providing services to homeless and those at risk. We currently have two claims on our books we believe to be fraudulent in nature where the claimant has tried to extend the time of their injury and the nature of their injury in such a manner which has resulted in the doubling of our cost for WC premiums from \$50,000 to over \$100,000. Except for the existing structure that allows for true IMEs, these claims could go on forever. The proposed changes are not needed and will make it more and more difficult for employers to close claims, particularly ones that are frivolous and have little substance. If an employee was truly injured on the job, we go to great lengths to assist the employee with their entitled benefits. But with the changes being proposed, you are taking away the only way we can close a suspect claim. Please DO NOT pass this piece of legislation.

Thank you for the opportunity to submit comments.

Sincerely,

Connie Mitchell  
(808)447-2824

**From:** [dmatlin@kahalanui.com](mailto:dmatlin@kahalanui.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 3:22:06 PM

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Dana Matlin  
4389 Malia St.  
Honolulu, HI 96821-1106

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Thank you for the opportunity to submit comments.

Sincerely,

Dana Matlin  
8082187006

**From:** [dmolenaar@benefitshawaii.com](mailto:dmolenaar@benefitshawaii.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 6:56:37 PM

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David Molenaar  
1188 Bishop St  
Honolulu, HI 96813-3301

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.



Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

David Molenaar

**From:** [dmerwick@bishopco.net](mailto:dmerwick@bishopco.net)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Monday, April 02, 2012 4:16:42 PM

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Debi Merwick  
841 Bishop St, 1614  
Honolulu, HI 96813-3916

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

There are very few Independent Medical Examiners, IME, physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Thank you for the opportunity to submit comments.

Sincerely,

Debi Merwick  
808-839-2200

**From:** [deborad@nsoapfactory.com](mailto:deborad@nsoapfactory.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 4:36:37 PM

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Debora Driscoll  
POB 209  
Waialua, HI 96791-0209

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Aloha,

I have been through a WC claim as an employee. Because I am a fair person, I understood the need for an unbiased IME & for the employer to feel comfortable that I was getting the right care. I also understood that the employer needed/wanted to "check" on my progress.

I understand there is much taking advantage on both sides, but this mandate will pave the way for even more corruption on the employees side.

Today, I am an employer and I take care of my employees. They are an asset to my company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Please do not support HB 466 HD3 SD1 re Work Comp!!!

Much mahalo!!

Thank you for the opportunity to submit comments.

Sincerely,

Debora Driscoll

637 8400

**From:** [debi@valentiprintgroup.com](mailto:debi@valentiprintgroup.com)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Tuesday, April 03, 2012 8:01:36 AM

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Deborah Halcro  
Valenti Print Group  
Honolulu, HI 96802-3026

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

I am Deborah Halcro, President of Valenti Print Group. We are a commercial printer with 37 employees. We are a small company that continues to struggle in this economic climate.

We urge you to not pass HB 466.

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

There are so many burdens on small businesses at this time already. Please keep this in mind when voting.

Thank you for the opportunity to submit comments.

Sincerely,

Deborah Halcro  
8085912166

**From:** [khopdeb@hawaiiantel.net](mailto:khopdeb@hawaiiantel.net)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 11:31:37 PM

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DEBRA CHING MAIAVA  
Ken's House of Pancakes 1730 Kamehameha Avenue  
Hilo, HI 96720-4239

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

I run a 24 hour diner and a fine dining restaurant, both in Hilo. We have 65/30 employees respectively.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Bill HB466 concerns me because:  
IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

We provide good medical healthcare coverage for our employees. It costs huge dollars, but having been doing business for 22 years now, we have learned to survive in spite of it. With the economic downturn of the past few years, we sustained ourselves the way everybody else did... higher prices and fewer employees.

It seems that, beginning this new year, the economy feels somewhat better than this time last year and the year before that. Just when we think, wow, maybe things are getting better and we'll be able to give some raises and hire a few more people, WHAM! Government comes in and mandates small business every way it can 1) because being government, it can and 2) because businesses are businesses because they're solvent and government isn't.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my

business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Please give this a second thought!

Thank you for the opportunity to submit comments.

Sincerely,

DEBRA CHING MAIAVA  
808 935-8711

To: The Honorable David Ige, Chair and Michelle Kidani, Vice-Chair and Members of the Senate Committee on Ways and Means

Date: Wednesday, April 4, 2012

Time: 9:10 am

Place: Conference Room 211

State Capitol

From: Derrick Ishihara

**RE: H.B. 466, HD 3, SD 1 Workers Compensation; Medical Evaluations**

**Position: Support**

Dear Chair Ige, Vice-Chair Kidani, and Committee Members,

I have been a practicing physical therapist in Honolulu for the past 30 years and have treated hundreds of patients who have sustained injuries while at work. For the most part, injuries are treated and the worker goes back to work without incident.

In the more serious injury cases, Independent Medical Evaluations (IMEs) can be ordered by the insurer. I fully support the insurer's right to have these cases reviewed. IMEs are not a problem, in fact at times may be helpful to catch something the treating physician may have overlooked.

The problem arises when an insurer uses the IME as a cost saving tool rather than a tool to ensure appropriate care is being given to the injured worker. More care is not necessarily better care, but in too many cases care is being cut off inappropriately based on the recommendations of unscrupulous IME physicians. These physicians have become well known within the community of health care providers that accept Workers Comp cases. The names may change, but the practice has continued for at least the 30 years I have been in practice. After a few years the unscrupulous physician may be exposed as an "Insurance Doctor", but as the law now exists there is little an injured worker can do but submit to a questionable examination.

Passage of HB 466, HD 3, SD 1 would not prevent an insurer from ordering an IME when appropriate. It would just give an injured worker a chance at a fair IME by an unbiased physician.

Passage of HB 466, HD 3, SD 1 would lessen the inherent distrust in the system if the injured worker has a say in selecting the IME physician. Angry, suspicious, distrusting patients are much harder to treat.



Passage of HB 466, HD 3, SD 1 would reduce the workload of an overburdened and understaffed DCD and LAB due to reduced discord in the system when appropriate care is the focus of IMEs.

Thank you for the opportunity to testify,

Derrick Ishihara, PT

1314 S. King St. #1451

Honolulu, HI 96814

593-2610

**From:** [doug.sears@hyatt.com](mailto:doug.sears@hyatt.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 3:16:55 PM

---

Doug Sears  
1571 Poipu Road  
Koloa, HI 96756-9402

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Thank you for the opportunity to submit comments.

