

**LATE
TESTIMONY**

HB466, HD3

**HTH/JDL, WAM
Committee Hearing
02/13/2012**



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

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February 13, 2012

To: The Honorable Josh Green, M.D., Chair, Clarence K. Nishihara, Vice Chair,
and Members of the Senate Committee on Health

The Honorable Clayton Hee, Chair, Maile S.L. Shimabukuro, Vice Chair,
and Members of the Senate Committee on Judiciary and Labor

Date: Monday, February 13, 2012
Time: 10:45 a.m.
Place: Conference Room 229, State Capitol

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

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

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 466 H.D. 3 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, then the Department shall appoint a qualified physician licensed in the relevant medical specialty and willing to conduct the examination within 30 calendar days of the request.

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. Therefore, the parties in many instances look for doctors that will likely support their positions to perform IME's.

This occurs with the Employers and Insurance Companies as well as with Claimants. However, usually the Employers or Insurance Companies tend to have more financial resources at their disposal. 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. The establishment of a listing of doctors who would be willing to conduct IME's for the purposes of compensability or permanent disability under the bill becomes the responsibility of the Director. Issues such as willingness of doctors in different medical specialty areas and allowed fees for such evaluations will have to be addressed. A thirty-day limit to have such evaluations done following selection of the doctor may not be practicable. Therefore, some flexibility in the timetable may be advisable.
3. The allowable fees governed by the Workers' Compensation Medical Fee Schedule may be an obstacle to implementation. The legislature should consider setting an initial fee in the measure until such time the Director amends the fee by rulemaking in accordance with Chapter 91.
4. The Department is concerned that the measure does not allow employers to appoint a physician and forward a medical report to the director in cases where major or elective surgery is contemplated, which is the current law.

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.

5. The Department requests an effective date of October 1, 2012 for Sections 1 and 2. Due to the length of time it takes to establish and fill new positions, it will be difficult to implement this proposal if these sections are effective upon approval or July 1, 2012.

LATE

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

TO: Senator Josh Green
Chair, Committee on Health
Senator Clayton Hee
Chair, Committee on Judiciary and Labor
Via Email: HTHtestimony@capitol.hawaii.gov

DATE: February 12, 2012

RE: H.B. 466, HD3 – Relating to Workers’ Compensation
Hearing Date: Monday, February 13, 2012 at 10:45 a.m.
Conference Room 229

The American Insurance Association (AIA) respectfully opposes H.B. 466, HD3, 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.

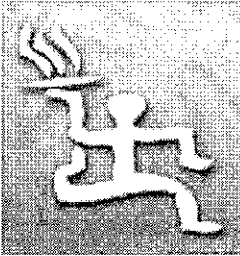
H.B. 466, HD3 requires independent medical examinations and permanent impairment rating examinations to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of Labor and Industrial Relations.

AIA opposes H.B. 466, HD3. 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, HD3, 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

People
Serving
People



Hawaii Restaurant Association

LATE

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February 12, 2012

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Executive Director Roger Morey

House Bill 466

Relating to Workers Compensation Medical Examinations

Hearing on February 13, 2012 at 10:45AM in room 229

Testimony provided by the Hawaii Restaurant Association in opposition

HB 466 will take away the rights of an individual business owner. The bill creates an imbalance when it gives certain rights to a claimant without providing equal rights to the employer. This is discriminatory and forms an adversarial position, vis-à-vis the employer and employee.

Further, as presented, the bill places the cost of the independent medical examiner on the employer and insurance provider. Again, it is discriminatory and puts the employer and employee at odds. Such fees should accrue entirely to the claimant who has requested the added practice.

These increased outlays do not make good business sense. That is, they add expense but do not provide commensurate value to an operation. Such added expenses negatively impact fair margins established by a business; margins that are needed to support a business operation and all of its employees equitably.

If enacted HB 466:

- Will add expenses without commensurate value
- Create an adversarial position between the employer and employee
- Discriminate against business owners

Finally, in addition to the effects noted the financial burden will further inhibit our less than robust state economy. This bill is not good for Hawaii.

Respectfully submitted,

Roger Morey
Executive Director

Green4 - Mailene

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 12, 2012 12:29 PM
To: HTHTestimony
Cc: bolger55@gmail.com
Subject: Testimony for HB466 on 2/13/2012 10:45:00 AM

Testimony for HTH/JDL 2/13/2012 10:45:00 AM HB466

Conference room: 229
Testifier position: Support
Testifier will be present: Yes
Submitted by: Manu Mook
Organization: Hawai'i Injured Workers Assn.
E-mail: bolger55@gmail.com
Submitted on: 2/12/2012

Comments:

Aloha: I am an injured worker & past President of the Hawai'i Injured Workers. I support the mutually agreed IME's because when I was going through my workers' compensation case, getting the evaluations, opinions & recommendations of mutually agreed IME doctors helped me get the appropriate & needed medical care I needed. This then helped me get medically rehabilitated & back to being a productive worker in Hawai'i's workforce. I have heard many horror stories of other injured workers having bad iME's which caused them not to get the medical treatment & rehabilitation they needed. Instead, their cases dragged out with unnecessary litigation. Mutually agreed IME's help not hurt & I urge you to pass this bill. mahalo

LATE



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www.hawaiipacifichealth.org

Monday – February 13, 2012 – 10:45am
Conference Room 229

The Senate Committee on Health

To: Senator Josh Green, Chair
Senator Clarence K. Nishihara, Vice Chair

The Senate Committee on Judiciary and Labor

To: Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

From: Virginia Pressler, MD, MBA
Executive Vice President
Strategic Development

Re: HB 466 HD3 RELATING TO WORKERS' COMPENSATION- Testimony in Strong Opposition

My name is Virginia Pressler, MD, MBA, Executive Vice President, Strategic Development for Hawai'i Pacific Health (HPH). HPH is a nonprofit health care system and the state's largest health care provider, committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four affiliated hospitals, 49 outpatient clinics and more than 2,200 physicians and clinicians. The network is anchored by its four nonprofit hospitals: Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital.

We are writing in **strong opposition** to HB 466 HD3 Relating to Workers' Compensation 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.

We are testifying as both a private non-profit employer and as a health care provider. As a private non-profit employer, we are concerned that HB 466 HD3 will substantially increase the cost of providing health care coverage to our employees. The end result is that non profit organizations like Hawai'i Pacific Health will be forced to reevaluate existing cost structures including reduce cutting costs elsewhere within our health care network.

As a healthcare provider we are also concerned that his additional layer of legislated costs has the potential of compromising community access to health care. The recent closure of Hawai'i Medical Center is a visible reminder of the fragile operating margins that healthcare providers rely upon across the health care continuum in order to deliver quality care to our patients. This bill would negatively impact those margins and impact our ability to continue to provide access to care to our patients across all our hospitals.

We ask that you hold this measure. Thank you for the opportunity to testify.



Affiliates of Hawai'i Pacific Health

LATE

February 11, 2012

TO: COMMITTEE ON HEALTH

Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair
Senator Maile S. L. Shimabukuro, Vice Chair

From: Dennis W. S. Chang

Labor and Workers' Compensation Attorney

Date: February 13, 2012

Room: 229

Time: 10:45 a.m.

Re: STRONG SUPPORT OF HB 466, HD3

Dear Honorable Chairs Green and Hee and Members of the Joint Committees:

Introduction

The purpose of this bill is to improve fairness in the workers' compensation system, provide better quality services to injured workers and avoid the increasing adversarial procedures leading to needless hearing. Aside from targeting costs drivers, HB 466, HD 3 promotes these ideals by requiring actual "independent medical examinations" and permanent partial disability ratings. Employers and employees will be required to mutually agree to the selection of qualified physicians even though the costs are borne by employers, consistent with the repeated articulation by our Hawai'i Supreme Court that providing workers' compensation insurance is the cost of doing business. Alternatively, if the parties are unable to mutually select qualified physicians, they will be designated by the Director of Labor and Industrial Relations (Director).

Existing Law and Previously Intended Practice

HRS Chapter 386 was enacted with the intention of a cost effective and orderly procedure for the implementation of the workers' compensation statute. As a fundamental social policy, most claims are presumed compensable when workers sustain injuries arising out of and in the course of their employment in the absence of substantial evidence to the contrary. HRS §386-85. If there are suspicious disputed claims, employers and insurance carriers (jointly referred to as "employers") can exercise their discretion to appoint qualified physicians at their cost to conduct what are known as an "independent medical examination" ("IME") to decide whether such claims are compensable. Id. §386-79. The operative word is "independent," which under the rules of statutory construction are to be given a plain simple meaning. As defined in the

Webster's Dictionary, the most common definition of "independent" is "not subject to control by others."¹

When the employers mutually select qualified physicians with employees for IMEs (which is increasing rare in today's practice especially for *pro se* injured workers), they usually resolve real or perceived disputes and reduce the involvement of hearings. The jointly selected qualified physicians address identified issues by providing impartial opinions, whether the issue is a claim to be deemed compensable, whether more treatment and diagnostic testing are required, whether surgeries should be performed, whether medical conditions are stable and, if opined in the affirmative, what is the extent of permanent partial disability. Or, assuming injured body parts have reached stability, are continuing medical services including medications required and what is the prognosis for various medical conditions so that informed determinations can be on whether injured workers should be enrolled in the vocational rehabilitation (VR) process. When parties agree to joint selections of truly impartial physicians, the parties implicitly agree that they will abide to the opinions contained in the IME reports. Such agreements for mutual opinions result in cost savings, avoid delays and rapidly facilitate the claims' handling process even though one of the parties may disagree with opinions contained in the mutually IMEs. There is certainty even though the current statute does not mandate abiding by the opinions since, when done, they are done akin to the parties engaging a "hand shake" so to speak. The claim for such employees is then fast tracked. Veterans in the system who work with this custom and practice prefer mutually selected qualified physicians since the process makes common sense.

