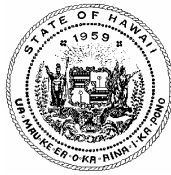


NEIL ABERCROMBIE
GOVERNOR



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

January 28, 2013

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

For Hearing on Tuesday, January 29, 2013
9:00 a.m., Conference Room 309

BY

BARBARA A. KRIEG
DIRECTOR

House Bill No. 437
Relating to Workers' Compensation

TO CHAIRPERSON MARK NAKASHIMA AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on H.B. 437.

The purpose of H.B. 437 is to require independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of the Department of Labor and Industrial Relations (DLIR); and to appropriate funds and positions for the DLIR disability compensation division to assist in workers' compensation claims.

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

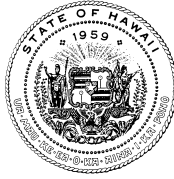
With respect to **Section 1**, DHRD agrees with the underlying policy behind this proposal, which is to improve the fairness of the workers' compensation system and provide better quality care for those workers hurt on the job. However, as explained below, neither goal may be met by the mandatory provisions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

First, an independent medical examination conducted by a physician of the employer's choice is the primary tool that is available to the employer to help overcome the statutory presumption that a claim is for a covered work injury, to show that ongoing medical treatment may be unreasonable or unnecessary, and to determine whether a requested medical treatment, e.g., surgery, is reasonable and related to the work injury. Amending the statute in this fashion would deprive the employer of a very fundamental right to conduct its discovery, using physicians of its choice, to evaluate whether the employer is liable for the claim or medical treatment.

Second, the bill makes no allowances for evaluations to be performed by physicians whose specialties are not available in the State. It isn't clear how the employer would proceed under those circumstances. It also requires that the mutually agreed upon or appointed physician examine the employee within thirty calendar days of selection or appointment. This appears to be unrealistic given that the employer often has to wait ninety days or more for an available appointment. The bill is silent as to what would happen if there is no qualified physician available to perform the evaluation within the thirty day requirement. These unresolved issues may lengthen the process and make it more burdensome.

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

Thank you for the opportunity to testify on this measure.



**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: dliir.director@hawaii.gov

January 29, 2013

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Mark J. Hashem, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Tuesday, January 29, 2013
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

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

Re: H.B. No. 437 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 437 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 that proposes:

- Independent Medical Examinations (IMEs) and permanent impairment rating examinations be performed by physicians selected and mutually agreed upon by the employer and employee;
- If no agreement as to physician can be reached, 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 employer to pay for the IME;
- The use of an out-of-state physician is allowed under certain circumstances; and
- An unspecified appropriation is made in FY 13 - 14 to carry out the purposes of this measure.

The Department supports this measure, as it will bring a greater assurance of impartiality in the IME and permanent impairment rating processes and, 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

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

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

Reducing the number of disputes will assist the Disability Compensation Division that is currently backlogged in scheduling cases for hearings 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.

2. Fair and Impartial. 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.
3. Difficulty with establishing the list of physicians. Establishing a list of doctors willing to conduct IMEs for the purposes of compensability or permanent disability under this bill becomes the responsibility of the Director of Labor. Issues such as willingness of doctors to be on the list of different medical specialties and allowable fees for the evaluations will have to be addressed. Doctors may not be willing to be on the Director's list without adequate notice prior to the examination or if the compensation to conduct the exam is not

adequate.

4. The thirty-day limit to have such evaluations done following selection of the doctor may not be practicable. We recommend the examinations be done within "forty-five days or as soon as practicably possible" following selection of the doctor to allow flexibility in the scheduling timetable and to entice more doctors to participate on the list.
5. Out-of-State claimants. The measure also provides for IMEs, where medical treatment is disputed, for claimants living out-of-state. The department would be burdened with having to compile a list of out-of-state IME physicians, as well as having to arrange for an out-of-state claimant to return to Hawaii for the IME in situations where the department decides to have the IME performed in Hawaii. The department, therefore, recommends that it not be held responsible for maintaining a list of out-of-state physicians, and instead be allowed to use the same list of physicians compiled by the department for out-of-state claimants, while having the employer continue to be responsible for arranging and paying for travel arrangements for claimants who must return to Hawaii for an IME. We in turn recommend that the measure also include a provision that allows for the return of the out-of-state claimant to undergo the IME in Hawaii. The Department recommends the language from HB466 HD3 SD1 (2012 Session) be inserted into the measure.
6. Medical records to IME physician. The Department also recommends the measure stipulate that the employer shall send the claimant's medical records to the IME physician, as is the current practice.
7. The Department supports this proposal contingent on adequate funding and notes that the biennium budget as submitted by the Governor contains additional resources, which should the legislature approve, may reduce or eliminate the funding and additional staff provided for in Section 3. Without adequate funding and staffing, the Director will not be able to implement the proposed procedures.
8. The lack of staffing and the time required to establish and fill new positions will prevent the department from implementing this proposal of compiling a list of physicians willing to perform the IMEs and rating exams by July 1, 2013.
9. The Department recommends language in this measure as in HB 466 HD 3 SD1 of the 2012 Legislative Session.



Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison Powers
Executive Director

TESTIMONY OF JANICE FUKUDA

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Mark M. Nakashima, Chair
Representative Mark J. Hashem, Vice Chair

Tuesday, January 29, 2013
9:00 a.m.

HB 437

Chair Nakashima, Vice Chair Hashem, and members of the Committee, my name is Janice Fukuda, Assistant Vice President, Workers' Compensation Claims at First Insurance, testifying on behalf of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HB 437, which adds a new Section to Chapter 386, Independent medical examination; permanent impairment rating examination; selection of physicians; costs.

This bill says that only the attending physician can determine whether the injured worker has reached medical stability. This supersedes the injured worker, employer, and the insurer, giving total authority to the attending physician. This creates a moral hazard for the attending physician who now has no incentive to stop treatment and cannot be questioned by anyone if the attending physician wishes to continue treatment whether necessary or not.

Our members believe this bill will substantially increase workers' compensation costs, which will translate into a higher cost of doing business, limiting business' ability to compete, adversely affect employees by limiting job availability, pay, and benefits and ultimately find its way into the costs of goods and services in Hawaii. This bill is similar to HB466 (2012) and pricing comments on it follow:

According to the National Council on Compensation Insurance (NCCI), "The overall impact of HB 466 may be a sizable increase in system costs, depending on the interpretation and enforcement of the 30 day scheduling restriction for IMEs. If enacted, any potential cost impacts would be realized through future loss experience and reflected in subsequent loss cost filings." Attached is NCCI's full analysis.

The current system regarding Independent Medical Examinations (IMEs) has been in place for some time and we believe it is working. It appears that this legislation is prompted by claims that IME physicians are biased toward the employer. We do not believe this is true. Employers seek access to clinical expertise to help return the injured worker to the job. Currently, there are numerous safeguards in place to ensure the IME is objective and unbiased. Injured workers are able to obtain opinions or comments from their treating physician or other doctors regarding the IME opinion if they disagree. Injured workers are also able to obtain their own rating and if the hearings officer relies on it, the employer has to pay for it. Finally, there is an appeals process that provides further due process to both sides if an agreement cannot be reached.

The current system provides an approach for the employer and injured worker to resolve medical treatment disputes in an efficient manner. The proposal to mandate mutual agreement will increase workers' compensation costs and delay the delivery of

medical treatment in certain cases. This is detrimental to the injured worker and does not benefit the employer.

The provision to require impairment IMEs to be separate from treatment IMEs presents an inconvenience to the injured worker and does not correspond to better outcomes. A comprehensive examination often takes several hours and this requirement will add costs to the system by requiring two separate examinations that could be addressed in one visit. IMEs are performed to address various aspects of an injured worker's injury and recovery such as primary and secondary diagnosis, appropriate treatment, utilization and measurement of the degree of physical impairment. In many cases, it is important to obtain a *baseline* impairment rating to later determine the effectiveness of treatment. It is beneficial for the injured worker to have one physician review the medical records and conduct the physical examination in a comprehensive manner. It is also more cost effective if treatment and impairment are addressed by a single IME instead of requiring two. The suggestion that two separate examinations benefits the injured worker is not substantiated by evidence and will only add costs and delay the delivery of benefits.

The bill also limits IMEs to one per case, unless approved by the Director. There is no measurable benefit to the injured worker by limiting IMEs to one per case. In fact, such a restriction may harm the injured worker. Several IMEs may be necessary in some cases to clarify the diagnosis, establish a baseline, determine whether there has been improvement or deterioration, explain a change in the condition, or impairment. A subsequent IME may be necessary if the injured worker develops new symptoms or conditions secondary to the work injury. The bill does not allow for any exceptions for an ordered IME for impairment ratings. In the event that an injured worker is ordered to attend an impairment examination and the physician determines that the injured worker is not at maximum medical improvement, or is a no-show for the appointment, the injured worker is precluded from obtaining a subsequent impairment rating. Neither an employer nor an injured worker should be restricted in securing an IME.