Sincerely,

Doug Sears

**From:** [edward@kauaiislandtours.com](mailto:edward@kauaiislandtours.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Tuesday, April 03, 2012 8:36:42 AM

---

Edward Matsukawa  
2960 Aukele St  
Lihue, HI 96766-1462

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Thank you for the opportunity to submit comments.

Sincerely,

Edward Matsukawa  
245-4777

**From:** [gmiyash@gmail.com](mailto:gmiyash@gmail.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 4:11:32 PM

---

Gail Miyashiro  
969 Kilauea Ave.  
Hilo, HI 96720-4216

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Thank you for the opportunity to submit comments.

Sincerely,

Gail Miyashiro

**From:** [Gerald Gruber](#)  
**To:** [WAM Testimony](#)  
**Subject:** HB 466  
**Date:** Monday, April 02, 2012 4:24:39 PM

---

To whom it may concern:

This is to express our strong opposition to HB 466. As a growing start-up company, we feel this law, if enacted, would unfairly penalize employers for the following reasons:

- Restricting the IME process takes away an employer's ability to conduct any meaningful discovery of disputed workers' compensation claims;
- The requirement of "mutual agreement" on the selection of an IME physician may delay the medical treatment of a claimant because it will take longer for the employer and employee to "agree" on the selection of a physician, as opposed to allowing the employer to select a physician on its own;
- The proposed legislation does not specify how long the employer and employee must attempt to reach "mutual agreement" on the selection of an IME physician, before the Director of Labor makes such an appointment;
- The proposed legislation allows for abuse by employees because there is no requirement that employees object in good faith to any IME physicians selected by an employer;
- The proposed legislation doesn't provide any assurances that the DLIR will have the resources or ability to appoint IME physicians who have the knowledge, experience, skills or training necessary to conduct a meaningful IME. This is especially true because the bill states that the Director of Labor must make such an appointment within seven days (although the bill does not state the consequences of a failure to make a timely appointment);
- The proposed legislation does not allow employers to object - or even have any input - on the IME physician selected by the Director of Labor. This is extremely problematic, because it could potentially result in the selection of a physician who would be required to render an opinion on a medical matter for which they are not qualified to do so;
- The prohibition against combining IMEs and ratings examinations, absent consent from the employee, could lead to unreasonable and increased costs for employers (and/or insurance carriers) because they will have to pay for two examinations instead of one;
- If the IME must be conducted within 45 days, it will limit what physicians will be able to conduct the IME based upon availability and scheduling issues; and
- Restricting an employer's ability to conduct meaningful IMEs of disputed workers' compensation claims will eventually lead to a rise in workers' compensation insurance premium rates.

Sincerely,

**Gerald Gruber**

**Controller**



**75-5722 Kuakini Hwy. Suite 100**

**Kailua-Kona, HI 96740**

**Ph. 808-769-5100**

**Fax 808-769-5230**

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**From:** [takakig002@hawaii.rr.com](mailto:takakig002@hawaii.rr.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Tuesday, April 03, 2012 8:01:45 AM

---

Gordon Takaki  
PO Box 4425  
Hilo, HI 96720-0425

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan. The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations. The proposed bill simply unfair and burdensome on businesses. Enough already!!!

Thank you for the opportunity to submit comments.

Sincerely,

Gordon Takaki  
(808)430-5720

**From:** [gwatsonkabei@shellvacationsllc.com](mailto:gwatsonkabei@shellvacationsllc.com)  
**To:** [WAM Testimony](#)  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 5:26:36 PM

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Gretchen Watson-Kabei  
78-6831 Alii Drive, Suite 420  
Kailua-Kona, HI 96740-5403

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Aloha,

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Since 2008 we have had to reduce our work force to compensate for the loss of revenue in the tourism industry which is slowly recovering.

We ask that you not support the passage of this Bill.

Thank you for the opportunity to submit comments.

Sincerely,

Gretchen I. Watson-Kabei  
808-324-6509



April 3, 2012

Senator David Y. Ige  
Chair, Committee on Ways and Means  
Senator Michelle N. Kidani  
Vice Chair, Committee on Ways and Means

RE: Testimony in Opposition to HB466, HD3, SD1 Relating to Workers' Compensation  
Hearing, Wednesday, April 4, 2012  
9:10 AM  
Conference Room 211

FROM: James A. Pleiss, DC  
2045 Main St., Wailuku, HI 96793  
808-244-0312

Dear Chair Ige and Vice Chair Kidani:

I oppose this bill as it is written. This bill contains language on page 3, lines 9-12 that states: "A physician selected to perform an independent medical examination or permanent impairment rating examinations, as provided in this subsection, shall be currently licensed pursuant to chapter 453". This language will effectively force all injured workers to be seen by medical doctors for IMEs even if their attending physician is of another healthcare group such as a chiropractor.

HRS Chapter 386-1 Definitions, Hawai'i Workers' Compensation Law contains the following language defining the various healthcare providers who are allowed to be attending physicians in workers' compensation:

"Health care provider" means a person qualified by the director to render health care and service and who has a license for the practice of:

- (1) Medicine or osteopathy under chapter 453;
- (2) Dentistry under chapter 448;
- (3) Chiropractic under chapter 442;
- (4) Naturopathic medicine under chapter 455;
- (5) Optometry under chapter 459;
- (6) Podiatry under chapter 463E; and
- (7) Psychology under chapter 465."

The IME provider should be of the same **profession** as the attending physician. In fairness to the injured workers, and to provide a more objective examination with less

Testimony in opposition to HB466, HD3, SD1  
Hearing 4/4/12 WAM  
James A. Pleiss, DC

bias, the language on page 3, lines 9-12 should be changed to allow every provider group to perform IME examinations. This will result in examinations that are “apples to apples” when it comes to judging the treatment provided by like providers.

Please consider this amendment to HB466, HD3, SD1.

Thank you for the opportunity to testify in opposition to HB466, HD3, SD1.

Sincerely,

James A. Pleiss, DC

**From:** [jerry@rxkl.com](mailto:jerry@rxkl.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 3:06:38 PM

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Jerry Bangerter  
1061 Keolu Drive #107  
Kailua, HI 96734-3847

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Thank you for the opportunity to submit comments.

Sincerely,

Jerry Bangerter  
808-738-9333

**From:** [jessy.ahloo@hyatt.com](mailto:jessy.ahloo@hyatt.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 4:26:44 PM

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Jssy Ah Loo  
2424 Kalakaua Avenue  
Honolulu, HI 96815-3233

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force us to restructure our benefits system.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Thank you for the opportunity to submit comments.