I speak from experience in long legal career spanning nearly 35 years as a labor lawyer with a heavy emphasis handling workers' compensation claims for injured workers. Using this mutual selection, we avoid costly elongated litigation. Benefits are promptly paid or a bad claims are immediately resolved. In turn, injured workers avoid needless delay and the extensive backlog before the Director is reduced saving the scheduling of hearings for *bona fide* disputed claims. Real or perceived lack of integrity by injured workers is reduced by mutually agreed upon IMEs and the outrageous economic advantage of the employers in fighting claims and their abusive practices in claims handling are removed. HB 466, HD 3 is a necessary and is consistent with the true intent and public policy of the workers' compensation statute in bringing the parties closer to what has been seemingly lost over the years as discussed beginning in the next section.

Current Adversarial Practice Compels Passage of HB 466, HD 3

Currently, the laudable practice using "independent" medical examinations are essentially non-existent. Adjusters and attorneys for the employer alike have lost sight of the meaning of "independent" and the benefits of mutually selected qualified physicians conducting examinations. Instead, they have now increasingly engaged in the wholesale purchase of physicians for such examinations for employers, turning them into adversarial weapons to deny lawful claims and to delay or deny the payment of legitimate workers' compensation benefits. There are more and more physicians, adjusters and attorneys engaged in the abusive handling of claims by the use of IMEs for the exclusive purpose of lining their pockets. Contrary to some of rhetoric contained in the testimonials opposing HB 466, there are no safeguards in place since injured workers have no means to offset the enormous wealth of employers - they do not have

¹ www.merriam-webster.com/dictionary/independent

and cannot have the monetary resources to rebut purchased bias IMEs. The testimonials opposing HB 466 are disingenuous as they gloat and cheat under the guise of the “critical” need to maintain their unfettered right to IMEs. And, this vile defense practice will continue to run amok unless HB 466, HD 3 is passed.

Predictable IMEs Compels Passage of HB 466, HD 3

To illustrate the need for the passage of the bill, I will discuss the case of a constituent of Chair Green in which I attended a hearing in Kona last week Thursday, February 9, 2012. Defense adjusters and attorneys are lining their pockets along with the physicians conducting their IMEs as illustrated in this case (I have many more clients in identical situations).² The result is sadly observing avoidable needless painful suffering, senseless economic ruin, and in the absence of mutually selected IMEs injured workers undergo costly and protracted litigation. The latter is inevitable when huge sums of monies are made so long as countless IMEs are in line with what is requested by the defense industry. Defense attorneys love the *status quo* since they have created a cottage industry and art form along with their purchased physicians, earning annual incomes, which I am sure, if disclosed, would be shocking to decision-makers.

Steven’s Plight

Steven, was age 58 at the time of his work accident on September 7, 2009 while working as a station manager in Kona for an airline. He decided to assist his subordinates by loading and tossing luggage weighing up to 70 pounds onto a conveyor belt. Specifically, he was engaged in repetitive work and as he lifted a box by its rope, it slipped and dropped. To prevent it from dropping, he grabbed onto the box in an awkward position and felt instant pain to the small of his low back. He was off of work the next two days resting in bed, took some old medications, and hoped that he merely strained his low back. The pain did diminish some and he returned to work. He thought that he had merely pulled a muscle and it would go away. This was the first real work accident that he had sustained in his entire working career.

Eventually, he began developing a numbing sensation in his legs. Rather than relating it to his low back, he thought that he was suffering from circulatory problems in his lower extremities. He informed his supervisor of the unusual developments. He sought medical treatment with Dr. Lambert Lee Loy who informed him that he may have a circulatory condition since Steven had a family history. Dr. Lee Loy also expressed concern that he could be suffering from the result of a low back injury. Work-up was conducted for both circulatory and low back conditions. For the low back, the work-up included taking x-rays and a MRI and

² I am more than willing to show you IME after IME by a select few physicians who are constantly on the payroll and joined at the hips with the defense. They make incredibly handsome annual income as Douglas Thomas Moore testified during the 2011 session by letter dated February 7, 2011 where one IME was charged at the tune of \$8,115.18 for a fourth IME one of a claim which he was handling! I say this is obscene. Ironically, he is an injured worker and employee of the State of Hawai’i and this is our monies. The legislators may also well recall a single physician who earned more than \$1,000,000.00 annually conducting so-called IMEs for one insurance company. There are many more physicians who conduct IMEs for the defense only.

consultation with Dr. Jon Graham, a prominent neurosurgeon. The MRI disclosed multiple diagnosis of the low back, including stenosis and protrusions/herniations at two levels and anterolisthesis by x-rays. After learning of his serious low back condition and having extreme difficulty with sitting, standing and walking, Steven decided to file a formal claim for workers' compensation benefits.

The claim was denied. Adding insult to the whole situation, Steven was also terminated even though he had seniority to bump into a position by transferring to Honolulu to finish up nine (9) more months to vest for a ten (10) year-pension. The adjuster first gathered his entire historical medical records by way of subpoena, hoping that there would be something in the records, which could be used to deny his claim. Fortunately, Steven never had a back problem, nor went to a physician for treatment. This did not stop the insurance carrier from mishandling the claim. Then, he sent Steven to Dr. Lorne Direnfeld on July 20, 2010 for an IME at the insurance carrier's costs to determine if the claim was work related. During this whole period, the adjuster offered Steven no help, did not send him a copy of the required workers' compensation highlights which would inform him of some of his basic lawful entitlements. If this were done, he probably would have also contacted the Department of Labor and Industrial Relations.

On July 20, 2010, after confirming that Steven had no pre-existing work injury to the low back, Dr. Direnfeld who works closely with the insurance industry, authored a 30-page report and cited studies to justify that his medical condition was not work related. In relevant parts, he opined that he merely had an underlying low back stenosis, which was dormant throughout Steven's life. He cited statistics from studies and perfectly fitted him into a category of individuals by picking and choosing symptoms. In short, he opined that Steven's manifestation of symptoms was merely coincidental when it happened after the work accident and could not be related in anyway to the work accident. In other words, his disabling condition related to age and genetics and coincidentally manifested itself after the work accident.

A hearing was finally conducted nearly a year after the work accident. The adjuster represented that he relied on Dr. Direnfeld's comprehensive report. Steven did not have any guidance and proceeded with the hearing *pro se*. He failed to secure disability slips and had placed all of his treatment under his private medical plan, thanks to the adjuster who never informed him of his rights. The hearing officer on behalf of the Director must have found it difficult to buy into the argument that Steven's condition merely manifested itself as coincidence since Steven never had low back problems before the work accident. For this reason, he found that Steven sustained a compensable injury and awarded reasonable medical care, services and supplies since Steven unquestionably needed surgery even though he could not award any wage loss benefits.³ The insurance carrier appealed the case. Even though Steven urgently needed and was scheduled for surgery, it was denied. It was at that late point that I was retained. Eventually, he continued to deteriorate and was only able to function for two (2) to three (3) hours at best during a day. He also could not sleep. For this reason we tried to secure payment through his private medical plan, but this was also denied because he already had won his workers' compensation case. Needless suffering should and could have been avoided.

During the interim, the defense secured another IME with Dr. Raymond Taniguchi who had already prejudged the case. We had tried to have the use of another designated physician by

³ All relevant records will be made available upon request by Chairs Green and Hee.

offering three more impartial physicians to no avail. Steven was forced by order of the Labor and Industrial Relations Appeals Board ("Board") to attend an examination with Dr. Taniguchi. The examination was a farce. Steven attended the compelled examination with the understanding that he was seeing Dr. Taniguchi for the purpose of determining if the recommended surgery by Dr. Graham was appropriate and necessary. To his chagrin, the first words made by Dr. Taniguchi was that he fully agreed with Dr. Drenfeld's opinion that his symptoms the week following the work accident were merely a coincidence after the work accident.

In light of his continued deteriorating condition and since he won his case, Dr. Graham submitted another treatment plan for surgery. The defense attorney relied on both Drs. Drenfeld and Taniguchi's report on coincidence to deny the request for surgery. I requested a hearing before the Director to address the surgery. I also filed a motion to remand the case from the Board to the Director for a ruling to determine whether the insurance carrier is liable for Steven's critical low back surgery. The defense continued to rely on Dr. Drenfeld's IME and Dr. Taniguchi's IME, which regurgitated Dr. Drenfeld's "coincidence" opinion. The defense attorney vigorously opposed my motion for remand. During argument on the motion, a Board member commented to the insurance carrier's attorney that it should be liable for Steven's medical care. In this regard, fortunately, the Board issued an order to remand and to allow the Director to address whether the employer should be liable for the surgery as recommended by his primary care physician and Dr. Graham.