Another provision in the bill requires IME physicians to meet certain criteria. Mandating that IME physicians meet certain requirements may not increase the standard of care for the injured worker and will reduce the number of physicians willing to participate in workers' compensation cases. Currently, there are a limited number of physicians who perform IMEs and when categorized by specialty, the list of available physicians is even smaller. It is in both the employer's and the injured worker's best interest to have as many IME physicians available as possible to get the most objective opinion in the most efficient way. Many specialty IME physicians like toxicologists, neuropsychologists and Infectious disease specialists who practice on the mainland are used because there are too few or no qualified physicians here than can perform the examinations. Hawaii is a small and isolated state in which specialized physicians are not able to acquire practical experience due to exposure to limited and isolated cases. Insurers rely upon regional clinics and medical centers that specialize in particular medical disorders. The provisions which require that the IME physician be licensed to practice in Hawaii and limits their reimbursement rates are unworkable and will shrink the limited pool of available physicians even further. The average lead time to secure an IME appointment is six weeks and this provision will inevitably create a delay in obtaining timely appointments and reports and limit local physicians' ability to draw upon the clinical expertise of their mainland counterparts. There is also a provision requiring injured workers who reside on the mainland to obtain an IME from a physician licensed to practice in that state for the five consecutive years prior. This requirement does nothing to raise the qualification of the IME physician, but rather limits the number who will be eligible to examine injured workers who reside on the mainland. There is no evidence that duration or license correlates to a higher standard of care or greater expertise. It will add additional costs to the system if the injured worker resides in an area with few practitioners and will need to travel to another city for an examination. This licensing requirement is inconsistent with the requirement for IME physicians who examine injured workers residing in Hawaii.

For these reasons, we respectfully request that HB 437 be held.

Thank you for the opportunity to provide comments.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, January 26, 2013 8:50 AM
To: LABtestimony
Cc: jbsestak@prodigy.net
Subject: Submitted testimony for HB437 on Jan 29, 2013 09:00AM

HB437

Submitted on: 1/26/2013

Testimony for LAB on Jan 29, 2013 09:00AM in Conference Room 309

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---|---------------------------|---------------------------|
| Betty Sestak | Hawaii Rehabilitation Counseling Assoc. | Support | No |

Comments: Ensures a fairer examination.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

DENNIS W. S. CHANG

Attorney at Law, LLLC

WORKER'S RIGHTS - LABOR LAW
WORKER'S COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEES RETIREMENT SYSTEM
BODILY INJURIES

HOUSE OF REPRESENTATIVES

TWENTY-SEVENTH LEGISLATURE, 2013

STATE OF HAWAII

January 28, 2013

VIA ELECTRONIC MAIL

TO: Honorable Mark M. Nakashima, Chair
Honorable Mark J. Hashem, Vice Chair
and Members of the Committee on Labor & Public Employment

DATE: Tuesday, January 29, 2013
TIME: 9:00 a.m.
PLACE: Conference Room 309, State Capitol
415 South Beretania Street

FROM: Dennis W. S. Chang
Labor and Workers' Compensation Attorney

Re: HB No. 437 Relating to Workers' Compensation Strong Support

I. Current Law:

Employers and their representatives (Employer) are allowed to secure an order for an independent medical examination (IME) to be conducted by a physician or surgeon of selected at their unilateral choice. If injured workers refuse to attend the examination, or obstruct the examination in any way, their rights to workers' compensation (WC) benefits will be suspended for the period during which the refusal or obstruction continues.

Applications are submitted for the Director's review. After their review, if justification for an order is determined to be appropriate, an order is typed up and issued to all parties giving notice that the Director is compelling the injured workers to attend the examination. The statutory provision does not involve impairment ratings of bodily parts. Impairment ratings require the mutual selection of a physician or surgeon to rate injuries, which are ultimately used to determine the monetary awards, if any, for injured workers.

This mutual selection process has worked very well over the long course of my legal career (36 years). There is only one report so there is little disputes unlike in the setting of IMEs where parties are forced to secure their own reports. This latter process inherently adds outrageous costs, breeds delay in the processing of claims, encourages denial of claims and medical treatment, results in unnecessary litigation, and contradicts the goal of promptly returning injured workers to work. Oftentimes, the IME process is abused by including impairment ratings which require mutual selection. Even with mutual selection, the Employer still abuses the process by securing unilateral opinions to undermine the mutually agreed upon physician to render a permanent impairment rating.

II. HB 437

This measure proposes a repeal of the current statutory provision and replaces it with a new section requiring the mutual selection of physicians and surgeons to perform what is now inaccurately known as "independent" examinations or IMEs. The continued existing practice relating to rating of injured workers by mutual agreement remains intact. If the parties are unable to achieve a mutual selection, the Director appoints a qualified physician licensed in the relevant medical specialty to conduct the examination within thirty (45) days of a request or "as soon as practically possible. In appropriate cases, there can be more than one IME but an IME and rating cannot be combined, consistent with current law.

III. Support for HB 437

*The Director continues to support the intent underlying mutually selected IMEs.

* At the outset, I state, based on 36 years of experience, that generally speaking, injured workers want a prompt recovery and return to work. Having unilateral IMEs, or purchased opinions, is inherently wrong and contradicts the general goal of injured workers because a whole cottage industry has been built around securing IMEs. Moreover, I stress that IMEs without joint selection delays the prompt movement of a case and create other barriers for a prompt resolution, consistent with the humanitarian purpose of the workers' compensation statute.

* To avoid the inherent bias contained in the current unilateral IME process, which can be and has been highly abusive through manipulation by Employers, there should be mutual agreement of a physician. This will bring back a sense of integrity to the system when the parties jointly select a physician. The passage of the HB 437 will reduce litigation, which adds to the "costs of doing business." Physicians conducting IMEs can say and opine anything with impunity because they cannot be sued for wrongdoing. Perhaps, this is the most cogent reason, or one of the most cogent reasons, for mutually selected physicians to conduct IMEs.

* HB 437 will obviously help end the abusive practice of hiring physicians with a particular bias point of view without regard for the welfare of the injured workers. Once

said and done with all the rhetoric reduced, everyone will accept the mutual selection just like everyone has accepted the mutual selection of a physician currently in place to perform permanent impairments, if any, to determine if injured workers are entitled to any permanent partial or total disability award.

* The proposed bill will end the abusive practice of combining an "IME" along with an impairment rating, which often happens whether or not there is an attorney since the Employers do not send out the cover letters to the claimant who is unrepresented or to a claimant's attorney. Employers routinely violate this portion of the current law when securing orders to compel the appearance of a claimant before the Employers' unilateral choice to render an opinion. For the estimated 90% of injured workers who have no knowledge of the law, Employers are no longer able to trick them into combined IMEs and ratings.

* The proposed bill will also end the abusive practice of securing multiple IMEs and the circumvention of the current statute which allows only one (1) "IME" per year. I have experienced cases where there has been as many as seven (7) reports secured by a single Employer in one (1) case in period of less than one (1) year. This Employers' practice was never envisioned to be part of the workers' compensation process.

* The bill will end the financial rewards to physicians who are beholden to Employers since they easily make thousands upon thousands of dollars for their reports. As some attorneys have indicated, a physician could easily make \$300,000.00 a year performing simple IMEs/ratings (\$2,000.00 per examination and report times three (3) per week times fifty (50) weeks). Of course we know that charges are not limited to \$2,000.00 per examination and could cost as much as nearly \$10,000.00 as shown during testimony in the 2012 session, or we are seeing increasing retainers for particular physicians, one of whom made more than one million dollars in a year (on record in oral deposition). Such a physician is not only conducting a minimum of three IMEs a week (some perform three IMEs a day). They obviously cannot be objective knowing that they are serving particular clients only and will say what is expected even if not directly asked to do so. It is like marketing and getting repeating business. You service clients the best by performing in a particular way with the hopes that you will secure repetitive work.

* The proposed bill will level the playing field by having one (1) physician who issues a report which will be binding on all parties. Injured workers can hardly match the resources of Employers who currently have a monopoly over groups of physicians who are routinely hired by them. With a mutual selection and only one report, there will be an eventual reduction of disputes and frees the Director's staff to handle other pressing matters. The mutual selection of physicians for ratings is proof that this process works. In most cases, shortly after the receipt of a report of a mutually selected jointly physician's permanent impairment report, the parties are likely to negotiate a prompt informal settlement. This is good for everyone in the system including the Director who could use the time freed up to address real disputes rather

than disputes triggered by IMEs. IMEs with a particular opinion sets up the strategy for the life of the claim of the injured worker.

*Needless litigation is avoided and as a consequence, there should savings to Employers. As a small business person myself, I want my employees to be fairly treated, have a prompt recovery and return to work as quickly as possible. I do not need bias opinions generated through the abusive IME process.

