

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
DIRECTOR

LEILA A. KAGAWA
DEPUTY DIRECTOR

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

February 11, 2013

**TESTIMONY TO THE
HOUSE COMMITTEE ON FINANCE**

For Hearing on Wednesday, February 13, 2013
2:00 p.m., Conference Room 308

BY

BARBARA A. KRIEG
DIRECTOR

House Bill No. 436, H.D. 1
Relating to Workers' Compensation

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON SYLVIA LUKE AND MEMBERS OF THE COMMITTEE:

The purpose of H.B. 436, H.D. 1, is to require that a workers' compensation impartial exam be conducted by a doctor whose specialty is appropriate for the injury to be examined.

The Department of Human Resources Development (DHRD) takes **no position** on this bill provided the proposed amendment is limited to Section 386-80, Hawaii Revised Statutes. As presently constituted, this bill would not impact the general fund appropriation to DHRD to pay workers' compensation claims filed by employees of the State executive branch.

Thank you for the opportunity to provide testimony on H.B. 436, H.D. 1.

The Twenty-Seventh Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Finance

Testimony by
Hawaii State AFL-CIO
February 13, 2013

H.B. 436, HD1 – RELATING TO
WORKERS' COMPENSATION

The Hawaii State AFL-CIO supports H.B. 436, HD1 which requires that a workers' compensation impartial exam be conducted by a doctor whose specialty is appropriate for the injury to be examined.

We feel it is important that a doctor completely understand the nature of an injury for workers' compensation patients. For example, a patient with a broken bone should be examined by an orthopedic doctor. This seems only logical and should help provide more accurate examinations and additional trust by the patient.

Thank you for the opportunity to testify.

Respectfully submitted,

Jason Bradshaw
COPE Director

HB436

Submitted on: 2/12/2013

Testimony for FIN on Feb 13, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Robert S Harvey, M.D.	Individual	Support	No

Comments: I am in support of HB436 HD1. I am an Orthopaedic Surgeon here in Hawaii. I have seen errors by non specialist evaluators which have resulted in diagnostic errors and poor patient outcomes with no resolution for both employers and patients. Thank you Robert S. Harvey, M.D. 270 Hookahi Street #308 Wailuku, Maui, HI 96793

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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

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

February 13, 2013

To: The Honorable Sylvia Luke, Chair,
The Honorable Scott Y. Nishimoto, Vice Chair,
The Honorable Aaron Ling Johanson, Vice Chair, and
Members of the House Committee on Finance

Date: Wednesday, February 13, 2013
Time: 2:00 p.m.
Place: Conference Room 308, State Capitol

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

Re: H.B. No. 436 H.D. 1 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 436 H.D. 1 proposes to amend Section 386-80, Hawaii Revised Statutes (HRS), which relates to qualified impartial physicians appointed by the director, by proposing that the specialty of the physician is appropriate to the injury being examined.

The Department supports this measure.

II. CURRENT LAW

Currently, Section 386-80, HRS, does not specify that a physician appointed by the director to be a physician whose specialty is appropriate for the injury being examined.

III. COMMENTS ON THE HOUSE BILL

Qualifying the specialty of the physician will ensure that the claimant will be examined by a physician knowledgeable in the injury of the claimant.

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair
Rep. Scott Nishimoto, Vice Chair
Rep. Aaron Johanson, Vice Chair

Date: Wednesday, February 13, 2013

Time: 2:00 p.m.

Place: Conference Room 308, State Capitol

TESTIMONY OF ILWU LOCAL 142 RE: HB 436, H.D.1
RELATING TO WORKERS' COMPENSATION

Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson Members of the Committee on Finance:

Thank you for the opportunity to present testimony re: HB 436, H.D. 1. We support this bill. At times, physicians present opinions and testimony far beyond the actual fields of training and expertise. A physician specializing in Internal Medicine, for example, may give commentary on matters involving rheumatology, neurology and immunology that are far beyond the proper boundaries of his knowledge and expertise.

HB 436, H.D. 1 offers a modest corrective to this overreaching by confining physicians retained under Section 386-80 HRS to those “whose specialty is appropriate for the injury being examined.” We therefore support this bill.

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

February 12, 2013

VIA ELECTRONIC MAIL

TO: Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
Rep. Aaron Ling Johanson, Vice Chair
and Members of the Committee on Finance

DATE: Wednesday, February 13, 2013
TIME: 2:00 p.m.
PLACE: Conference Room 308, State Capitol
415 South Beretania Street

FROM: Hawaii Injured Workers Association
715 S. King Street, Suite 410
Honolulu, HI 96813

**Re: HB 436, HD1 Relating to Workers' Compensation
Strong Support with Suggestion**

CURRENT LAW

Currently, the law provides that an employer designated examination can be ordered by petitioning the Director of Labor and Industrial Relations (Director) pursuant to subsection 386-79, Hawaii Revised Statutes. Whether they have certification to perform examinations should be deemed irrelevant. We have regular physicians with no specialty who are certified addressing complicated injuries. This practice must end. Anyone can take a course to get certified as an examiner and then become a "jack of all trades" which is the current practice in workers' compensation system except for rare and unique cases.

