

**Testimony to the House Committee on Finance
Monday, February 25, 2013 at 11:00 A.M.
Conference Room 308, State Capitol
Agenda #1**

LATE

RE: HOUSE BILL 437 RELATING TO WORKERS' COMPENSATION

Chair Luke, Vice Chairs Nishimoto and Johanson, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") opposes HB 437. We respectfully ask that the committee recognizes the impact this measure will have on businesses and their employees.

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

HB 437 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 evaluate 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 Chamber opposes this bill for the following reasons.

First, 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.

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 already high cost of running a business and will force some to reevaluate their benefit structure due to today's economic climate. It creates added burdens to employers who seek to create jobs. Small businesses especially are more vulnerable to any increase as they operate on slim margins.

Third, 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 results of these examinations are subject to review and appeal by the employee and must be credible enough to withstand the scrutiny of 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 a strong incentive for the employer to obtain a credible report on the first try. The burden of proof rests squarely on the employer.

Nevertheless, the bill seeks to punish all employers on the assumption that there are some employers who abuse this right. Furthermore, as we heard from some companies, they have seen "some take advantage of the system and hurt everyone in the organization through higher costs and additional workloads on their fellow employees."

Proponents of the bill have only offered scattered anecdotal evidence of such abuse. For the record, the Chamber objects to the inference that unethical and possibly illegal behavior is commonplace among 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 get better and return to work. Additionally, businesses genuinely care and do everything they can to create a positive, healthy and safe work environment and provide benefits and assistance to employees.

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 Chamber and the members they represent, respectfully request that you hold HB 437. Thank you for the opportunity to submit testimony.



LATE

Testimony to the Finance Committee
State Capitol, Conf. Room 308 at 11am
February 25, 2013

RE: OPPOSING HB437 TO CHANGE THE WORKERS' COMPENSATION SYSTEM

Dear Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson, and Members of the Committee:

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 puts them in a possible dispute position with injured workers.
- 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;
- Negatively affect the quality of IMEs which are an important safeguard for employers; and
- Add to the workload and costs of the Department of Labor.

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 the environment they need to survive.

Sincerely,

Pamela Tumpap
President

FINTestimony

LATE

From: Marc Guyot, Esq. [mguyot@kauai.gov]
Sent: Sunday, February 24, 2013 3:44 PM
To: FINTestimony
Subject: FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

Aloha Representative Tokioka, Chair Luke, and Committee Members,

My name Marc Guyot, and I am a Deputy County Attorney for the County of Kaua'i. In my current position, I am responsible for matters that involve labor and employment, human resources, as well workers' compensation claims for the County. I am strongly urging you not to pass HB 437.

HB 437 seems harmless and innocuous on its face, but it is anything but that. The current workers' compensation laws are weighed heavily in favor of the employees. The employers are given little latitude in matters involving the employees' choice of medical providers or to even challenge the treatment protocols offered by the employees' primary care provider (PCP). As such there are medical providers such as internist, general practitioners providing care or diagnoses well outside of their areas of expertise, or worse providing a diagnoses without the appropriate testing or treatment.

By way of an example, a general practitioner diagnosed an individual with a stress disorder, attributed the stress to the work place, and place the individual on leave for 5 months and told them to take it easy, go hunt and fish. That was the extent of the diagnosis. There was no psychological testing, therapy, medication or anything other than. Fortunately, since we were able to have IME psychologist of the employers choosing evaluate the claimant and review the claim, the employer was able to counter the claims made the employees' general practitioner and limit the ultimate exposure the employer. If the employer had to mutually agree with the employee, and or their physician, and or their lawyer, it would have been very unlikely that the employer would have been able to protect themselves as it had done in this case. While this was a very obvious case of inappropriate care and treatment, the ability of the employer to counter the employees' PCP was crucial in the employee ensuring the appropriateness of the outcome of the claim.

Currently, the employees' PCP is given great deference in the workers' compensation process, with the employers' IME doctor having a higher bar to overcome if they should disagree with the PCP. Under the current program there is an inherent system of checks and balances that exists. If the system was to change to where the employee and the employer would need to mutually agree on an IME physician, the balance would be tipped even further in the favor of the employee with the employers footing an even greater expense to the ever growing costs of workers' compensation claims.

Again, I strongly urge you to not pass HB 437, and it is unnecessary and unfair, as it would cause harm to all employers within the State.