We tried to secure a rebuttal to Drs. Drenfeld's and Taniguchi's bias purchased opinions but we could not do so. Dr. Graham informed Steven that he would need to pay \$4000.00 to \$5000.00 if he wanted a rebuttal, monies Steven could not pay. The employers opposing this bill know this despite their mantra that there are built-in mechanisms where injured workers can get opinions from his physicians to address a rebuttal. This is true, but like Steven, there is a built in barrier as a practical matter preventing injured workers from doing so – he just cannot match the outrageous financial resources to rebut the purchased highly expensive IMEs gathered by the defense.

During last week's hearing, the defense engaged in an abusive and unconscionable low. Unbeknownst to us, the defense secretly secured a third IME opinion with its endless vast economic advantage. The defense had secured a medical records review from Dr. Clifford Lau, who never examine Steven or the diagnostic testing and merely regurgitated the identical opinions of Drs. Drenfeld and Taniguchi. The report is dated September 16, 2011 and not disclosed and transmitted to us within 15 days of receipt of the report as required by the rules. There is another applicable rule which requires that the report be disclosed within the record's submission deadline of 15 days before the hearing. Instead, with the mindset of winning at all costs, it was dropped on us and the Hearings Officer for the first time during the hearing. I made an oral motion to strike Dr. Lau's report as untimely, followed by a letter dictated over the telephone while I was still at the Kona airport.

In his long quest to secure lawful benefits, in particular, his critical surgery since he first won his case in 2010, we now must wait another 60 days for a decision from the Director. This is absurd that we must overcome barrier after barrier, and it is crystal clear that it is literally impossible for injured workers to match resources in securing IMEs or are safe in allowing IMEs chosen by the defense. Developments in Steven's claim to pursue his rightful lawful benefits belie testimonials opposing HB 466 from the outset. Steven's case is a First Insurance Company

of Hawaii, LTD. claim and Linda O'Reilly, who is the case manager for First Insurance, submitted testimony for the Hawaii Insurers Council in her testimony dated February 8, 2011. Its attorneys include the law firm of Leong Kunihiro Lezy & Benton, who routinely refuse to use any other suggested physicians for IMEs, like in Steven's case, even when we suggested other defense physicians as an alternative to Dr. Taniguichi. This was rejected since Dr. Taniguichi will parrot whatever the employers needs. In fact, they routinely use and compensate Dr. Direnfeld, Taniguichi and Lau since their IMEs are bias and predictable for employers, adjusters and insurance carriers. Ms. O'Reilly's testimony that injured workers benefit by the defense's unfettered right to select "qualified" physicians for IMEs at their cost is a sinister plot to hurt injured workers.

Conclusion

I enthusiastically support the passage of HB 466, HD 3 for a myriad of reasons. A bill like this one was enacted by the will of the people and legislators only to have it vetoed by former Governor Linda Lingle during her tenure. We urgently need this bill to prevent the continued abusive claims handling and passage of the bill will insert a sense of justice by correcting the wrongful use of IMEs. As shown, unless we have mutually agreed IMEs, injured workers will be subjected to one of the most oppressive tools in arsenal of powerful legalized adversarial loopholes, contained in the statute, to be used to illegally deny rightful claims and lawful benefits. Injured workers can never compete with the unequal outrageous advantage of monetary resources of employers and insurance carriers.

As notably, the continued use of IMEs selected by employers and their representatives creates needless litigation, unduly delays returning injured workers to work, assuming they ultimately win, and aggravates the already unfortunate backlog for the Disability Compensation Division. Just as important, the continued current use of IMEs, if left unchanged, is an unequivocal overlooked cost driver in the system, unnecessarily imposes undue physical and emotional suffering and leads to economic ruin for your constituents among other untoward adverse consequences. These, alone or together, are inconsistent with the underlying humanitarian purpose of the workers' compensation law and unquestionably violate sound public policy.

Please feel free to contact me for additional data and thank you for the opportunity in allowing me to submit testimony on such a critical matter.

LATE

February 12, 2012

HOUSE OF REPRESENTATIVES
The Twenty-Sixth Legislature
Regular Session of 2012

COMMITTEE ON FINANCE HEARING

HOUSE CHAIR: Rep. Karl Rhoads, Chair
Vice Chair: Rep. Kyle Yamashita, Vice Chair

Date of Hearing: Feb 13, 2012
Time: 10:45 AM
Place: Conference Room 229

Testimony in support of HB 466

My name is Marylyn Sye, and I currently work as a Registered Nurse- Clinical Admissions Specialist at Bristol Hospice. I have been on Workman's Compensation due to an Auto accident while on the job. I was subjected to an IME by an employer selected doctor, who said nothing was wrong with me and told me that my pain and problems with my neck and back were pre-existing and degenerative. He told me that I should go back to my job with no limitations. My doctor does not agree with the IME findings and would have chosen a different doctor for my IME.

Soon after the IME my employer's insurance company terminated my weekly TTD benefits, leaving me in severe financial difficulty. My doctor told me that he was notified that he would not be paid by the insurance company for any further visits. He told me that my visits will be on hold and I can contact him by phone with updates or problems. The insurance company also denied the Vocational Rehabilitation Plan for further education and computer training.

I spoke to my employer asking why they will not take my back with a modification to the job description; she told me that they cannot make exceptions or modifications for one person because they would have to do it for everyone. She said the only way they would let me come back to work was to have my doctor change the documentation to say that I had no limitations or restrictions; otherwise they will not accept me back because they see me as a liability.

I support HB 466 as the bill supports mutually agreed upon Independent Medical Evaluations. Being that I have been directly effected in a negative way by the IME by an employer selected doctor. I ask you to please be fair and allow honest doctors who are not being paid by the employer's insurance company, to perform an IME that has been mutually selected by the injured workers and their doctors. Passing this bill will help the workers compensation system

to facilitate recovery and proper treatment from the onset of the injury along with decreasing costs, secondary injuries, and debilitating trauma. I urge House Members to take these important measures into consideration and pass this bill. Thank you all for your time and consideration.

Sincerely,

Marylyn Sye, RN

My address and phone number is:

P.O. Box 61981

Honolulu, HI 96839

Phone # (808) 951-0229

LATE

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GENERAL CONTRACTORS ASSOCIATION OF HAWAII

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February 13, 2012

TO: HONORABLE SENATORS JOSH GREEN, CHAIR, CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON HEALTH

HONORABLE SENATORS CLAYTON HEE, CHAIR, MAILE SHIMABUKURO, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON JUDICIARY AND LABOR

SUBJECT: **STRONG OPPOSITION TO H.B. 466, HD3, 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. Appropriates unspecified funds. Effective January 1, 2030. Repealed on June 30, 2013. (HB466 HD3)

HEARING

DATE: Monday, February 13, 2012
TIME: 10:45 a.m.
PLACE: Conference Room 229

Dear Chairs Green and Hee, Vice Chairs Nishihara and Shimabukuro and Members:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary this year; GCA remains the largest construction association in the State of Hawaii. GCA is **strongly opposed** HB 466,HD3, Relating to Workers' Compensation.

This bill proposes to replace the existing employer requested examinations in workers compensation claims with another system that will, among other things, complicate the process further, require more staffing by the Department of Labor and Industrial Relations (DLIR) and allow the DLIR Director the ability to authorize one examiner over the other if the parties cannot agree.

GCA is opposed to this bill because it requires the selection of an IME physician by mutual agreement. This will add to compensation costs and delay the delivery of medical treatments in certain cases. The added costs and delays do not benefit either the employer or the injured worker. The Independent Medical Examination (IME) process is the employer's only safeguard

against abusive practices by an employee that may be taking advantage of his or her workers compensation benefits.

The GCA believes the current system works. We believe this legislation is unnecessary because most IMEs occur by mutual agreement absent any statute.

We respectfully urge these Committees to hold this measure.

Thank you for the opportunity to voice our views.

LATE



1654 South King Street
Honolulu, Hawaii 96826-2097
Telephone: (808) 941.0556
Fax: (808) 945.0019
Web site: www.hcul.org
Email: info@hcul.org



Testimony to the Senate Committees on Health and Judiciary and Labor
Monday, February 13, 2012

Testimony to HB 466 HD3, Relating to Workers' Compensation

To: The Honorable Clayton Hee, Chair
The Honorable Maile Shimabukuro, Vice-Chair
Members of the Committee on Judiciary and Labor

The Honorable Josh Green, MD, Chair
The Honorable Clarence Nishihara, Vice-Chair
Members of the Committee on Health

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 81 Hawaii credit unions, representing approximately 811,000 credit union members across the state. We are in opposition to HB 466 HD3, Relating to Workers' Compensation.

In today's challenging economic climate, it has become common practice for the injured workers and employers to amicably agree to independent medical examination (IME) physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will harm the entire 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 could result in fewer jobs, lower benefits, and decreased wages.

Thank you for the opportunity to testify in opposition.

LATE

The Alliance

*"Protecting Hawaii's
Economy and Preserving
Jobs"*

Native Hawaiian Chamber of
Commerce

Hawaii Restaurant Association

Hawaii Island Chamber of
Commerce

Kona-Kohala Chamber of
Commerce

Molokai Chamber of
Commerce

Associated Builders and
Contractors-Hawaii

Building Industry Association
of Hawaii

Honolulu Japanese Chamber
of Commerce

Kauai Chamber of Commerce

Hawaii Crop Improvement
Association

Japanese Chamber of
Commerce and Industry of
Hawaii

The Chamber of Commerce of
Hawaii

Hawaii Business Roundtable

National Federation of
Independent Business-Hawaii

Hawaii Automobile Dealers
Association

**Testimony to the Senate Committees on Health and
Judiciary & Labor**

Tuesday, February 13, 2012; 10:45 a.m.