*Arguing that there is an absolute need for IMEs to rebut the presumption in favor of injured workers that their claims are covered under the statute is wholly misplaced. Why do you need to purchase a doctor's opinion, if the goal is to achieve true objectivity, to rebut that a claim is "compensable" or covered by the statute? The WC legislation is humanitarian in nature and you could secure a rebuttal, which all parties will abide by, with a mutually agreed upon examiner who is objective. Can this rebuttal not be accomplished by using fair and impartial examiners who are mutually selected? The simple respond is yes. We are able to do this in cases of questionable permanent partial impairment arising out of work injuries by a mutual selection of physicians to render an objective opinion which is binding on the parties.

* The Employers will see a reduction in their premiums since the cottage industry of defense attorneys working hand in hand with their selected physicians in securing multiple IMEs will be reduced. No longer will the parties be forced to undergo needless litigation with countless IMEs and the Director is asked to review all of them before in resolving disputes. A substantial portion of the "cost drivers" in the current adversarial WC system will be eliminated. This would be a welcomed changed from the current litigious practice in the WC process.

* Opponents have a shortsighted view. By having delayed "IMEs" conducted at the Employer's leisure, payments of wage loss are prolonged, treatment is delayed and the overarching policy of having injured workers treated for a prompt recovery and return to work is diluted by the current IME process. This is an undeniable.

* Rhetoric of increasing premiums is speculative. Moreover, there has been a drastic reduction in premiums over the years by the slashing of medical costs since 1995. We should be moving forward and enlightened in the 21st century. Why not go with having objectivity, avoiding needless delay and litigation, ending misleading unknowing injured workers who are unrepresented, preventing backlogs at the DCD and ensuring a just result as a public policy?

IV. Conclusion:

We should be asking one simple question why there is such a vested interest in maintaining the status quo of intense litigation by the unilateral selection of multiple IMEs? Or, asked differently, why waste needless substantial amounts of monies, which should rightfully be returned as refundable premiums to Employers. The mutual selection of IMEs is intended to reduce litigation and a waste of valuable resources.

Passage of HB 437 will surely achieve our goal, consistent with the underlying humanitarian purpose of the WC statute.

DWSC:ty

WIMAH

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

MAULI OLA
THE POWER OF HEALING

JANUARY 29, 2013

COMMITTEE ON LABOR AND PUBLIC EMPLOYEMENT

HOUSE BILL 437 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.

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.

THE PASSAGE OFF THIS MUTUALLY AGREED IME BILL (HB437) 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



Representative Mark M. Nakashima, Chair
Representative Mark J. Hashem, Vice Chair
Committee on Labor & Public Employment
State Capitol, Honolulu, Hawaii 96813

HEARING Tuesday, January 29, 2013
 9:00 am
 Conference Room 309

RE: HB437, Relating to Workers' Compensation

Chair Nakashima, Vice Chair Hashem, Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is the one of the largest employers in the state, employing almost 25% of the labor force.

RMH strongly opposes HB437, 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 labor and industrial relations.

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

From the employer's position, the IME process is a vital mechanism to ensure proper treatment for the injured employee and costs of the treatment incurred are justified. This measure erodes the ability of the employer to effectively and efficiently manage costs. As a safeguard, the existing statute requires full disclosure to the injured worker of the IME report, which affords the treating physician and the injured employee the opportunity to challenge the evaluation.

Considering that the employer ultimately bears the entire cost of the IME, the choice of the IME justifiably should be the employer's.

The members of the Retail Merchants of Hawaii respectfully request that you hold HB437. Thank you for your consideration and for the opportunity to comment on this measure.

A handwritten signature in black ink, appearing to read 'Carol Pregill', is centered on the page.

Carol Pregill, President

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

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

Rep. Mark M. Nakashima, Chair
Rep. Mark J. Hashem, Vice Chair

Hearing: Friday, January 29, 2013
Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

TESTIMONY OF ILWU LOCAL 142
RE: HB 437 RELATING TO WORKERS COMPENSATION

Chairman Nakashima, Vice Chair Hashem, and Members of the Committee on Labor and Public Employment:

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

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

HB 437 will preserve the integrity of the independent medical examination and permanent impairment rating process. Physicians jointly selected recognize that they are being hired to conduct an independent and objective assessment of medical status or permanent impairment, and that future referrals are dependent on their impartiality, not their ability to please those who retain them. The requirement of mutual selection also serves to offset the enormous economic advantage insurers have in adjudication compared to individual employees, who cannot afford the substantial costs associated with these evaluations and thus literally cannot afford to acquire the medical proof necessary to prove their claims.

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

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

On still other occasions, insurers have tried to use a finding that an injured worker has no permanent impairment as a means of subverting the employee's right to vocational rehabilitation, since a finding that an employee has, or may have, a permanent impairment is a necessary condition for receiving vocational rehabilitation under Section 386-25(b) HRS. HB 437 would end such abuses, restore neutrality, and promote fairness and objectivity among evaluating physicians.

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

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

An additional constructive feature of HB 437 is that it provides an unspecified amount of funding for three full-time equivalent hearing officer positions and two full-time permanent office assistants. This is a direly needed supplement to the Disability Compensation Division's existing staff, who have worked valiantly to maintain the prompt adjudication of claims, but have gradually been overwhelmed because of budgetary cutbacks that have caused delay and resultant unnecessary cost increases. Restoring these personnel will help claims move more rapidly through the system and shorten the unnecessary payment of temporary total disability and restore workers more swiftly to productive employment. Funding additional staff at the Disability Compensation Division is an extremely modest price to pay for helping to reduce the overall expenditure of benefits through timely adjudication of claims.

HB 437 is an enlightened measure that will confer benefits to all participants in the workers' compensation system and we vigorously support its passage.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

2013 Officers

President

Greg Thielen
Complete Construction Services Corp.

President-Elect

Brian Adachi
BKA Builders, Inc.

Vice President

Sunny Walsh
Hunt Building Company, Ltd.

Treasurer

Guy J. Shindo
First Hawaiian Bank

Secretary

Richard Hobson, Jr.
Gentry Homes, Ltd.

Special Appointee-Builder

Paul D. Silen
Hawaiian Dredging Construction Co., Inc.

Special Appointee-Associate

Craig Washofsky
Servco Home & Appliance Distribution

Immediate Past President

Dean I. Asahina
Universal Construction, Inc.

Chief Executive Officer

Karen T. Nakamura
BIA-Hawaii

2013 Directors

Anthony Borge

RMA Sales

Clifton Crawford

C&J Contracting, Inc.

David S. Chang

Chang Holding Company

Dean Uchida

SSFM International, Inc.

Evan Fujimoto

Graham Builders, Inc.

Gary T. Okimoto

Honolulu Wood Treating

Mark Kennedy

HASEKO Construction Kamakana, LLC

Marshall Hickox

Homeworks Construction, Inc.

Michael Watanabe

JW, Inc.

Ryan Engle

Bays Lung Rose & Holma

Scotty Anderson

Pacific Rim Partners

W. Bruce Barrett

Castle & Cooke Homes Hawaii, Inc.

Testimony to the House Committee on Labor & Public Employment Tuesday, January 29, 2013 9:00a.m. Capitol Room 309

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

Dear Chair Nakashima, Vice-Chair Hashem, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii). BIA-Hawaii is the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit, professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii is opposed to H.B. 437.

H.B. 437 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. It would also amend the workers compensation laws of the State of Hawaii to allow the benefits of an injured employee to be suspended for any refusal to submit to an examination not just unreasonable refusals.

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.

Both 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.

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

Mailing address: P.O. Box 970967, Waipahu, HI 96797 Street address: 94-487 Akoki St., Waipahu, HI 96797-0967;
Telephone: (808) 847-4666 Fax: (808) 440-1198 E-mail: info@biahawaii.org; www.biahawaii.org

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.

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.

BIA-Hawaii is **opposed** to H.B. 437 and respectfully requests that it be held.

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



Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

To: The Honorable Mark M. Nakashima, Chair
House Committee on Labor & Public Employment

From: Mark Sektnan, Vice President

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

Date: Tuesday, January 29, 2013
9:00 a.m., Conference Room 309

Aloha Chair Nakashima and Members of the Committee:

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

HB 437 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 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 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 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 30 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 for the remainder of the session.

People
Serving
People



Hawaii Restaurant Association

1451 South King St., Suite 503
Honolulu, Hawaii 96814
www.RestaurantHI.com

Phone: 808.944.9105
Fax (Toll Free): 877.494.3245
hra@RestaurantHI.com

January 28, 2013

Submitted in opposition to HB437, Relating to Workers' Compensation

The Hawaii Restaurant Association opposes this bill. Our members are conscientious and work diligently to take care of their employees.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the term "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.

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 restaurant and allied members. They already struggle with many of the expenses and costs to comply with numerous government imposed mandates and regulations.