Sincerely,

Marc Guyot
4444 Rice St
Lihue, HI 96766

WIMAH

LATE

WORK INJURY MEDICAL ASSOCIATION OF HAWAII
91-2135 FORT WEAVER ROAD SUITE #170
EWA BEACH, HAWAII 96706

MAULI OLA
THE POWER OF HEALING

FEBRUARY 25, 2013

COMMITTEE ON FINANCE

HOUSE BILL 437 HD1 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 THE EMPLOYERS AND EMPLOYEES OR APPOINTED BY THE DLIR DIRECTOR.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII STRONGLY SUPPORTS HOUSE BILL 437 HD1.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII BELIEVES 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 MOST IMPARTIAL MANNER TO BE TRULY INDEPENDENT EXAMINER.

AT THE 2012 HAWAII STATE DEMOCRATIC CONVENTION, THE DELEGATES UNANIMOUSLY SUPPORTED THIS PROCESS.

THE PASSAGE OF THIS MUTUALLY AGREED IME BILL (HB437 HD1) WILL BENEFIT BOTH THE INJURED WORKER AND THEIR EMPLOYER.

YOUR PASSAGE OF THIS BILL WILL BE GREATLY APPRECIATED.

GEORGE M. WAIALEALE
EXECUTIVE DIRECTOR
WORK INJURY MEDICAL ASSOCIATION OF HAWAII

LATE



general contractor license #ABC 21576

Via E-mail: FINTestimony@capitol.hawaii.gov
Via Fax (808) 586-9391

February 25, 2013

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO AND
HONORABLE AARON JOHANSON, VICE CHAIR AND MEMBERS OF THE HOUSE
COMMITTEE ON FINANCE

SUBJECT: **STRONG OPPOSITION TO H.B. 437, HD1, RELATING TO WORKERS'
COMPENSATION.** Requires, among other things, independent medical examinations
and permanent impairment rating examinations for workers' compensation claims to be
performed by physicians mutually agreed upon by employers and employees or
appointed by the Director of the Department of Labor and Industrial Relations. Allows for
the use of an out-of-state physician under certain conditions. Appropriates unspecified
funds. Effective January 1, 2013. Repealed on June 30, 2018. (HB437 HD1)

HEARING

DATE: Monday, February 25, 2013
TIME: 11:00 a.m.
PLACE: Conference Room 309

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee:

LYZ, Inc. is opposed to H.B. 437, HD1, Relating to Workers' Compensation, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees or appointed by the director of the department of labor and industrial relations. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree, and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims. The proposed bill would disallow for this current practice.

Overall, 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. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

A handwritten signature in black ink, appearing to read 'James N. Kurita', is written over a circular stamp.

James N. Kurita
Vice President/ Chief Operating Officer



LATE

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013

COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair

2/25/13
Rm. 308, 11:00 AM

HB 437, HD 1
Relating to Workers' Compensation

Chair Luke and members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii to offer our comments to this bill.

There are good things and not so good things about this bill.

Let me start with what is good parts of this bill. The first is the intention of this bill to streamline the system and to get the independent medical examination done quicker and more efficiently.

The second point of support is the section of the bill that requires the Independent Medical Examiner (IME) physician to have some medical expertise applicable to the type of injury.

The definition of "medical stability" is a step in a positive direction.

Now for the "however", which are the points that we have trouble with.

First of those is the point that this bill takes away the employers ability to question the legitimacy of a claimed work comp injury. The Workers' Compensation system laws are already highly skewed in favor of the injured employee. Really, the only way an employer can challenge a questionable claim is to hire an Independent Medical Exam (IME). This bill says that the IME, and only one IME, will be done after the treating physician has determined that the injured employee is stable. So, if the treating physician never agrees the patient is stable, an IME can never be done!

The second point is that the bill removes the right of the employer to get a second opinion on the medical treatment of an injured worker. This is not prudent. Second opinions in medicine are good for everyone.



OUTRIGGER[®]
ENTERPRISES GROUP
Hospitality • Retail • Development

The next point is that this bill puts a burden on the Director to assign IME physicians within 7 days and get the IME completed within 30 days. We don't think that this timeframe is possible.

Finally, this bill lowers the payment rates for IME's. There is already a shortage of physicians who do IME's, causing long waits. This will further stress the system and create even longer waits to the detriment of the employee.

As you can see, the negatives of this bill, far outweigh the positives.