Conference Room 229

Hawaii State Capitol

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

Chairs Green and Hee, Vice Chairs Nishihara and Shimabukuro,
and Members of the Committees:

The Alliance, a group of business organizations whose mission it is to protect Hawaii's economy and preserve jobs, opposes HB 466 HD3 and respectfully asks that the committees recognize the impact this measure will have on business.

HB 466 HD3 seeks to replace the existing employer requested examinations in workers compensation claims disputes with a new system for obtaining "independent medical examinations".

Under the bill, the claimant employee will have the right to reject the employer's choice of physician to scrutinize the treating physicians chosen course of treatment. If the claimant employee refuses to accept any of the employer's choices then the selection will be made by the Director of the Department of Labor and Industrial Relations from a list of "qualified physicians" licensed to practice medicine in the state where the claimant employee resides.

The Alliance opposes this bill.

First there is no consensus on the problem which the bill seeks to solve. The bill is based upon the erroneous presumption that employers routinely abuse their limited right to discovery through employer requested examinations. The employer requested examination results are subject to review and appeal by the employee and must be credible enough to withstand the scrutiny of the DLIR's review. For this reason and also since employers are only allowed one examination under most circumstances under the existing law, there is already strong incentive for the

employer to obtain a credible report on the first try.

Proponents of the bill have only offered scattered anecdotal evidence of such abuse. For the record, the Alliance objects to the inference that unethical and possibly illegal behavior is commonplace among Hawaii's employers. There is no evidence that abuse of employer requested examinations is common place in Hawaii.

In fact, it would be counter-productive for businesses to want employees not to return to work. Additionally, businesses genuinely care and do everything they can to create a positive work environment and provide benefits and assistance to employees, which are additional costs for business. This is an addition to the costs to comply with the various mandates and regulations. Employees are their asset

Nevertheless, the bill seeks to punish all employers on the theory that there are some employers who abuse this right. As a result, it creates added burdens to employers who seek to create jobs. Second the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates. Therefore it is likely to increase the cost of running a business and creating jobs, which add to the apprehension of investing in additional workforce due to today's economic climate.

Finally the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. This bill would give the claimant employee – likely at the advice of the treating physician – the opportunity to deny the employer that ability.

By all accounts, there are already significant delays in finding qualified physicians to conduct employer requested examinations. This bill is likely to aggravate those delays by creating an additional point in the proceedings to create additional conflict between employer and employee.

The Alliance respectfully request that you hold HB 466 HD3. Thank you for the opportunity to submit testimony.

The Testimony of Glenn Ida
Representing the Plumbers and Fitters, Local 675
1109 Bethel St., Lower Level
Honolulu, Hi. 96813

Sen. Josh Green, Chair
Sen. Clarence Nishihara, Vice-Chair
Committee on Health

Sen. Clayton Hee, Chair
Sen. Maile Shimabukuro, Vice-Chair
Committee on Judiciary

Monday, Feb. 13, 2012, at 10:45 AM.
State Capitol Conference Room 229

Re: Support of HB 466, HD3

Aloha, Chairs Green and Hee, Vice-Chairs Nishihara and Shimabukuro and Committee Members,

My name is Glenn Ida; I represent the 1300 plus active members and about 600 retirees of the Plumbers and Fitters Union, Local 675.

Local 675, supports HB 466, HD3, 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.

Local 675 believes that by requiring an independent Physician mutually agrees to by the employer and employee, to do the Medical and permanent impairment rating examinations will bring fairness and a sense of trust to this critical stage of the injured workers' return to work or having a permanent disability.

Therefore Local 675, Supports HB 466, HD3.

Thank you for this opportunity to testify.

Glenn Ida
808-295- 1280

TESTIMONY BEFORE THE SENATE

COMMITTEES ON HEALTH
Senator Josh Green, M.D. Chair
Senator Clarence K. Nishihara, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Monday, February 13, 2012
1:00 p.m.

HB 466, HD3
RELATING TO WORKERS' COMPENSATION

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

Chairs Green and Hee, Vice Chairs Nishihara and Shimabukuro, and Members of both Committees:

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

In any proceeding for the enforcement of a claim for compensation under the current statutes, employers already bear the burden of proof to present substantial evidence to the contrary. This bill only serves to add to this burden and handicaps the employer by mandating 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. This bill also serves to increase costs of doing business for employers.

The current statutes already 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. Permanent impairment rating examinations are currently performed by mutual agreement between parties, without any need for further legislation. In cases of dispute, this bill strips employers of their right to select who conducts the independent medical examination.

This bill further compromises the employers ability to use the IME to evaluate and manage claims because it also has the effect of shrinking the pool of physicians qualified

to perform the IME by limiting the amount of fees such physicians may charge, without regard to experience, specialty and qualifications.

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

Thank you for this opportunity to submit testimony.

Green4 - Mailene

From: njones@hawaii Realtors.com
Sent: Monday, February 13, 2012 8:16 AM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Nancy Donahue - Jones
Hawaii Association of Realtors (HAR)
Honolulu, HI 96816-3793

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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.

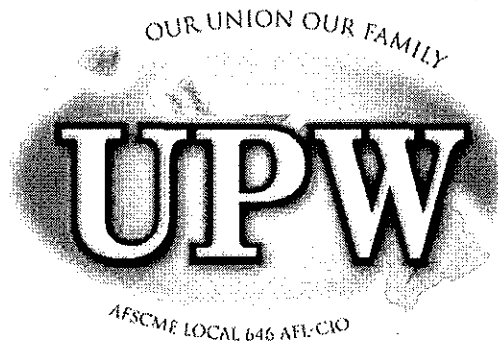
The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

I respectfully request that you hold this measure.

Sincerely,

Nancy Donahue - Jones
733-7060

LATE



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Sixth Legislature
Regular Session of 2012

COMMITTEE ON HEALTH

The Honorable Rep. Josh Green, M.D., Chair
The Honorable Rep. Clarence K. Nishhara, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

The Honorable Rep. Clayton Hee, Chair
The Honorable Rep. Maile S. L. Shimabukuro, Vice Chair

DATE OF HEARING: Monday, February 13, 2012
TIME OF HEARING: 1:00 p.m.
PLACE OF HEARING: Conference Room 229

TESTIMONY ON HB 466 HD3 RELATING TO WORKERS' COMPENSATION

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

UPW supports HB 466 HD3, 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.

Currently, employees have no input as to which doctor will perform the independent medical examination. This bill would allow the employee input, thus giving greater trust to the process. This

would also help in expediting the workers compensation claim that would save the employer and the insurance carrier added costs.

Thank you for the opportunity to testify on this measure.

February 13, 2012

Honorable Josh Green, Chair
Senate Committee on Health

Honorable Clayton Hee, Chair
Senate Committee on Judiciary and Labor

RE: HB 466, HD3 – Relating to Workers’ Compensation - Oppose
HTH/JDL Committees – Conference Room 229, 10:45 AM

Aloha Chairs Green and Hee, Vice Chairs Nishihara and Shimabukuro and members of the committees:

My name is Nona Tamanaha, Regional Director of Human Resources Starwood Hotel & Resorts, Hawaii & French Polynesia (“Starwood”). I am testifying on behalf of Starwood in opposition to HB 466 HD3 – Relating to Workers’ Compensation.

Starwood diligently works to foster a nurturing environment for our employees and are keenly attuned to their occupational and safety needs. We have safety programs in place which are a collaboration of leaders and associates. While the focus is always on awareness and prevention, injuries do at times occur and as an employer our interest is to insure the associate receives the care they need to return them to pre-injury status.

An independent medical examination (“IME”) occurs when a physician who has not previously been involved in person’s care examines an employee to determine the cause, extent and medical treatment of a work-related injury where liability is at issue. This entails a thorough and independent review of the employee’s medical records and a medical examination. It provides us with the ability to verify whether the injury is work related, whether the treatment is reasonable and whether the employee is able to return to work. As an employer, which covers 100% of the costs for the treatment for our employee, we are entitled to verify the extent of the injury.

If this bill is enacted, it will disrupt the manner in which workers’ compensation claims are managed and resolved for the employee and the employer because it makes it more difficult to obtain an IME. Our greatest concerns about the proposal are as follows:

- It limits our ability as an employer to utilize the IME process that is an essential part of the employers’ discovery process to ensure proper treatment and costs;
- It substantially increases the cost of claims and the cost of doing business in Hawaii;
- It mandates unrealistic time frames for a medical examination to occur;

- It becomes a disincentive for the limited pool of qualified physicians who are experienced in the rating guidelines; and
- If the Director must select a physician within seven days, it may result in examinations by physicians who are not familiar with particular issues or are lacking certain education, experience or specialty in the treatment of certain injuries.

None of these consequences are beneficial to the employee and to the employer.

In closing, this bill proposes to add more costs and another layer of administration to our industry which are overly burdensome.

For these reasons, we respectfully urge members of the committees to hold this bill.

Thank you for the opportunity to share our views on this matter.