Respectfully submitted,

A handwritten signature in black ink that reads "Roger Morey". The signature is written in a cursive, flowing style.

Roger Morey
Executive Director

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 28, 2013 1:21 PM
To: LABtestimony
Cc: molokaisweetpotato@gmail.com
Subject: *Submitted testimony for HB437 on Jan 29, 2013 09:00AM*

HB437

Submitted on: 1/28/2013

Testimony for LAB on Jan 29, 2013 09:00AM in Conference Room 309

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Lynn Decoite | L&R FARM ENT LLC | 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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: Paula Uusitalo [Puusitalo@hawaiiislandadultcare.org]
Sent: Monday, January 28, 2013 12:31 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

Paula Uusitalo, Executive Director, Hawaii Island Adult Care, Inc. 34 Rainbow Drive, Hilo, HI.

We have an adult day care program with over 100 participants, and 33 staff (with in home care we had 55 employees at one point). Over the past 17 years I have been here (accounting/human resources/grants, last 5 years as the director) have seen numerous Workers Compensation cases.

The current situation works just fine, there is no need for state intervention or cost to us as tax payors to be involved in the choice of doctors. This is just a costly interference in what is working well.

We are opposed to this bill.

Sincerely,

Paula Uusitalo
65 Likeke St
Hilo, HI 96720

January 28, 2013

Honorable Chair Nakashima & Others:

RE: Opposition to HB 437 regarding W/C IME

As the employer's representative of over 9,000 employees and 800 companies, I strongly oppose HB 4 as it is written. This bill which requires the employer and employee to "mutually agree" on an independent medical examiner (IME) is flawed and does not take under consideration the employer's only protection to fraudulent claims. Although the term "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. Since the current law prohibits the employer from being an active participant in choosing the initial treating physician, the employer is once again faced with the reality of not being able to come to a "mutual" course of action when dealing with the claim.

This Bill is also premature in its current state. The question I propose; what is the process to which an IME is certified and identified as a "credentialed" IME? This is what is not defined nor monitored. This is the main issue and the root of this problem, and this should be addressed prior to any other Bill being introduced for the IME process.

The bill seeks to continue to punish all businesses on the theory that there are some who abuse this right without addressing real fairness between a company and their employee. 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.

Fair is relative. With Work Comp, the employer continues to suffer the burden, as the employee continues to receive additional entitlements which are more often than not, abused and misused.

Sincerely,

John D. Fielding
Director of Risk Management
ALTRES, Inc and Simplicity HR



Randy Perreira
President

HAWAII STATE AFL-CIO

320 Ward Avenue, Suite 209 • Honolulu, Hawaii 96814

Telephone: (808) 597-1441

Fax: (808) 593-2149

The Twenty-Seventh Legislature, State of Hawaii
House of Representatives
Committee on Labor & Public Employment

Testimony by
Hawaii State AFL-CIO
January 29, 2013

H.B. 437 - RELATING TO WORKERS' COMPENSATION

The Hawaii State AFL-CIO supports H.B. 437 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 DLNR and appropriates funds and positions for the DLNR disability compensation division to assist in workers' compensation claims.

The purpose of this bill is to reduce workers' compensation costs and speed up an employee's ability to return to work by selecting physicians who are mutually agreed upon.

Presently, injured employees are required to go to non-treating doctors who are selected by the employers or insurance carriers. Employees have absolutely no say as to who the doctors will be, resulting in a lack of trust when the medical reports are generated. In fact, some physicians are paid handsomely each year by insurance carriers to perform medical examinations. This should raise a red flag and lead us to question the validity of the medical reports. As a result, unnecessary hearings are conducted, resulting in various delays causing higher costs for both the employers and insurance carriers.

Most notably, H.B. 437 would reduce workers' compensation costs by eliminating the unnecessary struggles that exist between the employers and employees. It would require mutual cooperation when selecting a doctor to perform a medical examination.

Respectfully submitted,

Randy Perreira
President



**Testimony to the House Committee on Labor and Public Employment
Tuesday, January 29, 2013, at 9:00 a.m.
Conference Room 309
Hawaii State Capitol**

RE: HOUSE BILL 437 RELATING TO WORKERS' COMPENSATION

Chair Nakashima, Vice Chair Hashem, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes all the sections of HB 437, exception Section 3. We respectfully ask that the committee recognize 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 physician's 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 physician's 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. We respectfully ask that employers are given the benefit of the doubt.

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.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

January 29, 2013

TO: HONORABLE REPRESENTATIVE MARK M. NAKASHIMA, CHAIR,
HONORABLE MARK J. HASHEM, VICE CHAIR AND MEMBERS OF THE HOUSE
COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **OPPOSITION TO H.B. 437 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 DLNR.
Appropriates funds and positions for the DLNR disability compensation division to assist
in workers' compensation claims.

HEARING

DATE: Tuesday, January 29, 2013
TIME: 9:00 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Hashem and Members of the Committee:

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 the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest. GCA is **opposed** to HB 437, Relating to Workers' Compensation.

Similar to last year's bill H.B. 466, HD3, this bill similarly remains at odds with the interests of GCA members and other business organizations. Therefore, GCA opposes H.B. 437 and respectfully requests that this Committee hold the measure.

H.B. 437, among other things would require that a mutually agreed upon physician be chosen by the employer and employee for the independent medical examination and permanent impairment rating examination for worker's compensation claims. H.B. 437 also proposes to appropriate funds and positions for the Department of Labor and Industrial Relations for three full time workers' compensation hearings officers and two full time office assistant positions in the disability compensation division to assist with workers' compensation claims.

GCA is opposed to this bill because it requires the selection of an Independent Medical Examiner (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 IME process is the employer's only safeguard against abusive practices by an employee that may be taking advantage of his or her worker's compensation benefits. The passage of this bill may likely lead to more contested workers' compensation claims because of the added burden placed on the employer to further defend against potentially fraudulent cases.

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

We respectfully urge the Committee to hold this measure. Thank you for the opportunity to express our concerns on this measure.

From: Debbie Alameida [alohadebbie@gmail.com]
Sent: Monday, January 28, 2013 2:40 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

My name is Debbie Alameida and serve as the Business Manager at Camp Mokule`ia, a nonprofit located on the NorthShore of Oahu.

Based on my actual experience of an employee filing and claiming Workers Compensation our Company may have been put out of business. The IME who did the evaluation was unknown to the Camp and a Doctor who does that type of work. In the end the IME found that the claim was not valid, yet the workers comp Doctor stated it was. In the end it was determined that the employee was making up the claim. I know there are times when people get desperate and make up claims. The IME is a tool to help weed out the false or made up claims. It seems the system automatically finds the employer guilty. I agree if an employee is injured on the job the employer should be required to take responsibility. Yet there needs to be checks and balances to ensure the employer is not be falsely charged and that the employee receives treatment as needed.

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.

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 Alameida
68-315 CROZIER DR APT A
WAIALUA, HI 96791



HAWAII PACIFIC HEALTH

55 Merchant Street
Honolulu, Hawaii 96813-4333

Kapi'olani • Pali Momi • Straub • Wilcox

808-535-7401
www.hawaiipacifichealth.org

Tuesday – January 29, 2013 – 9:00 am
Conference Room 309

The House Committee on Labor & Public Employment

To: Representative Mark M. Nakashima, Chair
Representative Mark J. Hashem, Vice Chair

From: Virginia Pressler, MD, MBA
Executive Vice President
Chief Strategic Officer

Re: HB 437 RELATING TO WORKERS' COMPENSATION- Testimony in Strong Opposition

My name is Virginia Pressler, MD, MBA, Executive Vice President and Chief Strategic Officer for Hawaii Pacific Health (HPH). HPH is a nonprofit health care system and the state's largest health care provider anchored by its four nonprofit hospitals: Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital on Kauai. HPH is committed to providing the highest quality medical care and service to the people of Hawaii and the Pacific Region through its four affiliated hospitals, 49 outpatient clinics and service sites, more than 5,400 employees and 1,300 physicians on staff.

We are writing in **strong opposition** to HB 437 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 437 will substantially increase the cost of providing health care coverage to our employees. The end result is that non profit organizations like Hawaii 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. Healthcare providers rely on fragile operating margins that 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.



STRAUB
CLINIC & HOSPITAL

WILCOX HEALTH

Affiliates of Hawaii Pacific Health

January 29, 2013

Honorable Mark M. Nakashima, Chair
House Committee on Labor and Public Employment

RE: HB437 – Relating to Workers’ Compensation - Oppose
Committee on Labor and Public Employment – Conference Room 309, 9 AM

Aloha Chair Nakashima, Vice Chair Chair Hashem and members of the committee:

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 HB437 – 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. Should this bill be 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 independent medical examination (“IME”).

An 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.