Mahalo for allowing me to testify and we urge that this bill be deferred.



RALPH S. INOUE CO LTD
GENERAL CONTRACTOR

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Founded in 1962

LATE

Via E-mail: FINTestimony@capitol.hawaii.gov
Via Fax (808) 586-9391

February 25, 2013

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO AND HONORABLE AARON JOHANSON, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **STRONG OPPOSITION TO H.B. 437, HD1, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates unspecified funds. Effective January 1, 2113. Repealed on June 30, 2018. (HB437 HD1)

HEARING

DATE: Monday, February 25, 2013
TIME: 11:00 a.m.
PLACE: Conference Room 309

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee:

Ralph S. Inouye Co., Ltd. (RSI), General Contractor and member of the General Contractors Association of Hawaii (GCA), is **opposed to H.B. 437, HD1, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees or appointed by the director of the department of labor and industrial relations. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree, and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims. The proposed bill would disallow for this current practice.

Overall, 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. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

LATE

Via E-mail: FINTestimony@capitol.hawaii.gov
Via Fax (808) 586-9391

February 25, 2013

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO AND HONORABLE AARON JOHANSON, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **STRONG OPPOSITION TO H.B. 437, HD1, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates unspecified funds. Effective January 1, 2113. Repealed on June 30, 2018. (HB437 HD1)

HEARING

DATE: Monday, February 25, 2013
TIME: 11:00 a.m.
PLACE: Conference Room 309

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee:

Lawson & Associates, Inc. is an occupational safety and health consulting firm. We are a woman, veteran, underutilized disadvantaged business who services the construction and general industry. We have long believed the workers compensation laws in this State are in need of drastic overhaul.

Lawson & Associates, Inc. is **opposed to H.B. 437, HD1, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees or appointed by the director of the department of labor and industrial relations. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree, and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims. The proposed bill would disallow for this current practice.

Overall, 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. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.



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 437 HD1– Relating to Workers’ Compensation**
PCI Position: OPPOSE

Date: Monday, February 25, 2013
11:00 a.m., Conference room 308 (**Agenda #1**)

LATE

Aloha Chair Luke and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is opposed to HB 437 HD1, which is unnecessary and unfair, and would result in significant administrative delays.

HB 437 HD1 would replace the existing employer requested examinations in workers compensation claims with a new, complicated system for obtaining “independent medical examinations”. Instead of the existing system that allows an employer to obtain an examination of a claimant to evaluate the merits of a claim, HB 437 HD1 would require first that the employer and employee reach a mutual agreement on the physician who conducts the examination. If mutual agreement is not reached, the Director of the Department of Labor and Industrial Relations (DLIR) would have to appoint a qualified physician from a list of volunteer physicians licensed to practice medicine in the state in which the injured employee resides.

The term “independent medical examination” is typically used to describe the examinations contemplated by Hawaii Revised Statutes § 386-79, but its use in this bill ignores the important function of the employer requested examination and strips out the employer’s right to discovery of facts in workers compensation proceedings. This is neither fair nor prudent.

The employer requested examination is intended to establish a procedure for the employer to access his right to discovery of a claimant’s physical condition and course of treatment. The effect of this bill is to do away with the employer’s right altogether at the option of the injured employee.

If the employee refuses to consent to the employer's selection of physician, the selection would be made by the Director. The employer is effectively replaced in the process by the Director of the DLIR, which begs the question of whether the proponents of this bill would be more satisfied with the fairness of this process if in the future there is a change in the office of the Director of the DLIR. This bill is intended to be pro-employee, but it has the potential to backfire by centralizing authority in the Director's office.

Under the existing law, there are many protections for the employee built in. The employer is limited to only one employer requested examination unless good and valid reasons exist with regard to the progress of the employee's treatment. Therefore, the employer has an incentive to obtain a credible examination - on the first try - that will withstand scrutiny on appeal before the DLIR's Disability Compensation Division. Also the report of the employer requested examination must be given to the employee, who has a right to challenge the report and to offer evidence that disputes the report's findings, so there is a check against employer abuse.