Sincerely,

Nona Tamanaha
Regional Director of Human Resources
Starwood Hotel & Resorts -- Hawaii & French Polynesia



LATE

February 12, 2012

Representative Karl Roads, Chair
Committee on Labor and Public Employment
State of Hawaii
State Capitol, Room 016
Honolulu, HI 96813

RE: HOUSE BILL 466 HD3, RELATING TO WORKER'S COMPENSATION

Honorable Chair Roads, Vice Chair Yamashita, and members of the committee:

My name is Jenai Wall. I am the Chairman and CEO of Foodland Super Market, Ltd. We employ approximately 2,500 employees and are the only locally owned supermarket with stores statewide. I appreciate the opportunity to provide testimony, and respectfully convey my opposition to House Bill 466 HD3 relating to Worker's Compensation.

This measure requires independent medical examinations and permanent impairment rating examinations to be performed by mutually agreed upon physicians.

When selecting a physician to perform an IME, we work with our employees to identify physicians whose experience and specialty match the particular issues involved in the claim. Following this process allows us to determine if the injury is work related, whether medical treatment is reasonable and necessary and whether an employee is stable and ratable, but our main objective is to ensure that an employee receives the proper diagnosis for the injury. This process helps ensure treatment and timely recovery so employees may return to work. If we are required to mutually agree upon the physician who will perform the IME, then the selection will not likely be based on the appropriate experience and specialty of the physician. It will also take weeks to months to come to an agreement. In the interim, an employee may collect benefits resulting in overpayments or the process may be delayed for an employee who is not collecting benefits. Currently, our company and insurance carrier pay for 100% of the cost of the IME and thus we feel strongly that we should be able to select the IME physician.

The requirement of only allowing a licensed physician in Hawaii to perform an IME will limit the number of physicians available. As it will also affect the list of available qualified physicians from which the Director of the Department of Labor and Industrial Relations may select, the process will result in a back-log of IME's to be scheduled and will eventually impact an employee's ability to get the proper treatment and return to work.

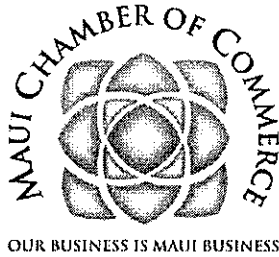
The passage of this measure will force our company to offset the increase in the cost of workers' compensation benefits and premium rates through a reduction in discretionary benefits and available jobs. During this uncertain state of the economy, this House Bill will hinder the economic progress of our State and will prove detrimental to our economic recovery.

In light of this, I respectfully request that this measure be held.

Thank you for the opportunity to submit testimony regarding House Bill No. 466. If you have any questions, please contact me at Foodland Super Market Ltd., 3536 Harding Avenue, Honolulu, HI 96816, or via phone at (808) 732-0791.

Sincerely,

Jenai Wall
Chairman and CEO
Foodland Super Market, Ltd.



LATE

February 13, 2012
Testimony to the Senate Committees on
Health and Judiciary and Labor
State Capitol, Conf. Room 229 at 10:45am

RE: OPPOSED TO HB 466 -- PROPOSED CHANGES TO WORKERS' COMPENSATION SYSTEM

Dear Chairs Green and Hee, Vice Chairs Nishihara and Shimabukuro, and Members of the Committees,

The Maui Chamber of Commerce on behalf of our membership opposes this measure relating to Workers' Compensation: independent medical examinations (IMEs).

Close to 90% of our members are small businesses with 25 or fewer employees. We do business in Maui, not Wall Street. Due to the recession and slow recovery, many are operating with far less employees than they did before and are struggling to keep up with rising costs. They simply need an environment where they can grow and thrive; not additional unnecessary mandates that will increase the cost of doing business and reduce their rights as this bill seeks to do by:

- Requiring the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the term "mutually agree" appears fair, it is not. It moves away from a more balanced system to one that will hurt employers.
- Replacing the existing employer requested examinations in work comp claims disputes with a new system for obtaining "IMEs". Under the bill, the claimant employee will have the right to reject the employer's choice of physician to scrutinize the treating physicians chosen course of treatment. If the claimant employee refuses to accept any of the employer's choices then the selection will be made by the Director of the Department of Labor from a list of "qualified physicians" licensed to practice medicine in the state where the claimant employee resides.

The IME process is an essential part of the employer's discovery process to ensure proper treatment and costs, which they and the insurance carrier bear 100% of the cost of. In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and the only tool an employer has to look into statutory presumption, excessive treatment, etc., that again, employers and insurance carriers bear 100% of the cost of.

Changing the process as proposed will:

- Limit an employer's fundamental rights;
- Substantially increase the cost of claims, which will raise the cost of doing business businesses, causing a negative domino affect;
- Turn a generally amicable agreement system into an adversarial one; and
- Negatively affect the quality of IMEs which are an important safeguard for employers.

This bill should die now as the impact on Hawaii's businesses has not been adequately weighed. We ask that you oppose this bill today!

Please contact me if I can answer any questions or provide you with additional information to help you better understand what our small businesses are up against and need to survive.

Sincerely,

Pamela Tumpap
President

LATE

Food Pantry

February 13, 2012

Representative Karl Roads, Chair
Committee on Labor and Public Employment
State of Hawaii
State Capitol, Room 016
Honolulu, HI 96813

RE: HOUSE BILL 466 HD3, RELATING TO WORKER'S COMPENSATION

Honorable Chair Roads, Vice Chair Yamashita, and members of the committee:

My name is Andrew Kawano. I am the Executive Vice President of Food Pantry, Ltd. We employ approximately 900 employees and are locally owned and operated. I appreciate the opportunity to provide testimony, and respectfully convey my opposition to House Bill 466 HD3 relating to Worker's Compensation.

This measure requires independent medical examinations and permanent Impairment rating examinations to be performed by mutually agreed upon physicians.

When selecting a physician to perform an IME, we work with our employees to identify physicians whose experience and specialty match the particular issues involved in the claim. Following this process allows us to determine if the injury is work related, whether medical treatment is reasonable and necessary and whether an employee is stable and ratable, but our main objective is to ensure that an employee receives the proper diagnosis for the injury. This process helps ensure treatment and timely recovery so employees may return to work. If we are required to mutually agree upon the physician who will perform the IME, then the selection will not likely be based on the appropriate experience and specialty of the physician. It will also take weeks to months to come to an agreement. In the interim, an employee may collect benefits resulting in overpayments or the process may be delayed for an employee who is not collecting benefits. Currently, our company and insurance carrier pay for 100% of the cost of the IME and thus we feel strongly that we should be able to select the IME physician.

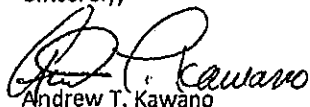
The requirement of only allowing a licensed physician in Hawaii to perform an IME will limit the number of physicians available. As it will also affect the list of available qualified physicians from which the Director of the Department of Labor and Industrial Relations may select, the process will result in a back-log of IME's to be scheduled and will eventually impact an employee's ability to get the proper treatment and return to work.

The passage of this measure will force our company to offset the increase in the cost of workers' compensation benefits and premium rates through a reduction in discretionary benefits and available jobs. During this uncertain state of the economy, this House Bill will hinder the economic progress of our State and will prove detrimental to our economic recovery.

In light of this, I respectfully request that this measure be held.

Thank you for the opportunity to submit testimony regarding House Bill No. 466. If you have any questions, please send correspondence to me at Food Pantry, Ltd., 3536 Harding Avenue, Ste. 500, Honolulu, HI 96816, or contact me via phone at (808) 732-0791.

Sincerely,



Andrew T. Kawano

Executive Vice President
Food Pantry, Ltd.

3536 Harding Avenue, Suite 500 • Honolulu, Hawaii 96816-2453 • Telephone: (808) 732-5515 • Fax: (808) 735-3841.

HB466 HD3**RELATING TO WORKERS' COMPENSATION**

**SHERI BRAUNTHAL
SENIOR MANAGER – HUMAN RESOURCES
HAWAIIAN TELCOM**

February 13, 2012

Chairs Green and Hee and members of the Committees:

I am Sheri Braunthal, testifying on behalf of Hawaiian Telcom on HB 466 HD3 – Relating to Workers' Compensation 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 State Department of Labor and Industrial Relations.

Hawaiian Telcom is opposed to this measure.

The language in HB 466 HD3 will greatly restrict the ability for all parties to benefit from the results of an Independent Medical Examination (IME). Restricting the number of the already limited amount of IME physicians currently available as well as reducing the timeframe in which the IME must be performed will result in accessibility issues and add unnecessary delays for both the injured worker as well as the employer. These restrictions would likely result in the inability for an IME to be performed at all.

An IME is used to objectively evaluate a claim to ensure proper medical treatment is being provided to the injured worker. As with any worker's compensation claim, the goal to resolve the claim is to ensure the injured worker receives the appropriate care and treatment that is needed in order for the injured worker to be able to return to work. The IME provides assurance for patient safety by validating the care and treatment being delivered.

Without an IME the injured worker may potentially be harmed as there have been instances where the IME has provided correction to the injured workers diagnosis and treatment thereby reducing the period of time to return to full duty. Employer Workers Compensation costs would also increase as the IME facilitates resolution of workers compensation claims by identifying when workers have reached maximum medical improvement.

Based on the aforementioned, Hawaiian Telcom respectfully requests that this measure be held. Thank you for the opportunity to testify.