Sincerely,

Jessy Ah Loo

**From:** [jesus@souldecuba.com](mailto:jesus@souldecuba.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 9:16:40 PM

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Jesus Puerto  
1121 Bethel Street  
Honolulu, HI 96813-2202

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Jesus Puerto  
18085210888

**From:** [jieyu@msn.com](mailto:jieyu@msn.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Tuesday, April 03, 2012 7:31:43 AM

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Jieyu Shepard  
64 Wiwoole St.  
Hilo, HI 96720-5123

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

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The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

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This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further

will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Jieyu Shepard  
808 935 2167



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [jp.adair@gmail.com](mailto:jp.adair@gmail.com)  
**Subject:** Testimony for HB466 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 6:24:23 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB466

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: John Adair  
Organization: Individual  
E-mail: [jp.adair@gmail.com](mailto:jp.adair@gmail.com)  
Submitted on: 4/2/2012

Comments:

As an HR manager I have seen to many employees injured at work be railroaded through the treatment and recovery process by the work comp insurance company. They generally have little or no outside professional support. Usually the employees personal physician does not want to get involved in the work comp mess. As a result they can end up without a job and unable to work because of their injury. Allowing an unbiased opinion could be beneficial in reaching a more fair conclusion.

**From:** [muainaj@polynesia.com](mailto:muainaj@polynesia.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Monday, April 02, 2012 9:56:41 PM

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John Muaina  
55-370 kamehameha Hwy  
Laie, HI 96762-2113

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

In any such plan involving finances each has an opportunity to discuss or review issues which go to the bottom line of such matters. However, to eliminate choices of such costly items is fundamentally wrong.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool our business has to objectively evaluate the treating physician's plan of action.

Our organization does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force us to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Injured employees and workers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Thank you for your time and consideration, we are opposed to mandating any such WC issues other the current system.

Thank you for the opportunity to submit comments.

Sincerely,

John Muaina



**From:** [jabrell@sunetric.com](mailto:jabrell@sunetric.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 3:56:38 PM

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Jordan Abrell  
Kapaa quarry road  
Kailua, HI 96734

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Thank you for the opportunity to submit comments.

Respectfully,

Sunetric

**From:** [jorma@winklerwoods.com](mailto:jorma@winklerwoods.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do NOT support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 9:56:40 PM

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Jorma Winkler  
875 Waimanu St. Suite 108  
Honolulu, HI 96813-5271

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Thank you for the opportunity to submit comments.

Sincerely,

Jorma Winkler  
8085918144

**From:** [jbishop@bishopco.net](mailto:jbishop@bishopco.net)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 4:11:48 PM

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Judy Bishop  
841 Bishop Street Suite 1614  
Honolulu, HI 96813-3916

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

Thank you for the opportunity to submit comments.

Sincerely,

Judy Bishop  
(808)839-2200

**From:** [kkydds@hawaii.rr.com](mailto:kkydds@hawaii.rr.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 5:26:47 PM

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Keith Yamakawa  
1166 Kinoole Street  
HILO, HI 96720-4132

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
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There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Keith K. Yamakawa, D.D.S.  
8089693332



**From:** [kyap@gayandrobison.com](mailto:kyap@gayandrobison.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 5:51:48 PM

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Keith Yap  
1 Kaumakani Ave  
Kaumakani, HI 96747

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

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There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Thank you for the opportunity to submit comments.

Sincerely,

Keith R Yap  
8083353133

**From:** [kpearce@alohanursing.com](mailto:kpearce@alohanursing.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 3:31:39 PM

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Kellie Pearce  
45-545 Kamehameha Highway  
Kaneohe, HI 96744-1943

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

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Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Kellie K. Pearce  
8082472220

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [kelly.soldwisch@vacationclub.com](mailto:kelly.soldwisch@vacationclub.com)  
**Subject:** Testimony for HB466 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 5:19:32 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB466

Conference room: 211  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Kelly Soldwisch  
Organization: Individual  
E-mail: [kelly.soldwisch@vacationclub.com](mailto:kelly.soldwisch@vacationclub.com)  
Submitted on: 4/2/2012

Comments:

I am writing to oppose HB 466, HD3, SD1. I oppose this measure for significantly altering the way workers' compensation claims are handled and resolved to the satisfaction of all parties. As a Human Resource professional, I consider the best interest of the employee of the utmost importance.

**From:** [kirkgreenman@hotmail.com](mailto:kirkgreenman@hotmail.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 5:41:44 PM

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Kirk Greenman  
P.O. Box 482151  
Kaunakakai, HI 96748-2151

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

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The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in

question.

Thank you for the opportunity to submit comments.

Sincerely,

Kirk Greenman  
8085534447

**From:** [lane@bigcitydinerhawaii.com](mailto:lane@bigcitydinerhawaii.com)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 9:46:46 PM

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Lane Muraoka  
94-800 Ukee Street  
Waipahu, HI 96797-4044

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

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The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Thank you for the opportunity to submit comments.

Sincerely,

Lane Muraoka  
8086783895

**From:** [larry@island-realestate.com](mailto:larry@island-realestate.com)  
**To:** [WAM Testimony](#)  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Tuesday, April 03, 2012 6:31:45 AM

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Lawrence Swenson  
8794 Kamehameha V Hwy  
Kaunakakai, HI 96748

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

As a retired building contractor I feel that there is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

Thank you for the opportunity to submit comments.

Sincerely,

Lawrence Swenson  
8085588394



**From:** [lillian.sakane@hmshost.com](mailto:lillian.sakane@hmshost.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 3:31:35 PM

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Lillian Sakane  
P. O. Box 30428  
Honolulu, HI 96820-0428

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

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Thank you for the opportunity to submit comments.

Sincerely,

Lillian Sakane  
8088362566

**From:** [lindamd1@juno.com](mailto:lindamd1@juno.com)  
**To:** [WAM Testimony](#)  
**Subject:** HB 466, HD3, SD1  
**Date:** Monday, April 02, 2012 8:33:58 PM

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Dear Honorable Senator Ige and Ways and Means committee members,

RE: HB 466, HD3, SD1 Relating to workers compensation reimbursement

I would like to thank you for hearing this bill. As an orthopedic surgeon who has been in Hawaii for over 17 years, I would like to emphasize how critical it is to increase reimbursement for the care of injured workers this year. My practice used to be comprised of 40% injured workers. I worked hard to make a timely diagnosis and treatment plan with early return to work. Today less than 2% of my practice is made up of injured workers. I just can not afford to care for these patients. It costs me about \$20/office visit from my own pocket to provide care. The endless paperwork and approval hassles has resulted in more than one excellent employee leaving. My overhead costs are 25% greater caring for an injured worker than a private insured patient. And you want us to take only 10% over Medicare (a fee schedule for elderly care).