Our greatest concerns about the proposal are as follows:

- It limits our ability as an employer to utilize the IME process that 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 business, which is currently 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,

A handwritten signature in black ink, appearing to read "Nona Tamanaha". The signature is written in a cursive, flowing style.

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



House Committee on Labor & Public Employment
Tuesday, January 29, 2013 / 9:00 AM
Hawai'i State Capitol, Room 309

House Bill 437 RE: Workers' Compensation

Aloha Chair Nakashima, Vice Chair Hashem and members of the committee. On behalf of the Society for Human Resource Management – Hawai'i Chapter (SHRM Hawai'i) I am writing in adamant opposition to House Bill 437.

HB 437 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 Land and Natural Resources (DLNR). The bill also appropriates funds and positions for the DLNR disability compensation division to assist in workers' compensation claims.

Human resource professionals are responsible for businesses' most valuable asset: people. As such, we are keenly aware of the needs of both employers and employees; we truly have everyone's best interest at heart. We adamantly oppose this measure for its significant alteration of the manner in which workers' compensation claims are handled and resolved. In addition, we believe this bill will have a host of unintended consequences and costs associated with it.

Our most significant concerns are:

1. If the employer and employee must agree on a physician to perform a medical examination or permanent impairment rating, the employer loses the ability to meaningfully participate in the selection of an appropriate physician based on education, experience and specialty.
2. If the Director must select a physician within seven calendar days of a request, the Director may not be familiar with the particular issues involved and the need for a physician with certain education, experience or specialty.
3. If the medical examination must be conducted within 30 days of selection or appointment by the Director, the physicians will have insufficient time to schedule and conduct the examination, review medical records – which are often substantial – and prepare a detailed and professional report.
4. If the employer cannot combine the medical examination and rating without the employee's consent – even where the physician deems the employee stable and ratable – the employer will be required to unnecessarily schedule additional examinations and report. Additional examinations and reports will increase the cost to the employer in the form of physician fees as well as extended workers' compensation benefits associated with an extended examination period.



House Committee on Labor & Public Employment
Tuesday, January 29, 2013 / 9:00 AM
Hawai'i State Capitol, Room 309

House Bill 437 RE: Workers' Compensation

5. Currently, employers are already limited to one medical evaluation and rating unless valid justification exists for additional measures. Employers are already required to show justification to the Director for additional medical evaluations and/or ratings, which are reviewed for approval or denial by the Director.
6. If the physician is required to be licensed in Hawaii unless the employee is out of state, employers will lose the ability to seek the expert medical opinion of physicians with specialties not available for workers' compensation medical evaluation and rating in Hawaii such as toxicologists for toxic exposure claims, temporomandibular joint disorder and others.
7. If this bill is passed, employers will lose the ability to conduct reasonable discovery of disputed claims and the ability to present a meaningful defense either to a disputed claim or disputed medical treatment. This will result in an increase to the cost of workers' compensation benefits and workers' compensation premium rates. Such increases in cost will adversely impact all businesses and discourage new businesses from operating.

We respectfully request this bill not be advanced. However, should the bill continue, we would like to ask for the opportunity to discuss these issues with you further. Thank you for the opportunity to testify.

From: Laurie Hamano, M.Ed. CRC [lhamano@vmchawaii.com]
Sent: Monday, January 28, 2013 3:35 PM
To: LABtestimony
Subject: In Support of HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). There is so much animosity in the workers compensation system; the goal here is to reduce the animosity and work together from the beginning of the case.

My company works every day to get back injured workers back to work by working through their issues, their injuries and their concerns and fears of returning to work and becoming injured again.

Employees are an asset to the company and we make sure to have a healthy and safe work environment. By bringing together both sides in a positive manner, the cost to get the employee back to work actually will go down rather than "up" as the negativity of the cases are what causes the delays.

Sincerely,

Laurie Hamano
715 S King St
Honolulu, HI 96813

HB 437

RELATING TO WORKERS' COMPENSATION

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

January 29, 2013

Chair Nakashima and members of the Committee:

I am Sheri Braunthal, testifying on behalf of Hawaiian Telcom on HB 437 – 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 437 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.

From: Joan Araujo [joan.araujo@helcohi.com]
Sent: Monday, January 28, 2013 12:59 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Joan Araujo
PO Box 1027
Hilo, HI 96721

From: Tracy Norling-Babbitt [localstore@me.com]
Sent: Monday, January 28, 2013 11:54 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Tracy Norling-Babbitt
PO Box 482140
Kaunakakai, HI 96748

From: chip bahouth [chip.bahouth@sheraton.com]
Sent: Monday, January 28, 2013 12:47 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

chip bahouth
2440 Hoonani Rd
Koloa, HI 96756

From: Bernard Balsis, Jr [manager@iegfcu.com]
Sent: Monday, January 28, 2013 11:59 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Bernard Balsis
PO Box 1131
Hilo, HI 96721

From: Ron Bongiovanni [RBONJON@CELEBRITYTUXEDOS.COM]
Sent: Monday, January 28, 2013 11:17 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Ron Bongiovanni
5562 Kalaniana'ole Hwy
Honolulu, HI 96821

From: Rory Brandt [rory@westbridgepayroll.com]
Sent: Monday, January 28, 2013 12:04 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Rory Brandt
2015C Round Top Dr
Honolulu, HI 96822

From: Jason Correia [jason@sentinelalarmhawaii.com]
Sent: Monday, January 28, 2013 11:40 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Jason Correia
99-1036 IWAENA ST
AIEA, HI 96701

From: Janice Dawson [jdawson@tokai.edu]
Sent: Monday, January 28, 2013 11:18 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Janice Dawson
2241 Kapiolani Blvd
Honolulu, HI 96826

From: Sherry Dziuban [hisc146@cox.net]
Sent: Monday, January 28, 2013 12:11 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Sherry Dziuban
3110 Via del Monte Libano
Vista, CA 92084

From: Josh Feldman [junk@toririchard.com]
Sent: Monday, January 28, 2013 12:54 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Chair Nakashima & Members,

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.

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. It operates under a virtual Napoleon code that is to say, guilty until proven innocent. 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,

Josh Feldman
1334 Moonui St
Honolulu, HI 96817

From: DEBRA FINKIEWICZ [mauicloset@aol.com]
Sent: Monday, January 28, 2013 11:39 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

DEBRA FINKIEWICZ
15 KULANI HAKOI ST APT 11F
KIHEI, HI 96753

From: Byron Goo [bgoo@teachest.com]
Sent: Monday, January 28, 2013 12:31 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Byron Goo
80 Sand Island Access Rd
Honolulu, HI 96819

From: Scott Ingwers [singwers@trumphotels.com]
Sent: Monday, January 28, 2013 11:26 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

In my 20+ years in the hotel business in Hawaii, the ability to choose a fair and impartial IME has proven to be critical in order to provide fair assessment of work related injuries. This ability must be upheld, because very frankly, there are a multitude of dishonest medical practitioners who are not fair and impartial when rendering a decision in this arena.

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.

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,

Scott Ingwers
343 Wai Lupe Cir
Honolulu, HI 96821

From: Gordon Inouye [Gordon@floreshawaii.com]
Sent: Monday, January 28, 2013 12:31 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Gordon Inouye
PO Box 595
Papaikou, HI 96781

From: Ryno Irwin [ryno@hawaiietailservices.com]
Sent: Monday, January 28, 2013 12:51 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Ryno Irwin
84-1219 ALAHELE ST
WAIANAE, HI 96792

From: Terry Johnson [tjohnson@cfs-hawaii.org]
Sent: Monday, January 28, 2013 11:29 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Terry Johnson
2026 McKinley St
Honolulu, HI 96822

From: Marshall Joy [marshall@hawnice.com]
Sent: Monday, January 28, 2013 12:43 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Marshall Joy
3102 Kaohinani Dr
Honolulu, HI 96817

From: Melvin Kam [melvin_kam@hawaiianisles.com]
Sent: Monday, January 28, 2013 11:53 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Melvin Kam
94-453 KAPUAHI ST
MILILANI, HI 96789

From: Rhea Lee [rhea.lee@helcohi.com]
Sent: Monday, January 28, 2013 12:56 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Rhea Lee
54 Halekaila St
Hilo, HI 96720

From: Kaye Leonard [kuaigymnastics@aol.com]
Sent: Monday, January 28, 2013 12:43 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Kaye Leonard
6134 Kala Kea Pl Apt 4
Kapaa, HI 96746

From: Gail Lerch [gail@kapiolani.org]
Sent: Monday, January 28, 2013 11:29 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Gail Lerch
55 Merchant St Fl 25
Honolulu, HI 96813

From: Joe Massillo [jmassillo@intech-hawaii.com]
Sent: Monday, January 28, 2013 11:23 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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.

The system does not need this change. We are disappointed in the approach and now have a trust issue.