LATE



February 12, 2012

Representative Karl Roads, Chair
Committee on Labor and Public Employment
State of Hawaii
State Capitol, Room 016
Honolulu, HI 96813

RE: HOUSE BILL 466 HD3, RELATING TO WORKER'S COMPENSATION

Honorable Chair Roads, Vice Chair Yamashita, and members of the committee:

My name is Kimberly Yoshimura. I am the Vice President of Operations for Coffee Pacific LLC the licensed franchisee for The Coffee Bean & Tea Leaf in Hawaii. We employ approximately 240 employees and operate 15 stores statewide. We are locally owned and operated. I appreciate the opportunity to provide testimony, and respectfully convey my opposition to House Bill 466 HD3 relating to Worker's Compensation.

This measure requires independent medical examinations and permanent impairment rating examinations to be performed by mutually agreed upon physicians.

When selecting a physician to perform an IME, we work with our employees to identify physicians whose experience and specialty match the particular issues involved in the claim. Following this process allows us to determine if the injury is work related, whether medical treatment is reasonable and necessary and whether an employee is stable and ratable, but our main objective is to ensure that an employee receives the proper diagnosis for the injury. This process helps ensure treatment and timely recovery so employees may return to work. If we are required to mutually agree upon the physician who will perform the IME, then the selection will not likely be based on the appropriate experience and specialty of the physician. It will also take weeks to months to come to an agreement. In the interim, an employee may collect benefits resulting in overpayments or the process may be delayed for an employee who is not collecting benefits. Currently, our company and insurance carrier pay for 100% of the cost of the IME and thus we feel strongly that we should be able to select the IME physician.

The requirement of only allowing a licensed physician in Hawaii to perform an IME will limit the number of physicians available. As it will also affect the list of available qualified physicians from which the Director of the Department of Labor and Industrial Relations may select, the process will result in a back-log of IME's to be scheduled and will eventually impact an employee's ability to get the proper treatment and return to work.

The passage of this measure will force our company to offset the increase in the cost of workers' compensation benefits and premium rates through a reduction in discretionary benefits and available jobs. During this uncertain state of the economy, this House Bill will hinder the economic progress of our State and will prove detrimental to our economic recovery.

In light of this, I respectfully request that this measure be held.

Thank you for the opportunity to submit testimony regarding House Bill No. 466. If you have any questions, please contact me at Coffee Pacific LLC, 3536 Harding Avenue, Honolulu, HI 96816, or via phone at (808) 735-7377.

Sincerely,

Kimberly H. Yoshimura
Vice President of Operations
Coffee Pacific LLC

Coffee Pacific LLC

3536 Harding Avenue, Suite 100 • Honolulu, Hawaii 96816
Phone: 808.735.7377 • Fax: 808.737.4583
www.coffeebeanhawaii.com

LATE



**Testimony to the Senate Committees on Health and Judiciary & Labor
Monday, February 13, 2012
10:45 a.m.
Conference Room 225**

OPPOSE

**RE: HOUSE BILL 466 HOUSE DRAFT 3 RELATING TO WORKERS'
COMPENSATION**

Chair Hee, Chair Green and Members of the Committees:

ProService Hawaii provides employee administration services to over 1,000 small businesses in Hawaii. Through our services, we manage the workers' compensation process for our clients, ensuring that our clients' employees receive the benefits to which they are entitled, and are able to return to work. We respectfully ask that you defer House Bill 466 House Draft 3 for the following reasons:

- 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 businesses have 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 business.
- Our company does our best to take care of our employees. They are an asset to our client companies, and it is in all of our interest that we have healthy and safe work environments.
- 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 30 days 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.
- Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

Again, we respectfully request that you defer this measure.

Thank you for the opportunity to submit testimony.



75-5737 Kuakini Hwy, Suite 208
Kailua-Kona, HI 96740
Phone: 329-1758 Fax: 329-8564
www.Kona-Kohala.com info@kona-kohala.com

Testimony to the Senate Committees on Health and Judiciary & Labor
Monday, February 13, 2012 at 10:45 am
Conference Room 229
State Capitol
415 South Beretania Street

RE: HOUSE BILL 466 HD3 Relating to Worker's Compensation

Dear Chairs Green and Hee, Vice Chairs Nichihara and Shimabukuro and Members of the Committees:

My name is Vivian Landrum, and I am the President/CEO of the Kona-Kohala Chamber of Commerce (KKCC). KKCC represents over 520 business members and is the leading business advocacy organization on the west side of Hawai'i Island. KKCC also actively works to enhance the environment, unique lifestyle and quality of life in West Hawai'i for both residents and visitors alike.

The Kona-Kohala Chamber of Commerce opposes HB 466 HD3.

First, the cost of doing business in Hawaii remains a challenge for all businesses, and this challenge is magnified for a small business owner. Most of my Chamber members are small business owners, of whom many are still struggling to regain their footing after the economic setbacks of the last few years. This bill adds yet another burden for the employer to bear; one that we question is really needed.

The new system requiring an "IME" with the employee right to reject the employer's choice of physician thus resulting in a selection made by the DLIR from a "qualified list of physicians" presents a particular challenge to Hawaii Island employers as our total list of practicing physicians is nominal at best. To wade through this process involves time and expense, both of which our employers are struggling to control. This bill adds to the cost of claims, thus resulting in another rise in the cost of doing business, thus creating a negative impact on our economic recovery.

I respectfully request you hold HB 466 HD3.

Mahalo for the opportunity to submit testimony.

Sincerely,

A handwritten signature in cursive script that reads 'Vivian Landrum'.

Vivian Landrum
President/CEO



888 Mililani Street, Suite 601
Honolulu, Hawaii 96813-2991

Telephone: 808.543.0000
Facsimile: 808.528.4059

www.hgea.org

The Twenty-Sixth Legislature, State of Hawaii
The Senate
Committee on Health
and
Committee on Judiciary and Labor

Testimony by
Hawaii Government Employees Association
February 13, 2012

H.B. 466, HD 3 – RELATING TO
WORKERS' COMPENSATION

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 466, HD 3. We believe that employees injured on the job deserve to be evaluated by an impartial physician selected with their agreement. As drafted, the bill provides a reasonable alternative to the selection of an impartial physician in the event no mutual agreement is reached.

Thank you for the opportunity to testify in support of H.B. 466, HD 3.

Respectfully submitted,

Leiomalama E. Desha
Deputy Executive Director

Green4 - Mailene

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2012 4:38 PM
To: HTHTestimony
Cc: debbie@mauicloset.com
Subject: Testimony for HB466 on 2/13/2012 10:45:00 AM

Testimony for HTH/JDL 2/13/2012 10:45:00 AM HB466

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: DEBRA FINKIEWICZ
Organization: THE MAUI CLOSET COMPANY
E-mail: debbie@mauicloset.com
Submitted on: 2/13/2012

Comments:

LATE

Green4 - Mailene

From: hisc146@cox.net
Sent: Sunday, February 12, 2012 6:31 AM
To: HTHTestimony
Subject: Please do not make business harder: oppose HB 466

Paul Dziuban
1600 Kapiolani Blvd. suite 212
Honolulu, HI 96814-3876

February 12, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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.

I have owned a business in California for over 15 years. As you know, the workers compensation system in California has been in shambles for many years and by passing HB 466 will take the state of Hawaii down the same path California has gone down which increases the cost of doing business and makes it harder to do business in the state of Hawaii. It will also increase the cost of workers compensation insurance for all business in the state, which in turns encourages the underground system. Every action on businesses effect something, and by encouraging the underground economy will reduce the amount of payroll taxes paid and income taxes paid because people will be working underground. This is bad for everyone including the consumer. Please appose this HB 466. Mahalo!

I respectfully request that you hold this measure.

Sincerely,

Paul Dziuban
8089440422

LATE

Green4 - Mailene

From: diane@island-realestate.com
Sent: Sunday, February 12, 2012 7:01 AM
To: HTHTestimony
Subject: Business cannot afford additional costs: please hold HB 466

Diane Swenson
P. O. Box 1979
Kaunakakai, HI 96748-1979

February 12, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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.

I respectfully request that you hold this measure.

Sincerely,

Diane Swenson
8083360085

Green4 - Mailene

From: bubbiesicecream@hawaii.rr.com
Sent: Sunday, February 12, 2012 10:11 AM
To: HTHTestimony
Subject: Please do not make business harder: oppose HB 466

Keith Robbins
Bubbies Homemade Ice Cream & Desserts Inc.
Aiea, HI 96701-3277

February 12, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

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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.

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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 30 days 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.

Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

I respectfully request that you hold this measure.

Sincerely,

Keith Robbins
487-7218

LATE

Green4 - Mailene

From: mrubenstein@royalstarhawaii.com
Sent: Sunday, February 12, 2012 3:16 PM
To: HTHTestimony
Subject: Hold HB 466

Marc Rubenstein
5 Sand Island Access Rd #121
HONOLULU, HI 96819-4907

February 12, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

I respectfully request that you hold this measure.

Sincerely,

Marc Rubenstein
8088326261

LATE

Green4 - Mailene

From: rhata@yhata.com
Sent: Sunday, February 12, 2012 7:01 PM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Russell Hata
285 Sand Island Access Road
Honolulu, HI 96819-2227

February 12, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

I trust my employees to do their best at all times. I trust them and take their word when they have an accident or injury that requires the aid of a physician and the use of workman compensation funds.

I believe my employees will be honest and truthful. These are not the people I worry about. There are always the few who take advantage of the system, who try to get something for nothing.

Through the decades I have seen a few employees take advantage of the system and hurt everyone in the organization through higher costs and additional workloads.