SUGGESTION

The current language uses the word "may." This should be changed to "shall" to ensure that the Director is able to force the used of a specialist.

DISCUSSION

The Hawaii Injured Workers Association (HIWA) strongly supports HB 436, HD 1, which should require a duly qualified physician who is a specialist to conduct an impartial examination in the proper cases. This is logical and makes absolute sense since a specialist is in the best position to determine what is needed for a particular unique injury.

This bill also highlights a bigger problem that the lack of reimbursement rates for charges for medical services has driven specialists out of the practice in the workers' compensation field. In this regard, we do have a bill, HB 152, which attempts to increase the reimbursement rates from 110% of Medicare to 130% of Medicare charges. The Legislature cannot view specific bills proposed in a vacuum. It is time to revisit an overhaul of the Workers' Compensation Law.

If specialists are unwilling to participate in the workers' compensation process because of the requirements and limitations that may be imposed, the passage of the bill does very little to alleviate the problem now confronting injured workers as well as employers and insurance carriers. HIWA also suspects that specialists are more likely to be neutral and not be beholden to employers and insurance carriers, resulting in a more honest outcome.

We do need to have some special process to properly compensate specialists when performing such examinations. Obviously, they make much more money in their practices as specialists rather than the limited amounts that may be paid by certain carriers. On the flip side, we have the abusive physicians in the independent medical examination (IME) process, or more appropriately called the employer designated physicians who get so highly paid that they are beholden to an employer or insurance carrier.

For the foregoing reasons HIWA fully endorses the passage of HB 436, HD 1 with the suggested amendment in language from "may" to "shall."

Hawaii Injured Workers Association

715 S. King Street, Suite 410
Honolulu, HI 96813

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

February 12, 2013

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Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

To: The Honorable Sylvia Luke, Chair
House Committee on Finance

From: Mark Sektnan, Vice President

Re: HB 436 HD1 - Workers' Compensation: Examinations
PCI Position: Oppose

Date: Wednesday, February 13, 2013
2:00 P.M., Conference Room 308

Aloha Chair Luke and Members of the Committee:

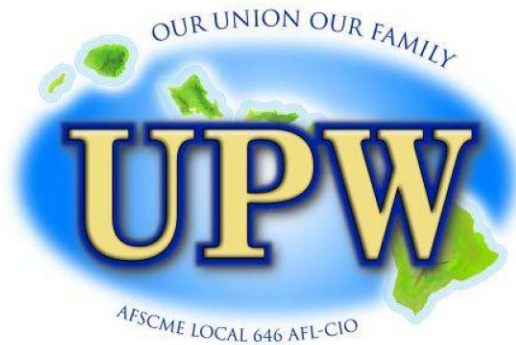
The Property Casualty Insurers Association of America (PCI) respectfully opposes HB 436 HD1 which would require that a workers' compensation impartial examination be conducted by a doctor whose specialty is appropriate for the injury to be examined. While this bill appears to be beneficial, its passage could significantly limit the availability of impartial physicians.

Many physicians who currently perform such exams have significant background and experience in examining and rating other body regions and body parts outside of their Board Certified Specialty. This bill could limit these examinations to only those physicians who have working within their board certified specialty. Such action could restrict the number of physicians who can perform these examinations and result in long delays for injured worker seeking to resolve their medical issues.

HB 436 HD1 could have another unintended impact by opening up the field for medical providers to perform medical reviews that are unfamiliar with the Guides to the Evaluation of Permanent Impairment, Fifth Edition and therefore could likely result in higher, inappropriate, impairment ratings which could lead to higher disability awards and other negative factors. This could very likely increase the cost of workers' compensation insurance in Hawaii.

In addition, the potential impact of this legislation must be viewed in light of other workers' compensation bills pending before the Legislature. This bill could open up another arena of disputes over the accuracy of these medical examinations and final reports. PCI would recommend these bills be studied together to help inform the Legislature of the collective impact of all of the various measures.

For these reasons, we urge the committee to hold the bill in committee.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Seventh Legislature
Regular Session of 2013

COMMITTEE ON FINANCE

The Honorable Rep. Sylvia Luke, Chair
The Honorable Rep. Scott Nishimoto, Vice Chair
The Honorable Rep. Aaron Ling Johanson, Vice Chair

DATE OF HEARING: Wednesday, February 13, 2013

TIME OF HEARING: 2 p.m.

PLACE OF HEARING: Conference Room 308

TESTIMONY ON HB436 HD1 RELATING TO WORKERS' COMPENSATION

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

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.

The UPW supports HB436 HD1 that requires a workers' compensation impartial examination be conducted by a doctor whose specialty is appropriate for the injury to be examined.

This measure provides for a more accurate examination as to the wellness of the worker and will benefit both the employee and employer.

Thank you for the opportunity to testify on this measure.