Sincerely,

Joe Massillo
745 Fort Street Mall Ste 600
Honolulu, HI 96813

From: Michael Miller [michaelm@tikisgrill.com]
Sent: Monday, January 28, 2013 11:42 AM
To: LABtestimony
Subject: Not again? In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

Aloha!

We are a 10 year old company started by 3 UH graduates, we now have over 110 employees, and are happy to pay for current benefits and feel that there are sufficient laws and rules that protect the employees.

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.

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.

Mahalo,
Michael Miller

Sincerely,

Michael Miller
44-096 KEAALAU PL
KANEEOHE, HI 96744

From: Michael Miyahira [mike@bus-strategies.com]
Sent: Monday, January 28, 2013 11:40 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Michael Miyahira
232 Pohakalani St
Hilo, HI 96720

From: John Muaia [muainaj@polynesia.com]
Sent: Monday, January 28, 2013 11:22 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

John Muai a
55-370 KAMEHAMEHA HWY
LAI E, HI 96762

From: LANE MURAOKA [lane@bigcitydinerhawaii.com]
Sent: Monday, January 28, 2013 12:22 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

LANE MURAOKA
2141 Pauoa Rd
Honolulu, HI 96813

From: Marlene Nations [nationsm@wbu.edu]
Sent: Monday, January 28, 2013 12:40 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Marlene Nations
117 S Kalaeo Ave
Kailua, HI 96734

From: Paul Dziuban [hisc146@cox.net]
Sent: Monday, January 28, 2013 12:22 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Paul Dziuban
3110 Via del Monte Libano
Vista, CA 92084

From: Betty Prahler [betty@polyad.com]
Sent: Monday, January 28, 2013 12:10 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

Betty Prahler, Polynesian Adventure Tours, a tour bus company.

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.

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,

Betty Prahler
2880 Kilihau St
Honolulu, HI 96819

From: Keith Robbins [bubbiesicecream@hawaii.rr.com]
Sent: Monday, January 28, 2013 11:17 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Keith Robbins
99-1267 WAIUA PL
AIEA, HI 96701

From: Ken Sanders [ksanders@oceannetwork.tv]
Sent: Monday, January 28, 2013 11:59 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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.

Additionally, there are probably always extenuating circumstances that the bill does not take into account. For instance, our company barely survived the Recession and we are now trying hard to get back to where we were before that disastrous occasion that was not of our making. We plan on adding more employees, which will help the State, but everything that you do to complicate our task and/or raise our costs, just makes it that much more difficult to make a comeback!

Sincerely,

Ken Sanders
269 Kaelopulu Dr
Kailua, HI 96734

From: Steven Sofos [ssofos@sofosrealty.com]
Sent: Monday, January 28, 2013 11:15 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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 Sofos
3228 Oahu Ave
Honolulu, HI 96822

From: Michael Sorenson [michael@greenohanahawaii.com]
Sent: Monday, January 28, 2013 11:22 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

My name is Michael Sorenson, CEO of Green Ohana Recycling. We are a local recycling company developing a team to help change the recycling community here.

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.

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,

Michael Sorenson
1888 KALAKAUA AVE STE C312-369
HONOLULU, HI 96815

From: Bob Stout [bobs@times-supermarket.com]
Sent: Monday, January 28, 2013 11:50 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Bob Stout
986 Kai Iu Pl
Honolulu, HI 96825

From: Darrel Tajima [darrel_tajima@deanfoods.com]
Sent: Monday, January 28, 2013 11:44 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Darrel Tajima
828 Lukepane Ave Apt F
Honolulu, HI 96816

From: Gordon Takaki [takakig002@hawaii.rr.com]
Sent: Monday, January 28, 2013 12:13 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Gordon Takaki
PO Box 4425
Hilo, HI 96720

From: Kenneth Yamamoto [ktyamamo@hawaiigas.com]
Sent: Monday, January 28, 2013 11:22 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Kenneth Yamamoto
2418 Akepa St
Pearl City, HI 96782

From: Kelly Zeek [kelly_zeek@cleansewerlineshawaii.com]
Sent: Monday, January 28, 2013 11:45 AM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Kelly Zeek
168 Karsten Dr
Wahiawa, HI 96786

From: Meredith Contreras [mcontreras@cfs-hawaii.org]
Sent: Monday, January 28, 2013 1:12 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Meredith Contreras
91-1841 FORT WEAVER RD
EWA BEACH, HI 96706

From: Amy Galtes [amy@hawaiiicareandcleaning.com]
Sent: Monday, January 28, 2013 1:19 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Amy Galtes
4479 Kapuna Rd
Kilauea, HI 96754

From: Ron Garlie [puhipnt@shaka.com]
Sent: Monday, January 28, 2013 1:01 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Ron Garlie
3920 Alala St
Lihue, HI 96766

From: LINDA IWATA [sanscinc@hawaiiantel.net]
Sent: Monday, January 28, 2013 1:12 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

LINDA IWATA
PO Box 1321
Pahoa, HI 96778

From: Sandy Poehnel t [sandy@rightslice.com]
Sent: Monday, January 28, 2013 1:06 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

Aloha, My name is Sandy Poehnel t. My company is called The Right Slice. We are a small locally owned specialty bakery with a small staff of 4- 7. 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.

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,

Sandy Poehnel t
1543 Haleukana St
Lihue, HI 96766

From: Kelvin Shigemura [kelivns@armstrongproduce.com]
Sent: Monday, January 28, 2013 1:15 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Kelvin Shigemura
802 Mapunapuna St
Honolulu, HI 96819

From: Laura Valhuerdi [laura@hawaiicareandcleaning.com]
Sent: Monday, January 28, 2013 1:01 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Laura Valhuerdi
4374 Kukui Grove St
Lihue, HI 96766

From: Roberta Chu [Roberta.Chu@boh.com]
Sent: Monday, January 28, 2013 1:30 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Roberta Chu
478 Kipuni St
Hilo, HI 96720

From: Andrew Chun [andrew_chun@ktasuperstores.com]
Sent: Monday, January 28, 2013 1:21 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

Andrew Chun KTA Super Stores - A locally owned grocery retailer on the Big Island with over 750 employees.

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.

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,

Andrew A. T. Chun
50 E Puainako St
Hilo, HI 96720

From: Jeremy Dela Pena [jdelapena@bayada.com]
Sent: Monday, January 28, 2013 1:26 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Jeremy Dela Pena
1221 Kilauea Ave Ste 60
Hilo, HI 96720

From: Solette Perry [sperry@hhsc.org]
Sent: Monday, January 28, 2013 1:26 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Solette Perry
3936 Alala St
Lihue, HI 96766

From: Robert Stephenson [rob@molokaichamber.org]
Sent: Monday, January 28, 2013 1:31 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

The Molokai Chamber of Commerce, which has dozens of members, who employ hundreds of people, who provide for their families is opposed to HB 437. This bill would place an unnecessary and undue burden on our small businesses and increase the overall cost of doing business.

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.

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 members do our best to take care of their employees. They are an asset to the companies and they make sure to have a healthy and safe work environment. Many provide generous benefits and any increase in costs during this time may force them to restructure their benefits systems.

We humbly ask you to oppose this bill.

Kindest regards,

Robert Stephenson, President & CEO
Molokai Chamber of Commerce

Sincerely,

Robert Stephenson
PO Box 515
Kaunakakai, HI 96748

From: Rebecca Allen [Rebecca@hawaiicareandcleaning.com]
Sent: Monday, January 28, 2013 2:26 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Rebecca Allen
4339 Puaole St
Lihue, HI 96766

From: Kiinani Dodge [kiinani@bigcitydinerhawaii.com]
Sent: Monday, January 28, 2013 2:18 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Kiinani Dodge
94-800 UKEE ST STE 305
WAI PAHU, HI 96797

From: Jason Higa [jhiga@zippys.com]
Sent: Monday, January 28, 2013 2:28 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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 Zippy's Restaurants. We are already struggling with many of the expenses and costs to comply with 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 at this time will require Zippy's Restaurants to restructure our benefits system.

Thank for considering our submital.

Jason Higa
CEO
Zippy's Restaurants

Sincerely,

Jason Higa
1765 S King St
Honolulu, HI 96826

From: David Howle [dhowle@wbu.edu]
Sent: Monday, January 28, 2013 2:42 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the term "mutually agree" appears fair, it is not. If anything, this bill will take away the only tool that the employers have 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 the only objective tool for the employer to look into statutory presumption, excessive treatment, etc.

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. For example, we are paying unemployment compensation to an adjunct instructor because the institution she worked for full-time went bankrupt. So we are having to pay the unemployment benefit as well as paying her to teach for us despite the fact that we have never dismissed her. Passing this bill would lead to exceedingly high insurance rates, thus reducing our funds for other employee benefits.

At Wayland Baptist University, we do 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 even provide extra benefits for workers who improve their health (by quitting smoking, losing excess weight, etc.). We provide generous benefits and any increase in costs during this time will force me to cut back on the new hires we need to increase the revenues flowing into the state of Hawaii.