It is because of these few untrustworthy, selfish "bad apples" that we need to HOLD HB 466 HD3, and prevent it from passing into law.

As an employer in tough economic times, our focus is on serving our customers and survival, not on questioning an employee's integrity. But when we do suspect foul play, we need the ability to engage a physician that we know will be fair and honest. And we have to give him adequate time to make a fair, complete analysis and just decision.

For these and many more reasons of fair play, I urge our lawmakers to vote against HB 466 HD3.

I respectfully request that you hold this measure.

Sincerely,

Russell Hata
8084474176

Green4 - Mailene

From: darrel_tajima@deanfoods.com
Sent: Sunday, February 12, 2012 9:01 PM
To: HTHTestimony
Subject: Please do not change a balanced system: oppose HB 466

Darrel Tajima
P.O. Box 1880
Honolulu, HI 96805-1880

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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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 may 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.

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 30 days 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.

Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

I respectfully request that you hold this measure.

Sincerely,

Darrel Tajima
808-944-5958

Green4 - Mailene

From: hcmcoffee@msn.com
Sent: Sunday, February 12, 2012 9:01 PM
To: HTHTestimony
Subject: Please help business during these tough economic times: hold HB 466

Jeanette Baysa
P O Box 486
Kurtistown, HI 96760-0486

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

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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.

I respectfully request that you hold this measure.

Sincerely,

Jeanette Baysa
808-968-1333

Green4 - Mailene

From: lillian.sakane@hmshost.com
Sent: Monday, February 13, 2012 12:21 AM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Lillian Sakane
Box 30428
Honolulu, HI 96820-0428

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

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Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

I respectfully request that you hold this measure.

Sincerely,

Lillian Sakane
836-2566

LATE

To whom it may concern,

My name is Michelle Higgins-Mahe. I am an injured worker. I am in support of Bill HB466. Injured workers need to have a say in how, who and when their treatment occurs. I know from experience that the IME's is a one-sided and arbitrary exam that is controlled and conducted by the employer.

On the day of my exam the building that the doctor was located in had a fire and had to be evacuated. This meant that I had to walk down several flights of stairs. At the time my left knee was injured from my accident and my primary care physician (PCP) was refusing to address my complaints. I was forced to seek medical attention for my knee outside of workers compensation (WC) at the suggestion of my PCP for my WC injury. Please note that my left knee was eventually treated under WC due to the request of the surgeon that cared for me.

After walking down the stairs and waiting across the street in a park, the fire department allowed us back into the building. By this time my left knee had swelled to the point where there was no definition around my knee joint. Due to overwhelming pain and discomfort during the IME all of the assessments were not done. On the full report completed by the IME doctor there were values for all assessments even for the ones that were not assessed.

The IME doctor was concerned about the condition of my knee and sent me for x-rays that very day. In his report he did not mention the condition of my knee or the fact that he sent me for x-rays.

I was sent for an IME before my knee surgery and the IME physician based his opinion on the Functional Capacity Examination (FCE) that was done previously. Please note that I have two copies of this FCE both with different dates and different values regarding my abilities to perform various tasks. It is with the FCE that has the greater values that the IME physician assessed and rated me.

My IME and FCE were done before my left knee surgery, where they found two meniscal tears and subsequently had to do a lateral release (cut the ligament). Both documents exhibited fictitious values. I have no recourse as it is their word against mine because they do not allow anyone to be in the room with you, nor do they allow videotaping of the assessments.

I am a victim of the IME nightmare and it has affected every aspect of my life. Due to their prejudiced and fictitious assessments I have been denied treatment, therapies, medications and been terminated from my job. I am now being forced to look for work at a medium duty level due to the IME and FCE rating. My PCP doctor rates me as sedentary.

Bill HS466 will stop the practice of IME physicians producing IME documents that are biased and fraudulent. The IME companies base their income on revenue from a limited number of insurers and companies. If they do not complete IME reports the way their employers request,

LATE

George M. Waialeale
910 Kapahulu Avenue #703
Honolulu, Hawaii 96816
Email: geedubbyou@aol.com
Phone: (808) 383-0436

February 13, 2012

Committee on Health

Committee on Judiciary and Labor

HB 466 HD3 Relating to Workers' Compensation

I am testifying in support of HB 466 HD3. This bill 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 DLIR director.

I believe that a mutual agreement of an IME physician between the employer and the employee is the fairest way to insure impartial evaluation. Disability and impairment ratings must be done in the impartial manner to be truly independent.

The passage of this mutually agreed IME bill (HB466 HD3) will benefit both the injured workers and their employer.

I ask for your passage of this legislation.

George Waialeale

Green4 - Mailene

From: kari.butterton@mydestination.com
Sent: Monday, February 13, 2012 5:46 AM
To: HTHTestimony
Subject: Please help business during these tough economic times: hold HB 466

Kari Butterton
2223 Iunaliki
Honolulu, HI 96823

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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.

I respectfully request that you hold this measure.

Sincerely,

Kari Butterton

Green4 - Mailene

From: tmevans@westaff.com
Sent: Monday, February 13, 2012 8:01 AM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Tricia Evans
900 Fort Street Mall, Suite 965
Honolulu, HI 96813-3717

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

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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.

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 30 days 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.

Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

I respectfully request that you hold this measure.

Sincerely,

Tricia M.K. Evans
808.524.0411

Green4 - Mailene

From: bob.hester@hyatt.com
Sent: Monday, February 13, 2012 8:06 AM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Bob Hester
2424 Kalakaua Ave
Honolulu, HI 96815-3233

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

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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.

I respectfully request that you hold this measure.

Sincerely,

Bob Hester
808-237-6185

Green4 - Mailene

From: s.matsumoto@shs-hi.com
Sent: Monday, February 13, 2012 8:26 AM
To: HTHTestimony
Subject: Please do not hurt small businesses: hold HB 466

Shinichi Matsumoto
180 Kinooole St, Suite 204
Hilo, HI 96720-2827

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

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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.

I respectfully request that you hold this measure.

Sincerely,

Shinichi Matsumoto
8089909400

LATE

Green4 - Mailene

From: kken116@aol.com
Sent: Monday, February 13, 2012 8:56 AM
To: HTHTestimony
Subject: Please do not change a balanced system: oppose HB 466

Kraig Kennedy
PO Box 210
Honolulu, HI 96810-0210

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

I am President of McCabe Hamilton and Renny and I firmly believe that if you limit our ability to conduct the IME physician selection and process, you will cripple our ability to control Workers' Compensation costs.

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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Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

Thank you for the opportunity to submit testimony.

I respectfully request that you hold this measure.

Sincerely,

Kraig M. Kennedy
524-3255

Green4 - Mailene

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2012 9:42 AM
To: HTHTestimony
Cc: kelly.soldwisch@vacationclub.com
Subject: Testimony for HB466 on 2/13/2012 10:45:00 AM

Testimony for HTH/JDL 2/13/2012 10:45:00 AM HB466

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kelly Soldwisch

Organization: Individual

E-mail: kelly.soldwisch@vacationclub.com Submitted on: 2/13/2012

Comments:

Aloha and thank you for hearing my testimony. I oppose HB 466 and ask that you not advance the bill or at least continue the discussion in order to consider the serious implications of imposing the bill on both employers and employees. As an HR professional, I and my colleagues have the best interests of the employee at heart and understand the importance of balancing the needs of the business with those of our employees.

Green4 - Mailene

From: tleong@kualoa.com
Sent: Monday, February 13, 2012 9:51 AM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Timon Leong
PO Box 650
Kaaawa, HI 96730-0650

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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 30 days 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.

Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

I respectfully request that you hold this measure.

Sincerely,

Timon Leong

From: manager@campmokuleia.com
Sent: Monday, February 13, 2012 10:16 AM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Debbie Alameida
68-729 Farrington Hwy
Waialua, HI 96791-8333

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

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Sincerely,

Debbie Alameida

Green4 - Mailene

From: hr@honblue.com
Sent: Monday, February 13, 2012 10:16 AM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Joy Yee
501 Sumner St. #3B1
Honolulu, HI 96817-5331

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

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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.

I respectfully request that you hold this measure.

Sincerely,

Joy Yee

From: marketing@campmokuleia.com
Sent: Monday, February 13, 2012 10:31 AM
To: HTHTestimony
Subject: Please do not hurt small businesses: hold HB 466

Christine Mata
68-729 Farrington Hwy
Waialua, HI 96791-8333

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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.

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 30 days 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.

Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

I respectfully request that you hold this measure.

Sincerely,

Christine Mata
8086376241

From: jeffreyalameida@gmail.com
Sent: Monday, February 13, 2012 10:31 AM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Jeffrey Alameida
68-315 Crozier Drive
Waialua, HI 96791-8311

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

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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 30 days 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.

Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

I respectfully request that you hold this measure.

Sincerely,

Jeffrey Alameida
808-375-6219

Green4 - Mailene

From: kahubt@gmail.com
Sent: Monday, February 13, 2012 10:46 AM
To: HTHTestimony
Subject: Business cannot afford additional costs: please hold HB 466

David Turner
68-729 Farrington Hwy
Waialua, HI 96791-8333

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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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.

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

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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.

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

Because there are so few IME physicians, mandating the exam within 30 days 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.

Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

I respectfully request that you hold this measure.