Our hearts are large, but there is only so much we can do and stay in business.

The costs related to the prolonged time off work due to failure or delay of an accurate diagnosis and accurate treatment have dramatically increased. We have one of the longest time off work following an injury in the nation. This hurts the patients resulting in psychological and as permanent physical harm. The longer a person is off work from an injury, the harder it is to get them back to work.

Increasing the fee schedule is critical to encourage good physician to be able to afford to care for these patients. You can do another study, but a LRB report has already been done and had overwhelming evidence that there was a crisis and the fee schedule needed to be increased. Nothing has been happened.

It is truly very sad to see able bodied people who used to contribute to the work force, now disabled due to lack of access to care. I have come home and literally cried more than one evening following work.

Let me know if you have any questions.

Aloha, Linda Rasmussen, MD

Past President, Hawaii Orthopedic Assoc.

Past President, Western Orthopedic Assoc.

Past President, Hawaii Medical Assoc.

Board of Councilor to the American Academy of Orthopedic Surgeons

**From:** [valderueda@aol.com](mailto:valderueda@aol.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Tuesday, April 03, 2012 7:56:46 AM

---

Lisa Valderueda  
Valderueda Lisa DMD  
Waipahu, HI 96797-3035

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Thank you for the opportunity to submit comments.

Sincerely,

Lisa Valderueda  
808-676-5711

**From:** [larakaki@ahldesign.com](mailto:larakaki@ahldesign.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 5:31:55 PM

---

Lloyd Arakaki  
1001 Bishop St., Ste 200  
Hono, HI 96813-3487

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Thank you for the opportunity to submit comments.

Sincerely,

Lloyd Arakaki

LORNE K. DIRENFELD, M.D., FRCP (C)  
NEUROLOGIST  
DIPLOMATE, AMERICAN BOARD OF PSYCHIATRY AND NEUROLOGY

89 HO'OKELE STREET, SUITE 204  
KAHULUI, MAUI, HAWAII 96732

(808) 877-5811  
Fax: (808) 877-3146

April 3, 2012

Testimony before the Senate Ways and Means Committee

**RE: HOUSE BILL 466, HD, 3 SD 1**  
Relating to Workers' Compensation

Dear Chair Ige and Vice-Chair Kidani & Members of the Committee:

My name is Lorne Direnfeld. I am a neurologist. I am speaking in **opposition** to HB 466, HD3 SD1 which amends Section 386-79 of the Hawaii Revised Statutes (HRS) titled "Medical Examination by Employer's Physician."

I am a Board Certified Neurologist who performs Independent Medical Examinations. I have been in practice in Hawaii for 27 years. I am a contributing editor to the Guides to the Evaluation of Permanent Impairment, Sixth Edition, published by the American Medical Association. I am the Founder and was the Medical Director of Maui Occupational Health Center between 1995 and 2001. This was a multidisciplinary clinic for the treatment of injured workers.

I have been committed to performing high-quality, objective, thorough Independent Medical Examinations for years. I am asked to evaluate some of the most complex cases in the state.

This Bill should be held because:

- This Bill will lead to the selection of an IME physician by chance, instead of choosing the best qualified specialist.
- This Bill creates unrealistic time frames, comprising the quality of the process.
- This Bill limits the opportunity of addressing complex medical and administrative issues as a case evolves and progresses through the system.

**RE: HB 466, HD3**

February 10, 2012

- This Bill will contribute to more litigation.
- This Bill increases costs to taxpayers and employers.

I will explain the reasons why this Bill will produce these undesired and unintended results.

The skills required to perform Independent Medications Examinations differ from general clinical medical skills.

Most people are not familiar with Independent Medical Examinations and what is required when performing such an exam.

IME's are evaluations performed in an administrative context, and are reviewed and used by Adjusters, Attorneys, Hearings Officers, and Judges, among others. This is in marked contrast to typical medical consultations.

Performing a quality IME requires skills and knowledge beyond that needed for the fundamental practice of medicine. Additional training, education, and experience is required beyond that obtained in medical school and specialty residency programs to perform quality IME's.

A fair, thorough, and objective IME is a time-consuming process. This includes obtaining a detailed history from the patient, including a history of the injury, their clinical course, and their current condition, as well as a history of their past medical health and work history.

A careful and thorough examination relevant to the injury is then performed. Imaging studies (plain x-rays, MRI scans, CT scans, etc.) are reviewed, and medical records (often extremely extensive) are reviewed and summarized.

All of this data must then be processed, and a report is drafted in which opinions are provided regarding various medical and administrative issues. There is usually an extensive discussion regarding the analysis of the patient's case.

Page #3

**RE: HB 466, HD3**

February 10, 2012

Patients referred for IME's often have lengthy histories and multiple injuries, complicating their assessment.

HB 466, HD3 SD1 currently proposes that if an employer and employee cannot agree on a qualified physician to perform an IME, the Director of the Department of Labor and Industrial Relations is to appoint a physician from a list.

Therefore, this cumbersome process will not likely result in the most qualified physician or appropriate specialist to be selected for the evaluation. This will be a major disservice to the injured worker.

This Bill requires that a physician selected by the Director examine the injured employee within 30 days of the selection. This is often not feasible. Unfortunately, as few skilled specialists are available to perform IME's, there is no assurance that a physician can agree to this schedule. This will diminish the quality and value of the IME.

The number and complexity of the issues that need to be addressed in any particular case vary depending on the stage of the case. Early issues concerning compensability and causation may need to be addressed, whereas later issues concerning maximum medical improvement, treatment, and impairment rating arise.

The limitation of a single impairment rating in any particular case does not make sense in this context. Limiting the ability to address issues as a case evolves will lead to more litigation.

The Bill provides for a definition of "medical stability" that is inconsistent with the definition contained in the Impairment Rating Guides currently used in the State of Hawaii (Guides to the Evaluation of Permanent Impairment, Fifth Edition, published by the American Medical Association). The definition in the Bill refers to medical stability meaning "no further improvement in the injured employee's work-related condition can reasonably be expected from curative health care or the passage of time."



Page #4

**RE: HB 466, HD3**

February 10, 2012

The Fifth Edition of the AMA Guides describes maximum medical improvement or medical stability, stating, "A condition or state that is well established and unlikely to change substantially in the next year with or without medical treatment. Over time there may be some change; however, further recovery or deterioration is not anticipated." The definition contained in the Bill implies ongoing medical care will prevent deterioration of a condition. This is not consistent with the definition noted in the AMA Guides.