Finally, the selection process set forth in HB 437 HD1 would be stalled by built-in delays. The employer would have to first try to reach a mutual agreement. If that does not work, the employer would have to petition the Director for the appointment of a physician. HB 437 HD1 gives the Director seven days to appoint a physician who is willing to undertake an examination, however the bill fails to explain what happens when a willing physician is not found in seven days. Once a physician is appointed to take the case, the examination is supposed to take place within 45 days. No doubt, that is an optimistic estimate as currently delays in finding willing and able physicians are already widespread. All this means that examinations would be additionally burdened by these new administrative delays.

PCI respectfully requests that the Committee vote to hold HB 437 HD1 for the remainder of the session.



S & M SAKAMOTO, INC

LATE

GENERAL CONTRACTORS

Via E-mail: FINTestimony@capitol.hawaii.gov

Via Fax (808) 586-9391

February 25, 2013

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO AND HONORABLE AARON JOHANSON, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **STRONG OPPOSITION TO H.B. 437, HD1, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates unspecified funds. Effective January 1, 2113. Repealed on June 30, 2018. (HB437 HD1)

HEARING

DATE: Monday, February 25, 2013

TIME: 11:00 a.m.

PLACE: Conference Room 309

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee:

S&M Sakamoto, Inc. is opposed to H.B. 437, HD1, Relating to Workers' Compensation, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees or appointed by the director of the department of labor and industrial relations. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree, and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims. The proposed bill would disallow for this current practice.

Overall, 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. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.



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LATE

Testimony to the House Committee on Finance
Monday, February 25, 2013
11:00 a.m.
Capitol Room 308

RE: H.B. 437, H.D. 1, Relating to Workers' Compensation

Dear Chair Luke, Vice-Chairs Nishimoto and Johanson, and members of the Committee:

RMA Sales, a locally owned and operated company since 1961 is strongly opposed to H.B. 437, H.D. 1.

H.B. 437, H.D. 1 would require that the independent medical examination (IME) and permanent impairment rating examination for workers' compensation claims be performed by physicians mutually agreed upon for employers and employees, or appointed by the Director of the Department of Labor and Industrial Relations.

The current statutes have numerous safeguards in place to allow injured employees full disclosure of an employer/insurance carrier's IME report, the right to seek their own medical opinion if they disagree, and an appeal process if the parties cannot agree. A majority of IME's are conducted today under the current statutes without incident or dispute. Permanent impairment rating examinations are currently performed by mutual agreement between parties, without any need for mandate by legislation.

The ability for an employer to select an IME ensures there is a check and balance system for overall medical care for the injured worker because injured workers select their own treating physician. Without it, the system would be one-sided and costs for any employer, whether private or government, could quickly escalate, resulting in an inequitable, unaffordable, and unsustainable program. H.B. 437, H.D. 1 removes an employer's only recourse to scrutinize the injured employee's physician's chosen course of treatment. This is fundamentally unfair as the statutory presumption places the burden of proof on the employer to present substantial evidence to the contrary.

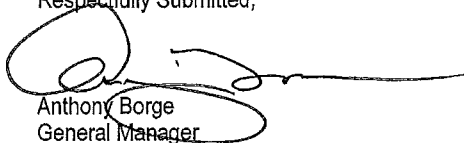
Changes to the system may be at the expense of finding the best available care for injured claimants in a timely manner. Simply finding qualified physicians to conduct these reviews is time consuming and results in delays due to a shortage of such professionals. Pushing the selection of IME physician on to the DLIR will create more delays if claimants choose to gamble that they will receive a more favorable review by the government-appointed physician.

If the intent of this bill is to build trust and reduce confrontation in the workers' compensation system, it will fail at both objectives. Instead, this bill will compel claimants to rely more heavily on plaintiffs' attorneys to navigate increasingly complex procedures.

RMA Sales is strongly opposed to H.B. 437, H.D. 1, and respectfully requests that it be held.

Thank you for the opportunity to share our views with you.

Respectfully Submitted,


Anthony Borge
General Manager

FINTestimony

LATE

From: George Szigeti, D. [gszigeti@hawaiilodging.org]
Sent: Monday, February 25, 2013 12:30 AM
To: FINTestimony
Subject: FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Good morning Chair Luke and members of the committee.

My name is George Szigeti, I am President and CEO of the Hawaii Lodging & Tourism Association.

HLTA is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 150 lodging properties representing over 48,000 rooms. Our lodging members range from the 3,499 rooms of the Hilton Hawaiian Village Waikiki Beach Resort to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

The Hawaii Lodging & Tourism Association opposes HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

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 only tool for the employer to look into statutory presumption, excessive treatment, etc.