Sincerely,

David Turner
637-6241

From: info@myhighwayinn.com
Sent: Monday, February 13, 2012 10:46 AM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Monica Toguchi
94-226 Leoku Street
Waipahu, HI 96797-1919

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

My name is Monica Toguchi and my company is Highway Inn. It is unfortunate that I am unable to personally testify at today's hearing due to a planned food safety training for my staff this morning.

As you are probably aware; attending hearings is quite a challenge for small business owners. We have a voice (the Chamber of Commerce of Hawaii), but often must personally use our time to manage operations, our staff, pay our taxes, and ensure we meet all the government regulations imposed upon the already high cost of doing business. This bill represents another wrong solution at the wrong time.

Similar to our welfare and unemployment system - many of our bills are well intended but become exploited by a few. This bill is another example which is not only unfair and imbalanced, but has the potential to allow gross exploitation of a system which is ALREADY working: It HURTS everyone except those who chose to abuse the system (again, think welfare, unemployment).

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. As lawmakers, it is the responsibility of fairness in the system that should be driving this decision - not a few one-sided case examples.

This 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, Highway Inn. I'm already struggling with many of the

expenses and costs to comply with many government imposed mandates and regulations (if this sounds repetitive, it's because that's how most businesses feel every session when we're trying to keep and grow jobs, and expand our companies).

Our company does our best to take care of the employees. That's why we've been in business for 65 years. At Highway Inn, we know our employees are an asset to the company and we make sure to have a healthy and safe work environment. In fact, we have worked hard to remain a safe working environment and have been injury free for the past 3 years - but all it takes is one employee to grossly take advantage of the system. In fact, we had an employee like this several years ago and this person dramatically drove up our workers' comp insurance to the point where we were almost un-insurable. Yes, it only takes one employee to ruin a company and threaten the lives of other employees.

We provide various benefits that we can afford to continue staying in business, 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 for everyone else.

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 30 days 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.

Other requirements such as mandating IME physicians be licensed in Hawaii and have been licensed for 5 consecutive years prior to the exam only shrinks the pool of IME physicians.

In summary, our current system to address the problem is working, and this bill only serves to reduce employers' rights to due process and allows further exploitation by a few.

I respectfully request that you hold this measure.

Sincerely,

Monica Toguchi

Green4 - Mailene

From: tomy@laserbarcode.com
Sent: Monday, February 13, 2012 10:46 AM
To: HTHTestimony
Subject: Business cannot afford additional costs: please hold HB 466

Thomas Yokoyama
1314 S. King St., Suite 424
Honolulu, HI 96814-1939

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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.

I respectfully request that you hold this measure.

Sincerely,

Thomas M. Yokoyama
808-591-0031

Green4 - Mailene

From: cai@citymill.com
Sent: Monday, February 13, 2012 11:01 AM
To: HTHTestimony
Subject: Please do not change a balanced system: oppose HB 466

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

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

My name is Carol Ai May and I am the Vice President and Owner of City Mill, which has 8 retail store locations on Oahu and employs approximately 450 local residents. We oppose HB 466.

The local economy is not that strong and with the increase in competition, it has been a difficult past few years. We don't need more regulations for our medium size business. Although we are 113 years old and one of the oldest kamaaina firms in the state, we are facing challenging times. Our longevity does not guarantee future success and we are doing everything in our power to increase revenue and cut down on expenses.

We have a great work comp track record and we work VERY hard at keeping our work environment safe. We should not be penalized because there are some do not. We are a "Best Place to Work" for 5 years now and we provide generous benefits and a great working environment. Any change will force us to restructure our benefits package.

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.

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 add any mandates or regulations to businesses. It is already difficult to do business in Hawaii. This is our home and the home to our business. We are not located anywhere else in the United States and cannot relocate if doing business in Hawaii becomes too onerous.

Thank you.
Carol Ai May

I respectfully request that you hold this measure.

Sincerely,

Carol Ai May
8085295806

Green4 - Mailene

From: cymurata@hawaiiantel.net
Sent: Monday, February 13, 2012 12:51 PM
To: HTHTestimony
Subject: Please do not impose additional costs on business: hold HB 466

Clarence Murata
66-210 Kamehameha Hwy., Ste A
Haleiwa, HI 96712-2408

February 13, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

Pleas do not pass HB466. The cost of running a small business is already too high.

I respectfully request that you hold this measure.

Sincerely,

Clarence Murata
637-5048

I am opposed to HB 466 HD 3 as it will lead to higher workers' compensation costs and ultimately result in higher workmen's compensation insurance premiums.

I employ about 30 workers and have been in business since 1981. The cost of workmen's compensation insurance continues to escalate as the Hawaii State Department of Commerce and Consumer Affairs recently approved a 3.6% loss cost increase which means that our compensation claims now costs an insurance company more than the premiums collected. I am considering reducing the size of my business to reduce number of workers due to the added burden in what has been a difficult economy since 2008.

I am also concerned that the passage of this Bill will be to restrict my ability as an employer to obtain an IME . This has been the most effective way to rebut a claim or end treatment when warranted. As an employer and taxpayer for over thirty years, I do not feel I am being treated fairly.

Thank you for the consideration of my testimony.



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 Health
Sen. Josh Green, M.D. Chair
Sen. Clarence K. Nishihara, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR
Sen. Clayton Hee, Chair
Sen. Maile S.L. Shimabukuro, Vic Chair

DATE: Monday, Feb. 13, 2012
TIME: 10:45
PLACE: CR 229

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

Testimony for HTH/JDL 2/13/2012 10:45:00 AM HB466

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Judith Jennet

Organization: Individual

E-mail: jjennet@hawaii oceansports.com

Submitted on: 2/11/2012

Comments:

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

February 11, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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.

There is a pattern of continued financial burdens being placed on small businesses in Hawaii in the form of additional fees, regulations, policies, and taxes, that taken separately seem to have a "minor" impact on us small business owners; but when added up and taken as a whole, the impact becomes increasingly burdensome, to the point where we have to review our business, employment, and ops plans to see if we can continue.

I am currently assessing my business plan to see if I can afford to stay in business by cutting back hours and reducing fixed costs, while reading about the possible increases in withholding, payroll, medical, GET and other taxes.

Please don't pass this legislation, it will negatively impact our hiring and growth plans as another nail in the coffin.

Regards,

I respectfully request that you hold this measure.

Sincerely,

Robert Ivanoff
808 529 8888

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

February 11, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

I am a small property management and real estate businessman employing eight people in Kailua. The real estate business has been terrible and we working on very slim margins.

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.

I am not sure whether you are trying to help people or sink or small business community. One thing for sure is that when you sink us, which you will surely do with these poorly considered initiatives, you will kill our ability to employ the eight people we are supporting now. Please don't be afraid to do what's right. Stop making it so hard to survive as a Small Businessman on Oahu.

I respectfully request that you hold this measure.

Sincerely,

Jerry Bangerter
808-738-9333

Debra Pompadur
47-388 Kamehameha Hwy
Kaneohe, HI 96744-4736

February 11, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February
13, 2012
10:45 a.m.
Room 225

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HD 3.

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.

I respectfully request that you hold this measure.

Sincerely,

Debra Pompadur
808-239-6599

James Karins
2800 Woodlawn Dr., Suite 141
Honolulu, HI 96822-1864

February 11, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

My name is James Karins and I am the President and CEO of Pukoa Scientific, a technology company located in Manoa.

I ask you to consider yourselves the physicians of the economy and your patients are the businesses that provide jobs and tax revenues to the state. As such consider the equivalent Hypocratic oath and Do No Harm to Economy.

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. With only 5 employees almost 40% of our effort is related to compliance and reporting.

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.

I respectfully request that you hold this measure.

Sincerely,

James Karins
4076944485

Terry Tatsugawa
73-4854 KANALANI ST
KAILUA-KONA, HI 96740-2609

February 11, 2012

Chairs Green and Hee and Members of the Committee

Dear Chairs Green and Hee and Members of the Committee:

Testimony to the Senate Health and Judiciary and Labor Committees Monday, February 13, 2012
10:45 a.m.
Room 225

Please take into consideration the unfairness of this measure to business and hold HB 466 HD 3.

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.

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.

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

Because there are so few IME physicians, mandating the exam within 30 days 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.

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I respectfully request that you hold this measure.

Sincerely,

Terry Tatsugawa
808.326.2768

Roberta Chu
478 Kipuni Street
Hilo, HI 96720-6009

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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 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 30 days 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.

Private businesses are burdened enough with added costs due to rising energy, fuel, shipping and other costs. This bill will force employers to reduce staff in order to stay in business.

Please do not impose additional costs on businesses.

I respectfully request that you hold this measure.

Sincerely,

Roberta Chu

Guin Caracol
841 Bishop St #103
Honolulu, HI 96813-3915

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Sincerely,

Guin Caracol
808 371-9333

Lawrence Swenson
8794 Kamehameha V Hwy
Kaunakakai, HI 96748

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Sincerely,

Lawrence Swenson
8085588394

Green4 - Mailene

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 09, 2012 3:54 PM
To: HTHTestimony
Cc: caldwell@mauiclassiccharters.com
Subject: Testimony for HB466 on 2/13/2012 10:45:00 AM

Testimony for HTH/JDL 2/13/2012 10:45:00 AM HB466

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Mary Jane Caldwell

Organization: Maui Classic Charters

E-mail: caldwell@mauiclassiccharters.com Submitted on: 2/9/2012

Comments: