



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

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March 12, 2013

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

Date: Tuesday, March 12, 2013  
Time: 10:30 a.m.  
Place: Conference Room 016, State Capitol

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

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

**I. OVERVIEW OF PROPOSED LEGISLATION**

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

The Department supports this measure.

**II. CURRENT LAW**

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

**III. COMMENTS ON THE HOUSE BILL**

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

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

March 11, 2013

TESTIMONY TO THE  
SENATE COMMITTEE ON JUDICIARY AND LABOR

For Hearing on Tuesday, March 12, 2013  
10:30 a.m., Conference Room 016

BY

BARBARA A. KRIEG  
DIRECTOR

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

TO CHAIRPERSON CLAYTON HEE AND MEMBERS OF THE COMMITTEE:

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

The Department of Human Resources Development (DHRD) takes no position on this bill provided the proposed amendment is limited to Section 386-80, Hawaii Revised Statutes.

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

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
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KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR DESIGNATE

NOEL T. ONO  
ASSISTANT DIRECTOR

March 12, 2013

The Honorable Clayton Hee, Chair  
and Members  
Committee on Judiciary and Labor  
State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Hee and Members of the Committee:

Subject: House Bill No. 436, HD1, Relating to Workers' Compensation

House Bill No. 436, HD1, seeks to amend Hawaii Revised Statutes ("HRS") Section 386-80 so an impartial examination conducted under the section is performed by a physician whose specialty is appropriate for the injury being examined. The City and County of Honolulu, Department of Human Resources, respectfully opposes the measure and asks that it be held in committee.

While the measure seems reasonable at first glance, it is in fact superfluous given the lack of examinations that are conducted under HRS Section 386-80. In fact, the City is not aware of any such examinations being performed in the recent past.

At the same time, the proposed amendment fails to take into account the fact that the Director would automatically select an appropriate physician to perform the examination. Insofar as HRS Section 386-80 already requires the Director to appoint a "duly qualified" physician, the proposed amendment is redundant and it is simply unnecessary for the legislature to amend the statute.

HB 436, HD1, appears to be nothing more than a thinly veiled attempt to prime the legislature so HRS Section 386-79 can be amended in the same fashion in either the current or an upcoming session. The City therefore respectfully requests that the measure be filed.

Thank you for the opportunity to testify.

Sincerely,

  
Carolee C. Kubo  
Director Designate



Property Casualty Insurers  
Association of America

Advocacy • Membership • Results

To: The Honorable Clayton Hee, Chair  
Senate Committee on Judiciary and Labor

From: Mark Sektnan, Vice President

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

Date: Tuesday, March 12, 2013  
10:30 a.m.; conference room 016

Aloha Chair Hee and Members of the Committee:

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

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

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

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

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

# WIMAH

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

MAULI OLA  
THE POWER OF HEALING

MARCH 12, 2013

## COMMITTEE ON JUDICIARY AND LABOR

### HOUSE BILL 436 HDI RELATING TO WORKERS' COMPENSATION

REQUIRES THAT A WORKERS' COMPENSATION IMPARTIAL EXAM BE CONDUCTED BY A DOCTOR WHOSE SPECIALTY IS APPROPRIATE FOR THE INJURY TO BE EXAMINED.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII STRONGLY SUPPORTS HOUSE BILL 436 HDI.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII BELIEVES THIS WILL BILL WILL SPEED UP THE PROCESS OF WORKERS' COMPENSATION AND ALSO INSURE THE EXAMINATION IS DONE BY A PHYSICIAN WHO IS QUALIFIED IN THE SPECIALTY OF INJURY.

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

THE PASSAGE OF THIS BILL 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

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Randy Perreira  
President

# HAWAII STATE AFL-CIO

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

Testimony by  
Hawaii State AFL-CIO  
March 12, 2013

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

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

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

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira  
President



**HAWAII MEDICAL ASSOCIATION**

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814  
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

DATE: Tuesday, 12th March 2013  
TIME: 10:30 a.m.  
PLACE: Conference Room 016  
State Capitol  
415 South Beretania Street

TO: COMMITTEE ON JUDICIARY AND LABOR  
Sen. Clayton Hee, Chair  
Sen. Maile S.L. Shimabukuro, Vice Chair

FROM: Hawaii Medical Association  
Dr. Steven Kemble, MD, President  
Dr. Linda Rasmussen, MD, Legislative Co-Chair  
Dr. Joseph Zobian, MD, Legislative Co-Chair  
Dr. Christopher Flanders, DO, Executive Director  
Lauren Zirbel, Community and Government Relations

Re: HI 436 HD1 RELATING TO WORKERS' COMPENSATION

In Support.

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

We urge you to pass this bill.

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

OFFICERS

PRESIDENT - STEPHEN KEMBLE, MD PRESIDENT-ELECT - WALTON SHIM, MD  
SECRETARY - THOMAS KOSASA, MD IMMEDIATE PAST PRESIDENT - ROGER KIMURA, MD  
TREASURER - BRANDON LEE, MD EXECUTIVE DIRECTOR - CHRISTOPHER FLANDERS, DO

THE SENATE  
TWENTY-SEVENTH LEGISLATURE, 2013  
STATE OF HAWAII

COMMITTEE ON JUDICIARY & LABOR

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

Date: Tuesday, March 12, 2013

Time: 10:30 a.m.

Place: Conference Room 016, State Capitol

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

Chair Hee, Vice Chair Shimbukuro, Members of the Committee on Judiciary & Labor:

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

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