Our industry truly recognizes that their employees are their biggest asset. Our businesses genuinely care and do everything they can to create a positive, healthy and safe work environment and provide benefits and assistance to employees. This bill will most certainly increase the cost of doing business and providing these benefits.

We thank you for the opportunity to testify in opposition of HB 437.

Sincerely,

George Szigeti
725 Onaha St
Honolulu, HI 96816

FINTestimony

LATE

From: Deborah Lockett [deblockett@hawaii.rr.com]
Sent: Monday, February 25, 2013 9:01 AM
To: FINTestimony
Subject: FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please pass HB 437.

As a small business & member of the Chamber of Commerce, I beg to differ with the Chamber on this bill. As the Vice President of a medical clinic that takes care of people, whether injured at work, play or on the highway, we have experienced substantial abuse of the "independent medical exam". Insurance carriers have utilized this tool in a demonic fashion. For instance, the carrier uses physicians to deliver a "consult" and that physician is not liable for their decision, delay of care or a misdiagnosis, all things that, in the course of a patient-physician relationship, the physician can be sued for under existing medical malpractice laws. An agreed upon IME does not place any undue burden on the system and would be equitable for all parties.

Please pass HB 437.

Sincerely,

Deborah Lockett
4348 Wai alae Ave Apt 506
Honolulu, HI 96816

LATE

IME DOCTORS...HB 437

TESTIMONY:

My name is Maylene K. Enoka and my worker's comp case began April 19, 2006, approximately seven(7) years ago. My injuries were results of a third fall from bad carpeting that to date resulted in a disability back injury, and unemployment.

To date, my employer has sent me to three(3) IME doctors , all paid for by my employer. It was obvious by their recommendation reports and findings were in favor of my employer, and cast a shadow on the seriousness of my injury and limitations. The following information is provided:

1. First IME Doctor immediately examined me thoroughly for approximately one(1) hour. He discussed his results with me and my husband, and submitted his treatment recommendations report of his findings.
2. Second IME Doctor talked with me for approximately 1hr. 15min., physically examined me for five(5) minutes, no discussion of his findings, and wrote a 15 page report on his findings. It was obvious to me that his information was based on previous findings.
3. Third IME Doctor talked for 1hr. 25 min., also physically examined me for approximately five(5) minutes. No discussion of his findings. Wrote a nineteen(19) page report. Also very obvious to me his information was based on previous findings.

My injury has taken a "back seat" to my wellness, quality of life, and happiness. A worker's comp patient should participate in choosing an IME doctor to eliminate any thoughts of an unfair or bias evaluation; and excessive Worker Comp Hearings that result from cases that include these types of situations.

PLEASE CONSIDER PASSING HB 437 THAT WOULD ALLOW WORKER COMP PATIENTS TO PARTICIPATE IN THE SELECTION OF IME DOCTORS! THIS WOULD SAVE THE STATE A LOT OF TIME AND MONEY SPENT ON ISSUES THAT COULD BE REDUCED OR ELIMINATED.

I am available for further information upon request.

Maylene K. Enoka, @ maenoka@gmail.com

FINTestimony

LATE

From: Monica Toguchi [info@myhighwayinn.com]
Sent: Monday, February 25, 2013 8:08 AM
To: FINTestimony
Subject: Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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

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

This bill while probably well intended, creates serious loop holes for abuses to occur and penalizes the entire system of hard working employees and employers. Consequently, the government is one of the state's largest employers and will be subjected to the same increased operation expenses and unbalanced system wide practices - which will effectively promote more abuses rather than keep it honest and accountable.

Sincerely,

Monica Toguchi
94-226 LEOKU ST
WAI PAHU, HI 96797

FINTestimony

LATE

From: Jack Schneider [jack@jsservices-hawaii.com]
Sent: Monday, February 25, 2013 7:14 AM
To: FINTestimony
Subject: Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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.

