



HAWAII MEDICAL ASSOCIATION

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Wednesday, 13th February, 2013
2:00 p.m.
Conference Room 308

LATE TESTIMONY

To: COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
Rep. Aaron Ling Johanson, Vice Chair

From: Hawaii Medical Association
Dr. Steven Kemble, MD, President
Dr. 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: HI 436 HD1 RELATING TO WORKERS' COMPENSATION

In Support.

The Hawaii Medical Association agrees with the legislature that it is important to require a workers' compensation impartial exam to be conducted by a doctor whose specialty is appropriate for the injury to be examined.

We urge you to pass this bill.

Thank you for introducing this bill and for the opportunity to provide testimony.

OFFICERS

PRESIDENT - STEPHEN KEMBLE, MD **PRESIDENT-ELECT - WALTON SHIM, MD**
SECRETARY - THOMAS KOSASA, MD **IMMEDIATE PAST PRESIDENT - ROGER KIMURA, MD**
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LATE TESTIMONY

February 12, 2013

Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: HB436 HD1 Relating to Workers' Compensation

Dear Sir or Madam:

My name is Brian Mihara MD, and I oppose bill HB436 HD1. Independent medical evaluations (IMEs) are an important part of the workers' compensation system, and serve to provide guidance on appropriate treatment, disability, and permanent impairment. They help in moving cases forward, and provide guidance for ultimate settlements of cases. The system is already bogged down due to a relative scarcity of MDs willing to perform these evaluations. The work is tedious and often contentious, with either side often not happy with your best, honest opinion. The proposed bill would only serve to slow down the workers' compensation system further, adding significantly to costs. Proponents of the bill would have you believe that the current system is without oversight, with the insurance companies using unqualified MDs to render one sided biased opinions. *This is simply not close to the truth.* In reality, I, like most of the doctors who perform these evaluations, am specially trained and certified to carry out these evaluations. The American Board of Independent Medical Evaluators (ABIME) requires special training and passage of a written test, to become certified. You take an oath to perform these in an impartial, objective fashion. For the skeptics out there, the Department of Labor reviews virtually all of these reports, while looking out for employee rights, as is its function. The employees of the Department of Labor are not gullible or naïve, and they know the difference between conscientious, well supported evaluations, and opinions manufactured out of thin air. Additionally, MDs are potentially subject to legal action if they provide opinions in bad faith. In 27 years of practice in Hawaii, I have personally treated thousands of injured workers, am ABIME certified, and I have performed IMEs for over a decade. Ironically, the proposed bill would probably prevent me from performing IME evaluations, under the premise that I am somehow not qualified. The premise of the bill is that only orthopedic doctors should give opinions on musculoskeletal problems, implying that doctors have a severely limited understanding of medicine outside of a very restricted area. This is disturbingly misleading. ABIME certification carries with it an understanding that the doctor has demonstrated proficiency in carrying out these evaluations, according to the legal standard in this state (The AMA Guides to the Evaluation of Permanent Impairment, 5th Edition). This involves proficiency in multiple body

systems, with emphasis on the musculoskeletal system (90% of work related injuries). Additionally, the Department of Labor is quick to point out when they feel an opinion is outside of an evaluator's area of expertise. They will simply not give any credence to a report that they do not feel is adequately supported. The point is, the current system does have its multiple checks and balances. This bill would serve to severely limit the available doctors who could perform this work, thereby bringing evaluations to a standstill, and enabling a very small minority to avoid unwanted scrutiny. The Department of Labor exists for a reason, and they and the legal system ensure that IMEs are carried out in a responsible fashion. Thank you for your time, and I apologize that I could not testify in person due to scheduling conflicts. Please call my office at 591-2020 if you have any questions. I would be happy to meet with you individually or collectively.

Respectfully,
Brian Y. Mihara, MD

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LATE TESTIMONY

HB436

Submitted on: 2/13/2013

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

Submitted By	Organization	Testifier Position	Present at Hearing
Clayton Everline MD FACP	Individual	Support	No

Comments: As a professor in medicine at JABSOM it is almost embarrassing to introduce students to the notion of IME denying prudent medical care. To have it denied by someone not trained in the same specialty adds insult to injury Clayton Everline, MD, FACP Author of Surf Survival <http://www.amazon.com/gp/aw/d/1616083182> Director of Ocean Sports Medicine: Work*Star Diplomate in Sports Medicine and Internal Medicine Fellow of the American College of Physicians Fellow of the Academy of Wilderness Medicine Clinical Assistant Professor of Medicine: University of Hawaii John A Burns School of Medicine and A.T. Still University Clinical Assistant Professor of Orthopaedic Surgery Seton Hall University School of Health and Medical Sciences Strength and Conditioning Specialist (CSCS)

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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