In summary, the provisions in HB 466, HD3 SD1 will result in: increased administrative delays; increased costs within the Department of Labor and Industrial Relations and therefore to taxpayers, as well as greater costs to employers; reduced IME quality; and increased litigation.

Thank you for consideration of this Testimony.

Yours sincerely,

Lorne Direnfeld, M.D.

**From:** [marshall@hawnice.com](mailto:marshall@hawnice.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Tuesday, April 03, 2012 8:36:47 AM

---

Marshall Joy  
Hawaiian Ice Company  
Honolulu, HI 96817-4522

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Marshall Joy  
808-538-6918

**From:** [mattmullins1@gmail.com](mailto:mattmullins1@gmail.com)  
**To:** [WAM Testimony](#)  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Please do not hurt small businesses: hold HB 466  
**Date:** Tuesday, April 03, 2012 7:46:55 AM

---

Matthew Mullins  
1011-E Alewa Drive  
honolulu, HI 96817-1566

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

While this bill while has good intentions it will end up hurting the very people it seeks to protect. Vote for the best interest of the injured and vote NO on this Bill.

IME's can take a long time to see, I personally had an injury in October of last year and finally saw one in February of this year. So I can tell you from personal experience that by pushing IME's to do the evaluations the result is going to be longer wait times, longer time to get medical care on urgent issues, and a decrease in the quality of care.

In my case I had a neck injury but I it was logged down as a shoulder injury. It took 4 months to even see an IME. By substituting employee requested examinations with IME it will increase the demand on IME dramatically. If this had been the case when I was injured it would have taken even longer then 4 months to get treatment for the neck.

I am also a small business owner. The second way that this hurts the very people its trying to protect is that the change in how the evaluation process works will create a potentially limitless cost to business. Many people will not have jobs anymore not because the cost of providing the job will be a lot more then the revenue that that can be brought in.

The cost of IME's will rise dramatically for businesses because of the increased demand to IME's and the limited supply of IME's on the island.

The biggest reason you should vote this down is that this will lower quality of medical care because of wait times. The biggest losers in this are the workers that do get injured. I'm speaking not as the business owner in this but as the worker who was injured and know what its like to deal with the over demand and under supply of IME's on the island.

Vote for the injured and vote no on this bill.

Thank you for the opportunity to submit comments.

Sincerely,

Matthew Mullins

**From:** [melvin.kam@hawaiianisles.com](mailto:melvin.kam@hawaiianisles.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 3:56:41 PM

---

Melvin Kam  
2839 Mokumoa Street  
Honolulu, HI 96819-4402

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Thank you for the opportunity to submit comments.

Sincerely,

Melvin Kam  
808-833-2244

**From:** [msteiner@steinerassoc.com](mailto:msteiner@steinerassoc.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 7:41:44 PM

---

Michael Steiner  
702 Kanaha Street  
Kailua, HI 96734-1942

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

While the intent of HB 466 HD3 SD1 is understandable, the ramifications of its implementation will prove untenable for employers (the heart of our local economy) if passed.

Please defer this bill until next session when fresh eyes can see it in the proper light.

Thank you for the opportunity to submit comments.

Sincerely,

Michael Steiner



**From:** [lucia.indelicato@anheuser-busch.com](mailto:lucia.indelicato@anheuser-busch.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Monday, April 02, 2012 4:06:35 PM

---

Lucia Indelicato  
99-877 Iwaena  
Aiea, HI 96701-3220

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

It takes months and months to obtain appointments with qualified IMEs now. If an injured person has to wait for the DCD to appoint, the injured person is the one who will suffer. Months of TTD do not help the injured or the employer. IMEs are very well qualified, they are impartial to either party.

One solution might be to have the state appoint IME's that the insurance companies can choose from.

Currently the injured partys IME returns higher PPD percentages because they are partners with the attorney's for the claimants and reap the benefits. The insurance companies do not have any influence over the IME's PPD rating.

Think about it!

The DCD is SO backed up as it is - how will adding more unnecessary decisions be validated?

Thank you for the opportunity to submit comments.

Sincerely,

Lucia Indelicato  
8084344319

**From:** [lkoga@catholiccharitieshawaii.org](mailto:lkoga@catholiccharitieshawaii.org)  
**To:** [WAM Testimony](#)  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Please do not support HB 466 HD3 SD1 re Work Comp  
**Date:** Monday, April 02, 2012 5:21:48 PM

---

Lynn Koga  
44-141 Kahinani Way  
Kaneohe, HI 96744-2569

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

As an HR professional who is at the helm of insuring our company does its best to take care of the employees, I know our employees are an asset to the company and leadership here makes sure to have a healthy and safe work environment.

We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

This bill is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool the HR department and employer have to objectively evaluate the treating physician's plan of action.

The passing of this bill will also increase the cost of doing business during a period when all business are still struggling to survive.

It is understandable that you are seeking equity and fairness for all employees however there needs to be another way to address abuse where it is occurring instead of levying more burden on all employers.

Thank you for seriously considering the negative impact this bill will have on business, and, please do not support HB 466 HD3 SD1 re Work Comp.

Thank you for the opportunity to submit comments.

Sincerely,

Lynn Koga

**From:** [meccleshall@reynoldsrecycling.com](mailto:meccleshall@reynoldsrecycling.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 5:01:45 PM

---

Malulani Eccleshall  
Reynolds Recycling  
Honolulu, HI 96819-2039

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Malulani Eccleshall, SPHR  
808-792-0191

**From:** [mark.rodde@paccoast.com](mailto:mark.rodde@paccoast.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 4:41:38 PM

---

Mark Rodden  
91-550 Awakumoku St.  
Kapolei, HI 96707-1841

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Thank you for the opportunity to submit comments.

Sincerely,

Mark Rodden

**From:** [tberger@sunetric.com](mailto:tberger@sunetric.com)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 3:31:34 PM

---

Tammy Berger  
Sunetric  
Kailua, HI 96734-0021

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Thank you for the opportunity to submit comments.

Sincerely,

Tammy Berger

**From:** [Milia Leong](#)  
**To:** [WAM Testimony](#)  
**Subject:** RE: Testimony in opposition of HB466  
**Date:** Monday, April 02, 2012 6:53:04 PM

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NOTICE OF DECISION MAKING

**DATE:** Wednesday, April 4, 2012  
**TIME:** 9:10 a.m.  
**PLACE:** Conference Room 211  
State Capitol  
415 South Beretania Street  
[HB 466, HD3, SD1](#)  
[\(SSCR2263\)](#)  
[Status & Testimony](#)

David Y. Ige, Chair and Michelle N. Kidani, Vice Chair:

Please accept my comments in opposition to HB 466, HD3, SDI.