Sincerely,

David Howle
40 Rose St
Wahiawa, HI 96786

From: Joyce Kapololu [joyce.kapololu@hawaiiintel.com]
Sent: Monday, January 28, 2013 2:51 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Joyce Kapololu
1572 Monte St
Honolulu, HI 96819

From: Diane Swenson [diane@island-realestate.com]
Sent: Monday, January 28, 2013 2:40 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

Diane Swenson
PO Box 1979
Kaunakakai, HI 96748

From: John Tsukada [jtsukada@bakercommodities.com]
Sent: Monday, January 28, 2013 2:39 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

John Tsukada
91-269 OLAI ST
KAPOLEI, HI 96707

From: Shelley Wilson [shelley@wilsoncare.com]
Sent: Monday, January 28, 2013 2:44 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I humbly request that you oppose this bill. In my experience I feel the current system is fair for both employees and employers and this proposed bill would only make the worker's compensation process more challenging in addition to being much more costly.

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.

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,

Shelley Wilson
1080 S Beretania St Apt Gphw
Honolulu, HI 96814

From: John Squires [jsquires@wdico.biz]
Sent: Monday, January 28, 2013 2:12 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

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.

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,

John Squires
645 Honua St
Honolulu, HI 96816

From: Misty Wheeler [misty@pmibuilders.com]
Sent: Monday, January 28, 2013 3:14 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

Misty Wheeler
1725 Walea St
Wahiawa, HI 96786

From: Rose Angelo [rose@bigcitydinerhawaii.com]
Sent: Monday, January 28, 2013 3:32 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

Rose Angelo
91-569 PUPU ST
EWA BEACH, HI 96706

From: Colette Buis [colette@hawaiiicareandcleaning.com]
Sent: Monday, January 28, 2013 3:37 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

Colette Buis
4339 Puaole St
Lihue, HI 96766

From: Sandra Bangerter [alohasamb@rxkl.com]
Sent: Monday, January 28, 2013 3:52 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

Sandra Bangerter
44-145 HAKO ST APT 6
KANE OHE, HI 96744

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 28, 2013 4:23 PM
To: LABtestimony
Cc: tony@rmasalesco.com
Subject: *Submitted testimony for HB437 on Jan 29, 2013 09:00AM*

HB437

Submitted on: 1/28/2013

Testimony for LAB on Jan 29, 2013 09:00AM in Conference Room 309

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Anthony Borge | RMA Sales | 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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: Brian Simeona, Sr. [brians@suisan.com]
Sent: Monday, January 28, 2013 3:41 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

Brian Simeona
243 Hoohua St
Hilo, HI 96720

From: Stephanie Suzuki [ssuzuki@hmfamilylaw.com]
Sent: Monday, January 28, 2013 4:08 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

Stephanie Suzuki
40 Aulike St Ste 314
Kailua, HI 96734

From: Wendy Chuck [wendy@itoen-usa.com]
Sent: Monday, January 28, 2013 3:51 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

Wendy Chuck
7284 Ninihi Pl
Honolulu, HI 96825

From: Francis Brewer [francisbrewer@mac.com]
Sent: Monday, January 28, 2013 4:13 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

Francis Brewer
1150 S King St
Honolulu, HI 96814

From: Robert Festa, rafesta01@yahoo [rafesta01@yahoo.com]
Sent: Monday, January 28, 2013 4:13 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you do not pass HB 437.

My company name is Bob's Pizzeria and I am located in Kailua. My name is Robert Festa. I am a small single location business trying to meet all the new government fees and all the rising costs of the products we sell. It is a struggle.

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.

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,

Robert Festa
130 Kailua Rd Ste 112
Kailua, HI 96734

From: William Tobin [bill@tikisgrill.com]
Sent: Monday, January 28, 2013 4:13 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you do not pass HB 437.

The bill will punish employers who play by the rules by adding extraordinary costs and lost time to the workers' compensation process.

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.

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 Tobin
1940 Alaweo St
Honolulu, HI 96821

From: Christopher Riemer [jharter1@aloha.net]
Sent: Monday, January 28, 2013 4:20 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

Christopher Riemer
6731 Waipouli Rd
Kapaa, HI 96746

From: concerned citizen [jobs@parbev.com]
Sent: Monday, January 28, 2013 4:15 PM
To: LABtestimony
Subject: In Opposition to HB 437 re Workers' Compensation IME

Dear Chair Nakashima & Members,

I respectfully ask that you 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.

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,

concerned citizen
94-1450 MOANIANI ST
WAI PAHU, HI 96797

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU
850 SOUTH KING STREET 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-6500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR DESIGNATE

NOEL T. ONO
ASSISTANT DIRECTOR

January 29, 2013

The Honorable Mark M. Nakashima, Chair
and Members of the Committee on
Labor and Public Employment
State House of Representatives
Hawaii State Capitol
415 South Beretania St.
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members:

Subject: House Bill No. 437, Relating to Workers' Compensation

The City and County of Honolulu opposes House Bill No. 437, repealing Section 386-79, Hawaii Revised Statutes (HRS), and adding a new section entitled, **Independent medical examinations; permanent partial rating examination; selection of physicians; costs**. This bill requires independent medical examinations and permanent impairment rating examinations to be performed by mutually agreed upon physicians. Although the vast majority of workers' compensation claims proceed without controversy or disagreement, there are claims where this cannot be avoided.

The Hawaii Workers' Compensation Law permits a claimant to secure medical treatment from any physician practicing in the State of Hawaii. Occasionally questions arise concerning diagnosis, treatment, or disability status. While employers have no say in an employee's choice of physician, they currently have the right to obtain an independent opinion from a physician or specialist regarding the progress of a claim. HB 437, greatly limits an employer's ability to obtain such independent examinations by mandating that only physicians agreed upon by claimants be used for employer requested medical examinations, or if both parties cannot reach a consensus, physicians assigned by the Department of Labor and Industrial Relations.

Most employers and insurance carriers have no problem using mutually agreed upon physicians for permanent impairment ratings, but to require mutual agreement for an employer to conduct an independent medical evaluation takes away from the very independence and purpose of the evaluation. The concept of an independent medical examination is incongruous with the words upon mutual agreement as proposed in this bill.

The Honorable Mark M. Nakashima, Chair
and Members of the Committee on
Labor and Public Employment
State House of Representatives
January 29, 2013
Page 2

The Hawaii Workers' Compensation Law weighs heavily in favor of the claimant. Under the presumption clause, any claim filed is deemed compensable unless the employer presents substantial evidence to the contrary. During the hearing process at the Disability Compensation Division (DCD) and the Labor and Industrial Relations Appeals Board (LAB), issues of doubt are often resolved in favor of the claimant. The employer currently has the right to select an independent medical examiner to review a claimant's medical progress. To change this as proposed is unfair and inequitable to employers. The DCD and LAB already provide the necessary checks and balances to ensure that employees are treated fairly, including limiting ordered medical examinations to one per case, while allowing employers to exercise their rights to review the progress of claims using independent medical examiners.

Finally, the bill allows only the attending physician to make the finding of medical stability. In most instances, this is self-serving and will undoubtedly prolong treatment, delay an employee's return to work and dramatically increase the cost of a claim.

We respectfully urge your committee to file House Bill No. 437. The changes proposed by this bill seriously erode an employer's ability to efficiently and effectively manage claims and will most definitely increase the cost of workers' compensation in Hawaii.

Sincerely,



Carolee C. Kubo
Director Designate

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 28, 2013 5:39 PM
To: LABtestimony
Cc: cathy@mauivacationproperties.com
Subject: Submitted testimony for HB437 on Jan 29, 2013 09:00AM

HB437

Submitted on: 1/28/2013

Testimony for LAB on Jan 29, 2013 09:00AM in Conference Room 309

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Catherine Clark | Individual | Oppose | No |

Comments: As a small business owner, I request that you OPPOSE this bill. This bill could take away the one tool that an employer has to evaluate the validity of a workers comp claim. This is VERY UNFAIR. Employers are hoping to slowly move back to profitability, but as everyone knows, it's a fine line right now. And it's unfortunate that some employees will always think that Workers Comp is a paid vacation. We need to keep the the one tool that can be used to accurately assess a claim. If the employer is paying for the medical examination, they should be able to select the doctor to perform the examination.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

TESTIMONY BEFORE THE HOUSE OF REPRESENTATIVES COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT

Tuesday, January 29, 2013
9:00 a.m.

HB 437
RELATING TO WORKERS' COMPENSATION

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

Chair Nakashima, Vice Chair Hashem and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **strongly oppose H.B. 437**. Our companies represent over 2,000 employees throughout the State.

This bill mandates that independent medical examinations (IME's) and permanent impairment rating examinations for workers' compensation claims be performed by physicians mutually agreed upon by employers and employees, or appointed by the director of the DLIR if unable to come to an agreement.