Sincerely,

Jack Schneider
1788 Kumakani Loop
Honolulu, HI 96821

FINTestimony

LATE

From: Jacqueline Watanabe [jdeluz@teamedeluz.com]
Sent: Monday, February 25, 2013 8:11 AM
To: FINTestimony
Subject: FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

Sincerely,

Jacqueline Watanabe
85 Kamalii St
Hilo, HI 96720

FINTestimony

LATE

From: fely pula [fpula@avalonhci.com]
Sent: Monday, February 25, 2013 7:46 AM
To: FINTestimony
Subject: FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

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 only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

Sincerely,

fely pula
1677 Pensacola St
Honolulu, HI 96822

FINTestimony

LATE

From: John J Megara, MBA [jmegara@avalonhci.com]
Sent: Monday, February 25, 2013 12:30 AM
To: FINTestimony
Subject: FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

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 only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

Sincerely,

John J Megara
999 Wilder Ave Apt 602
Honolulu, HI 96822

FINTestimony

LATE

From: Francis Brewer [francisbrewer@mac.com]
Sent: Monday, February 25, 2013 12:30 AM
To: FINTestimony
Subject: FIN Committee and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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 me to restructure our benefits system.

Sincerely,

Francis Brewer
1150 S King St Ste 604
Honolulu, HI 96814

FINTestimony

LATE

From: Bernie Coleman [berniec@pacallied.com]
Sent: Monday, February 25, 2013 8:21 AM
To: FINTestimony
Subject: Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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.

Sincerely,

Bernie Coleman
91-118 KAOMI LOOP
KAPOLEI, HI 96707

FINTestimony

LATE

From: Terry Johnson [tjohnson@cfs-hawaii.org]
Sent: Monday, February 25, 2013 8:22 AM
To: FINTestimony
Subject: FIN Committee and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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.

Please don't interfere with the recovery of the economy by passing this unnecessary legislation.

Sincerely,

Terry Johnson
2026 McKinley St
Honolulu, HI 96822

FINTestimony

LATE

From: Debbie Walch [dwalch@cyanotech.com]
Sent: Monday, February 25, 2013 8:42 AM
To: FINTestimony
Subject: Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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.

Sincerely,

Debbie Walch
73-4460 QUEEN KAAHUMANU HWY
KAILUA KONA, HI 96740

FINTestimony

LATE

From: Valerie Kurtz [vkurtz@kaanapaligolfcourses.com]
Sent: Monday, February 25, 2013 9:21 AM
To: FINTestimony
Subject: FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

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 only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

Sincerely,

Valerie Kurtz
27 Hakui Loop
Lahaina, HI 96761

FINTestimony

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 25, 2013 9:39 AM
To: FINTestimony
Cc: debbie@mauicloset.com
Subject: *Submitted testimony for HB437 on Feb 25, 2013 11:00AM*

HB437

Submitted on: 2/25/2013

Testimony for FIN on Feb 25, 2013 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
DEBRA FINKIEWICZ	Individual	Oppose	No

Comments:

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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LATE

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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.

Sincerely,

Jay Morford
1330 Maunakea St
Honolulu, HI 96817

LATE

Dear Chair Luke & Committee Members,

Please do not pass HB 437. It appears that emotion overpowered rationality in composing the bill. Current laws covering this issue are adequate as long as they are enforced.

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 our business. Wayland Baptist University is a not-for-profit private university. We do not get state funds to insure lavish benefits for our executives and employees. We already struggle with many of the expenses and costs to comply with many government imposed mandates and regulations.

Wayland Baptist University has a history of looking out for the interests of our employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time would force us to restructure our benefits system.

Sincerely,

David Howle
40 Rose St
Wahiawa, HI 96786

LATE

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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.

Sincerely,

Jaime Tamayei
609 N Judd St
Honolulu, HI 96817

FINTestimony

LATE

From: Michelle Ramos [mramos@laohaaircargo.com]
Sent: Monday, February 25, 2013 10:03 AM
To: FINTestimony
Subject: FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

Sincerely,

Michelle Ramos
590 Paiea St Ste B
Honolulu, HI 96819

LATE

HB437

Submitted on: 2/25/2013

Testimony for FIN on Feb 25, 2013 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Tadd	Individual	Oppose	No

Comments:

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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FINTestimony

LATE

From: Steven Kaneshiro [sakaneshiro@hawaii.rr.com]
Sent: Monday, February 25, 2013 10:44 AM
To: FINTestimony
Subject: Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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.

Sincerely,

Steven Kaneshiro
321 N Kuakini St Ste 309
Honolulu, HI 96817

FINTestimony

LATE

From: William Fagan [wfagan@mauimedical.com]
Sent: Monday, February 25, 2013 10:45 AM
To: FINTestimony
Subject: Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

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.

Sincerely,

William Fagan
911 Kai Hele Ku St
Lahaina, HI 96761