I have been adjusting workers compensation claims in the State of Hawaii for the last 18 years. Throughout these many years, I have scheduled countless IMEs and PPD ratings in agreement with injured workers and/or their legal representatives. In my experience, the majority of IME/PPD ratings are scheduled without dispute, often providing a valuable tool for both employer and the injured worker, specifically in cases where the attending physician has exhausted treatment recommendations. However, in some cases an Order by the Director is necessary when parties cannot agree. These requests for Orders are reviewed by the Director and approved only if deemed reasonable and appropriate. If in fact the Director deems such request unreasonable, the request is denied. That being said, there is already a process in place to ensure the injured worker is not being subjected to "countless" IMEs as alleged by supporters of HB 466, making this Bill and its associated budget completely unnecessary.

I do not believe the intent of the workers compensation system is to be 100% tilted to any one side, precisely what will happen with passage of this Bill. There must be a checks and balance system in place in order to avoid frivolous claims, malingering, and potential fraud. These factors drive up workers compensation insurance premiums, costs that are borne to us all and undoubtedly result in loss of jobs/benefits, significantly impacting an already strained economy.

HB 466 if passed as is, will surely create more litigation and increased costs across the board. This will inevitably result in additional backlog for the already challenged Department of Labor, and ultimately delay resolution of statutory benefits due the injured worker.

In simplest terms, "don't try to fix what is not broken."

Milia Leong | Claim Manager  
Workers' Compensation Department  
677 Ala Moana Blvd. Suite #910, Honolulu, HI 96813  
Main Office: (808) 531-9733 | Fax: (808) 541-5545  
Phone: x517 | Direct Line: (808) 541-5517  
Cellular: (808) 783-8473  
E-mail: [mleong@johnmullen.com](mailto:mleong@johnmullen.com)

***"Serving Hawaii and the Pacific Region since 1959!"***

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**From:** [nsp@nathaliepettit.com](mailto:nsp@nathaliepettit.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Monday, April 02, 2012 3:22:05 PM

---

Nathalie Pettit  
PO Box 37913  
Honolulu, HI 96837-0913

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

It is unthinkable that the legislature would consider removing employers' only tool to oversee an injured worker's medical treatment and would permit the attending physician to be the ONLY person to deem an injured worker medically stable. Currently, if medical stability is disputed, the matter can go to hearing before the Director. At hearing, all parties have the opportunity to submit evidence in support of their position. It would seem the intent of supporters of this bill is to keep injured workers in the workers' compensation indefinitely.

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a

certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Nathalie S. Pettit, AAL  
782-8102

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [cutiney1987@yahoo.com](mailto:cutiney1987@yahoo.com)  
**Subject:** Testimony for HB466 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 8:15:38 PM

---

Testimony for WAM 4/4/2012 9:10:00 AM HB466

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Nena Pattugalan  
Organization: Individual  
E-mail: [cutiney1987@yahoo.com](mailto:cutiney1987@yahoo.com)  
Submitted on: 4/2/2012

Comments:

I am an injured worker and a victim of four bad IME doctors. Each doctor examined me once and made prejudicial judgment. So I beg you to please pass this bill.

**From:** [noreent@suisan.com](mailto:noreent@suisan.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 5:11:47 PM

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Noreen Toledo  
1965 Kamehameha Ave  
Hilo, HI 96720-4675

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Thank you for the opportunity to submit comments.

Sincerely,

Noreen Toledo  
808-935-8511

**From:** [paul.ahcook@parbev.com](mailto:paul.ahcook@parbev.com)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Tuesday, April 03, 2012 8:11:42 AM

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Paul Ah Cook  
94-1450 Moaniani Street  
Waipahu, HI 96797-4632

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Paradise Beverages does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

As the President of Paradise Beverages, I believe that restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

Thank you for the opportunity to submit comments.

Sincerely,

Paul Ah Cook  
808-678-4002

**From:** [chcreatestate.paul@gmail.com](mailto:chcreatestate.paul@gmail.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Tuesday, April 03, 2012 6:56:45 AM

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Paul Campagne  
47-420 Hui Iwa Street A204  
Kaneohe, HI 96744-4596

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Thank you for the opportunity to submit comments.

Sincerely,

Paul Campagne  
8086589942

**From:** [phoebel@msn.com](mailto:phoebel@msn.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 3:21:57 PM

---

Phoebe Lambeth  
2284 Kaiwika Road  
Hilo, HI 96720-9723

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Thank you for the opportunity to submit comments.

Sincerely,

Phoebe Lambeth  
896-6269

**From:** [bivanoff@comptroub.com](mailto:bivanoff@comptroub.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 5:16:39 PM

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Robert Ivanoff  
465 Kapahulu Ave, Suite 106  
Honolulu, HI 96815-3852

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Passing this bill will only support the growing sentiment that our current government representatives truly distrusts business (especially small business) and are more than willing to punish the majority for the abuses of the very small minority.

Let's get back to fairness and commonsense. Please.

Thank you for the opportunity to submit comments.

Sincerely,

Robert Ivanoff



**From:** [Robert Kessner](#)  
**To:** [WAM Testimony](#)  
**Subject:** HB 466, HD3, AD1 (SSCR2263)  
**Date:** Monday, April 02, 2012 2:31:22 PM