Under the current statutes, employees select their own treating physician. Independent medical examinations are a tool which gives employers the ability to seek an expert medical opinion, at their expense, when the compensability of a claim (statutory presumption), excessive treatment, or reasonableness of a proposed surgical procedure is in question. Safeguards are also in place to allow injured employees full disclosure of an employer's IME report, and the right to seek their own medical opinion if they disagree. A majority of IME's are conducted under the current statutes without incident or dispute today.

While we appreciate the intent, we cannot support a bill that takes away an employer's fundamental right in the discovery process to select their own expert medical opinion when the need arises.

Given the limited list of qualified physicians to perform permanent impairment rating examinations, they are currently by mutual agreement between parties, without the need for mandate by legislation.

For these reasons, we strongly oppose H.B. 437 and respectfully request this measure be held.

Thank you for this opportunity to submit testimony.

January 29, 2013

Honorable Mark M. Nakashima, Chair
House Committee on Labor and Public Employment

RE: HB437 – Relating to Workers’ Compensation - Oppose
Committee on Labor and Public Employment – Conference Room 309,
9 AM

Aloha Chair Nakashima, Vice Chair Chair Hashem and members of the committee:

I am Denise Wardlow, General Manager of The Westin Princeville Ocean Resort Villas. I am testifying on behalf of The Westin Princeville in opposition to HB437 – Relating to Workers’ Compensation.



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 director of the Department of Labor and Industrial Relations. While the description of this measure sounds laudable, we believe that in practice it will unfairly tip the balance of the independent medical examination process and that, as a result, claims will not be appropriately resolved. This bill proposes to add more costs and another layer of administration to business, which is currently 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,

A handwritten signature in cursive script that reads "Denise Wardlow".

Denise Wardlow
General Manager
The Westin Princeville Ocean Resort Villas



From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 28, 2013 6:59 PM
To: LABtestimony
Cc: tlccostas@msn.com
Subject: Submitted testimony for HB437 on Jan 29, 2013 09:00AM

HB437

Submitted on: 1/28/2013

Testimony for LAB on Jan 29, 2013 09:00AM in Conference Room 309

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| tyerry costa | Individual | Support | No |

Comments: I support this bill. As an injured worker who has been injured since 2-08-2007 has had to deal with an IME doctor who failed to mention in his exam that i was on NARCOTICS (VICODINS) during the examimation. This information i sdocumented in my file and the Disability Compensation Division refused to address this issue because the examination was done by a third party who is not involved with my TREATMENT but is allowed to report a false EXAMINATION to deny benefits anf treatment. By passing this bill future injured workers would not have to go through what i have experienced thank you

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Hawaii Injured Worker Association
715 South King Street
Suite 410
Honolulu, HI 96813

TESTIMONY RE: HB 437 RELATING TO WORKERS' COMPENSATION

To: The House Committee on Labor and Public Employment
Rep. Mark M. Nakashima, Chair
Rep. Mark J. Hashem, Vice Chair

Date: Tuesday
January 29, 2013

Time: 9:00 am

Place: Conference Room 309
State Capitol
415 S. Beretania St.

From: Derrick Ishihara
Vice President
Legislative Chair

Position: Support

Chair Nakashima, Vice Chair Hashem, and Members of the Committee,

Thank-you for the opportunity to present testimony regarding HB 437. HIWA supports this measure that allows injured workers to have a say in selecting a physician to perform an IME. This is already common practice in selecting a physician to perform an Impairment Rating examination, however including it in statute and expanding this to IME's are strongly supported by our organization.

One concern regarding paragraph (h) which states: "If an employee refuses to submit to or obstructs an independent medical examination or a permanent impairment rating examination, the employee's right to claim compensation for the work injury shall be suspended....."

Based on reports from injured workers who have testified before this committee in the past, sometimes an obstruction is necessary to prevent against further injury or an unnecessary invasion of their privacy. We suggest addition of language to read: "If an employee unreasonably refuses to submit....."

This measure in one form or another has come before the legislature many times in the past. Opponents rightly state that all IME reports are available for claimants to review

and if there are disagreements with the reports, they are free to obtain another IME. This is not adequate recourse for most injured workers. Most are not represented legally, and even if they are, the cost of obtaining another IME is prohibitive for most. These are the complex cases where the worker has been without employment and benefits are being withheld.

Opponents have stated that IME's are their only discovery tool to see if appropriate care is being given. We don't want to take this tool away from them. We only want it to be used in a fair and impartial manner.

Opponents have also stated that since the employee gets to choose the treating physician, the employer should have the right to choose the IME physician. They state that since they pay for the IME, they should have a 100% say in who performs it. What they don't say is that they weigh the IME examiner's "conclusion" above that of the treating physician most if not all the time. The attending physician has almost no say once an IME decision is delivered. Most attending physicians will not spend time out of the office at hearings and depositions to refute "bad IME" decisions and recommendations.

The simplest solution, the fairest solution to all concerned is to get unbiased opinions on these complex issues. Please pass HB 437.

Sincerely,

Derrick Ishihara

Before the House Committee on Labor & Public Employment

DATE: January 29, 2013

TIME: 9:00 a.m.

PLACE: Conference Room 309

Re: HB 437

Relating to Workers' Compensation Testimony of Melissa Pavlicek for NFIB Hawaii

Thank you for the opportunity to testify in opposition to HB 437.

HB 437 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. While the description of this measure sounds laudable, we believe that in practice it will unfairly tip the balance of the independent medical examination process and that, as a result, claims will not be appropriately resolved.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.



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

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Mark M Nakashima, Chair

1/29/13
Rm. 309, 9:00 AM

HB 437
Relating to Workers' Compensation

Chair Nakashima 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 about 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 in 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.



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.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

2013 Officers

President

Greg Thielen
Complete Construction Services Corp.

President-Elect

Brian Adachi
BKA Builders, Inc.

Vice President

Sunny Walsh
Hunt Building Company, Ltd.

Treasurer

Guy J. Shindo
First Hawaiian Bank

Secretary

Richard Hobson, Jr.
Gentry Homes, Ltd.

Special Appointee-Builder

Paul D. Silen
Hawaiian Dredging Construction Co., Inc.

Special Appointee-Associate

Craig Washofsky
Servco Home & Appliance Distribution

Immediate Past President

Dean I. Asahina
Universal Construction, Inc.

Chief Executive Officer

Karen T. Nakamura
BIA-Hawaii

2013 Directors

Anthony Borge

RMA Sales

Clifton Crawford

C&J Contracting, Inc.

David S. Chang

Chang Holding Company

Dean Uchida

SSFM International, Inc.

Evan Fujimoto

Graham Builders, Inc.

Gary T. Okimoto

Honolulu Wood Treating

Mark Kennedy

HASEKO Construction Kamakana, LLC

Marshall Hickox

Homeworks Construction, Inc.

Michael Watanabe

JW, Inc.

Ryan Engle

Bays Lung Rose & Holma

Scotty Anderson

Pacific Rim Partners

W. Bruce Barrett

Castle & Cooke Homes Hawaii, Inc.

Testimony to the House Committee on Labor & Public Employment Tuesday, January 29, 2013 9:00a.m. Capitol Room 309

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

Dear Chair Nakashima, Vice-Chair Hashem, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii). BIA-Hawaii is the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit, professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii is opposed to H.B. 437.

H.B. 437 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. It would also amend the workers compensation laws of the State of Hawaii to allow the benefits of an injured employee to be suspended for any refusal to submit to an examination not just unreasonable refusals.

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.

Both 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.

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

Mailing address: P.O. Box 970967, Waipahu, HI 96797 Street address: 94-487 Akoki St., Waipahu, HI 96797-0967;
Telephone: (808) 847-4666 Fax: (808) 440-1198 E-mail: info@biahawaii.org; www.biahawaii.org

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.

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.

BIA-Hawaii is **opposed** to H.B. 437 and respectfully requests that it be held.

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

HB 437 FORM LETTERS

LATE TESTIMONY

| | |
|----|------------------------|
| 1 | Carol VanCamp |
| 2 | Vaughn Vasconcellos |
| 3 | Jennifer Brittin |
| 4 | Ochana Bringman-Conway |
| 5 | Lisa Johnson |
| 6 | Linda Morabito |
| 7 | Debbie Walch |
| 8 | Connie Mitchell |
| 9 | Karen Kline |
| 10 | Darrel Tajima |
| 11 | Mark Phillipson |
| 12 | Sharon Hodson |
| 13 | Robert McKee, Jr. |
| 14 | Jason Princenthal |
| 15 | Monica Toguchi |
| 16 | Fred Brooks |
| 17 | George Szigeti, D. |
| 18 | Pam Cooper |
| 19 | Mark Hubbard |
| 20 | Joseph Zuiker |
| 21 | Scott Higa |
| 22 | Jason Suapaia |
| 23 | Mary Davis-Owen |