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David Y. Ige, Chair and Michelle N. Kidani, Vice Chair: I have practiced in the workers compensation area for over 30 years and believe passage of this bill will result in unqualified physicians performing IME's and ratings, cause delay in the administration of workers compensation claims, and result in a great burden for the Director of Labor and Industrial Relations by having to appoint doctors when the employer and employee cannot agree. It has been my experience that attorneys who represent employees will only allow a very limited number of physicians to do ratings or IME's of their clients and that many of those doctors will not be acceptable to employers. This will cause the Director to have to appoint physicians in more cases than is practical. The Department of Labor and Industrial Relations, Disability Compensation Division has faced the same budget cuts and loss of positions as all other departments of the State of Hawaii. Asking them to do one more task in more claims is only going to result in delay in the administration of workers compensation. Also, many physicians are not familiar with using the AMA Guides to the Evaluation of Permanent Impairment or performing independent medical evaluations. There is nothing in this bill that establishes the qualifications of a doctor to perform impairment ratings, or to conduct IME's. Normally, ratings and IME's are performed by doctors whose medical specialty addresses an injured worker's specific injury, or by doctors who are trained in occupational medicine which by its nature specializes in work related accidents. If you have a heart problem, you seek treatment from a cardiologist; if you have a broken bone, you go to an orthopedist. Similarly, impairment ratings and IME's should be done by physicians who have the expertise to address the injury in question. Finally, the employee already benefits from the presumption of Section 386-85, HRS, that an injury is work related once a workers compensation claim is filed. To overcome the presumption, an employer must show substantial evidence that the injury is not work related. This requires that employers have the right to seek doctors they choose, not doctors that employees' attorneys consider acceptable. I think it goes without saying that attorneys representing claimants are not going to agree to physicians they feel may give an opinion adverse to their clients. They are only going to accept doctors they are confident will support their clients claims, and who are going to rate high impairment whether or not warranted. This is going to result in workers compensation becoming more expensive and that cost is going to be passed on to the consumer thru higher costs for goods and services. In my over three decades of practice, I have defended thousands of claims and have not encountered problems with IME's or impairment ratings. IME's at least should be truly independent, i.e. of the employer's choosing. I have personally made it a practice to consult with an injured workers attorney on the selection of a doctor to perform an impairment rating because the likelihood of settling a claim without need for an adversarial hearing is enhanced when both the employer and employee have confidence the rating is fair. To make the workers compensation system more efficient, settlements should be encouraged, not discouraged. I am concerned this proposed bill will only serve to cause more litigation. Thank you for considering my comments.

Robert Kessner  
Kessner Umebayashi Bain & Matsunaga  
220 South King Street, Suite 1900  
Honolulu, Hawaii 96813  
Email: [rkessner@kdubm.com](mailto:rkessner@kdubm.com)  
Ph. (808)536-1900  
Fax (808)529-7177

The information contained in this electronic mail transmission is privileged and confidential. It is intended only for the use of the individual or entity to whom it is addressed. If you have received this communication in error, please notify us immediately by telephone collect (808) 536-1900, purge any copies of the transmission stored in any electronic medium, and return any printed copies of the original message to us at the address via the U.S. Postal Service. We will reimburse you for the postage. Thank you.

**From:** [terry costa](#)  
**To:** [WAM Testimony](#)  
**Subject:** Comment HB 466  
**Date:** Monday, April 02, 2012 9:20:52 PM

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Date Wednesday April 04, 2012 9:10 am conference room 211 HB466

Aloha Senator David Y. Ige Chairperson,

That I Terry Costa an injured worker currently on workers compensation for 5 years would like to comment on HB 466,

This bill needs to be passed because it only benefits the Insurance Companies and Employers who do not want to rehabilitate injured

workers back to work and use the IME's to deny benefits and treatment. I ask the Ways and Means Committee has any injured worker opposed this bill.

Can the Employers and Insurance Companies submit any written testimonies from injured workers opposing this bill. The injured worker is supposed to

get rehabilitated to return to work, not denied benefits causing financial hardship , divorce, eviction and repossession of your only transportation. This is what

happened to me and who knows how many more and if this bill is not passed then more families will end up on welfare and food stamps, I made \$6,000.00 a

month now i am filing for food stamps. Help injured workers and families by passing this bill for fairness in the corrupt work comp system aloha Terry Costa

**From:** [terry\\_costa](mailto:terry_costa)  
**To:** [WAM\\_Testimony](mailto:WAM_Testimony)  
**Subject:** FW: Testimony for HB2152 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 9:46:33 PM

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This was supposed to be for HB466 not HB2152

> From: mailinglist@capitol.hawaii.gov  
> To: WAMtestimony@capitol.hawaii.gov  
> CC: tlccostas@msn.com  
> Date: Mon, 2 Apr 2012 19:32:09 -1000  
> Subject: Testimony for HB2152 on 4/4/2012 9:10:00 AM

>  
> Testimony for WAM 4/4/2012 9:10:00 AM HB2152

>  
> Conference room: 211  
> Testifier position: Support  
> Testifier will be present: No  
> Submitted by: Terry L. Costa  
> Organization: Individual  
> E-mail: tlccostas@msn.com  
> Submitted on: 4/2/2012

>  
> Comments:

> Thanks to the Ways and Means Committee, That i Terry Costa supports this bill. As an injured worked currently on work comp for 5 years and going through a Fraudulent IME when the doctor did not mention that i was on a prescribed narcotic Vicodin during the exam. In his report under medication the IME doctor did not mention i was on Vicodins during the exam due to a rotator cuff surgery. The IME was for my back injury and i just had my sling removed after 3 weeks from the date of the rotator cuff surgery.

> I have filed Fraud Complaint with the Disabilloty Compensation Division DCD and the refused to address this issue because the IME doctor is considered not a party to the claim. I ask the Ways and Means Committee to pass this Bill for a fair IME. The injured worker has no rights to ask the IME doctor questions concerning the injury, the Insurance Carrier always ask question to TERMINATE YOUR BENEFITS AND TREATMENT. I ask the Committee has any injured worker on workers compensation supporting this bill or is it Employers and Insurance Carriers with deep pocket. These Examination affects FAMILIES. All i ask for is a fair examination. aloha Terry Costa. my case # is 2-07-03217 that documents my testimony.

>

**From:** [roberta.chu@boh.com](mailto:roberta.chu@boh.com)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 9:01:46 PM

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Roberta Chu  
478 Kipuni Street  
Hilo, HI 96720-6009

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool a business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to a business. Businesses are already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a

certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Roberta Chu

**From:** [puhipnt@shaka.com](mailto:puhipnt@shaka.com)  
**To:** [WAM Testimony](#)  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Please do not hurt small businesses: hold HB 466  
**Date:** Tuesday, April 03, 2012 8:21:51 AM

---

Ron Garlie  
PO Box 662007  
Lihue, HI 96766-7007

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

As a small business owner, I am opposed to the change.

Thank you for the opportunity to submit comments.

Sincerely,

Ron Garlie - Puhi Paint

808-246-8828

**From:** [sean.spencer@kingneel.com](mailto:sean.spencer@kingneel.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 4:16:47 PM

---

Sean Spencer  
1164 Bishop Street, Suite 1710  
Honolulu,, HI 96813-2860

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool we have to objectively evaluate the treating physician's plan of action.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

And finally because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Sean K. Spencer  
808-539-5436



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [seanuezu@gmail.com](mailto:seanuezu@gmail.com)  
**Subject:** Testimony for HB466 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 3:48:59 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB466

Conference room: 211  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Sean Uezu  
Organization: Individual  
E-mail: [seanuezu@gmail.com](mailto:seanuezu@gmail.com)  
Submitted on: 4/2/2012

Comments:

As a small business owner, this bill will really hurt us. This IME process could take away my ability to conduct any meaningful discovery of disputed workers' compensation claims. In addition, the proposed legislation allows for abuse by my employees because there is no requirement that employees object in good faith to any IME physicians selected by an employer. Restricting my ability to conduct meaningful IMEs of disputed workers' compensation claims will eventually lead to a rise in workers' compensation insurance premium rates.

Thank you very much for your time and interest in my testimony.

Aloha, Sean

**From:** [ttatsugawa@youngsmarket.com](mailto:ttatsugawa@youngsmarket.com)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 4:21:36 PM

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Terry Tatsugawa  
73-4854 KANALANI ST  
KAILUA-KONA, HI 96740-2609

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Our company provide alot of services for our employees and if this passes it would put added burden to operate and do business here. With everything going up we would have to consider adding the additional cost to goods then the state won't be able to get revenue from us because no one will purchase goods from us. Help us survive and kill us.

Thank you for the opportunity to submit comments.

Sincerely,

Terry Tatsugawa  
808.326.2768

**From:** [tom@mymysterynovel.com](mailto:tom@mymysterynovel.com)  
**To:** [WAM Testimony](#)  
**Subject:** A request to reconsider HB 466  
**Date:** Monday, April 02, 2012 4:56:40 PM

---

Thomas Jacobs  
61-749 Papailoa Road  
Haleiwa, HI 96712-1301

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

Folks, please table or kill HB 466. It will impose back-breaking legislation on us small businessmen. We have enough of a fight trying to survive in Hawaii's business climate without the increased bureaucracy and expense this legislation will impose. Give us a break! Enough already!

Thank you for the opportunity to submit comments.

thanks, and with aloha

Tom Jacobs. Pau Pono Publishing  
808-371-9111

**From:** [tleong@kualoa.com](mailto:tleong@kualoa.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 4:01:45 PM

---

Timon Leong  
PO Box 650  
Kaaawa, HI 96730-0650

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Timon Leong

**From:** [thedrick@tmghawaii.com](mailto:thedrick@tmghawaii.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 3:26:43 PM

---

Todd Hedrick  
115 Niuiki Circle  
Honolulu, HI 96821-2319

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. Businesses are already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Thank you for the opportunity to submit comments.

Sincerely,

Todd Hedrick

**From:** [victor.lim@hawaiiantel.net](mailto:victor.lim@hawaiiantel.net)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 9:41:38 PM

---

Victor Lim  
1101 Fort St. Mall  
Honolulu, HI 96813-2706

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

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Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Victor  
532-1596



**From:** [wahsam@kualoa.com](mailto:wahsam@kualoa.com)  
**To:** [WAM Testimony](#)  
**Subject:** Hold HB 466 HD1 SD1 re Work Comp (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 4:01:46 PM

---

Wendy AhSam  
PO Box 650  
Kaaawa, HI 96730-0650

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Thank you for the opportunity to submit comments.

Sincerely,

Wendy AhSam  
8087483227

**From:** [alan.hayashi@baesystems.com](mailto:alan.hayashi@baesystems.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 3:11:33 PM

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Alan Hayashi  
999 Bishop Street, Suite 2700  
Honolulu, HI 96813-4454

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Thank you for the opportunity to submit comments.

Sincerely,

Alan Hayashi  
808-224-4382

**From:** [allano@hawaii.edu](mailto:allano@hawaii.edu)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not hurt small businesses: hold HB 466  
**Date:** Monday, April 02, 2012 4:11:50 PM

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Allan K Okuda  
684 Kilauea Ave.  
Hilo, HI 96720-4211

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to run away costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

Injured workers and employers often amicably agree to IME physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Thank you for the opportunity to submit comments.

Sincerely,

Allan K Okuda  
808 969 1776

**From:** [s.matsumoto@shs-hi.com](mailto:s.matsumoto@shs-hi.com)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 7:11:34 PM

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Shinichi Matsumoto  
180 Kinoole St, Suite 204  
Hilo, HI 96720-2827

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Thank you for the opportunity to submit comments.

Sincerely,

Shinichi Matsumoto  
8089909400

**From:** [srawlins@aloha.net](mailto:srawlins@aloha.net)  
**To:** [WAM Testimony](#)  
**Subject:** Comments against HB 466 HD3 SD1 (WAM DM on 4/4)  
**Date:** Monday, April 02, 2012 3:46:34 PM

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Shirley K. Rawlins  
PO Box 346  
Kaunakakai, HI 96748-0346

April 2, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

There are very few IME physicians today and restricting access further will add unnecessary delays for both injured workers and employer.

Thank you for the opportunity to submit comments.

Sincerely,

Shirley K. Rawlins  
808-553-3214

**From:** [steve@westmolokai.com](mailto:steve@westmolokai.com)  
**To:** [WAM Testimony](#)  
**Subject:** Please do not impose additional costs on business: hold HB 466 SD1  
**Date:** Monday, April 02, 2012 6:31:47 PM

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Steve Jaquess  
220 East Ikea Kai  
Wailea, HI 96753-7726

April 3, 2012

Chair Ige and Ways and Means Committee

Dear Chair Ige and Ways and Means Committee:

Testimony to the Senate Ways and Means Committee  
Wednesday, April 4, 2012  
9:10 a.m.  
Room 211

Re: HB 466 HD3 SD1 re Workers' Compensation

This is a bad idea!

There is an inherent unfairness in allowing one party to effectively choose both the treating physician and the physician who will review the treating physician's plan.

The bill would replace "employer requested examinations" with so-called "independent medical examinations". This is the only tool my business has to objectively evaluate the treating physician's plan of action.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

IMEs are the most effective way for an employer to rebut a claim or to end treatment to determine settlement value or permanent impairment.

Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs may result in fewer jobs, lower benefits, and decreased wages.

This is a fundamental change in the workers' compensation system and could prove unconstitutional by virtually eliminating the employers' right to due process.

Injured workers and employers often amicably agree to IME physicians,

without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will hurt the entire system.

Because there are so few IME physicians, mandating the exam within a certain time period of selection or appointment is rarely possible. This may not be in the best interest of the injured worker if the only available IME physician does not specialize in the injury/diagnosis in question.

Thank you for the opportunity to submit comments.

Sincerely,

Steve Jaquess