
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 386, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§386- Independent medical examination; permanent
5 impairment rating examination; selection of physicians; costs.

6 (a) After a claim is filed by an injured employee, the
7 employer, upon mutual agreement of the parties, may appoint a
8 physician to conduct an independent medical examination of the
9 injured employee and make a report to the employer.

10 (b) After the injured employee's attending physician has
11 determined that the injured employee has attained medical
12 stability, the employer, upon mutual agreement of the parties,
13 may appoint a physician to conduct a permanent impairment rating
14 examination of the injured employee and make a report to the
15 employer.

16 (c) If the employer and the employee cannot agree on a
17 physician to perform the independent medical examination or
18 permanent impairment rating examination, either party may



1 request in writing that a physician be appointed by the
2 director. Within seven calendar days of the receipt of request,
3 the director shall appoint a physician, from the list maintained
4 pursuant to subsection (d), who is licensed in a relevant
5 medical specialty and willing to conduct the examination. Any
6 physician appointed shall examine the employee within thirty
7 calendar days of appointment.

8 (d) The director shall maintain a list of physicians
9 qualified to perform independent medical examination or
10 permanent impairment rating examinations by appointment pursuant
11 to subsection (a), (b), or (c). A physician appointed to
12 conduct an examination of an injured employee residing in the
13 State, shall be duly qualified and licensed in the relevant
14 medical specialty, if applicable. A physician appointed to
15 conduct an examination of an injured employee not residing in
16 this State shall have been licensed in the state where the
17 claimant resides for a period of not less than five consecutive
18 years immediately preceding the examination.

19 (e) An independent medical examination and a permanent
20 impairment rating examination shall not be combined into a
21 single medical examination without the injured employee's
22 consent in writing prior to the scheduling of the examinations.



1 No consideration shall be given to the injured employee in
2 exchange for the written consent.

3 (f) The employee or the employee's representative shall be
4 promptly provided with a copy of every independent medical
5 examination and permanent impairment rating examination report.

6 (g) No more than one independent medical examination
7 conducted pursuant an appointment made in accordance with
8 subsection (a) or (c) and one permanent impairment rating
9 examination conducted pursuant an appointment made in accordance
10 with subsection (b) or (c) shall be ordered per case, unless
11 valid reasons exist with regard to the medical progress of the
12 employee's treatment.

13 (h) If an employee refuses to submit to or obstructs an
14 independent medical examination or a permanent impairment rating
15 examination, the employee's right to claim compensation for the
16 work injury shall be suspended until the refusal or obstruction
17 ceases and no compensation shall be payable for the period
18 during which the refusal or obstruction continues.

19 (i) The costs of conducting independent medical
20 examinations and permanent impairment rating examinations shall
21 be limited to the complex consultation charges governed by the
22 medical fee schedule established pursuant to section 386-21(c).



1 (j) The costs of the independent medical examination
2 conducted pursuant an appointment made in accordance with
3 subsection (a) or (d) and the permanent impairment rating
4 examination conducted pursuant an appointment made in accordance
5 with subsection (b) or (d) shall be paid by the employer.

6 (k) For the purposes of this section, "medical stability"
7 means that no further improvement in the injured employee's
8 work-related condition can reasonably be expected from curative
9 health care or the passage of time."

10 SECTION 2. Section 386-79, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§386-79—Medical examination by employer's physician.~~
13 ~~After an injury and during the period of disability, the~~
14 ~~employee, whenever ordered by the director of labor and~~
15 ~~industrial relations, shall submit to examination, at reasonable~~
16 ~~times and places, by a duly qualified physician or surgeon~~
17 ~~designated and paid by the employer. The employee shall have~~
18 ~~the right to have a physician or surgeon designated and paid by~~
19 ~~the employee present at the examination, which right, however,~~
20 ~~shall not be construed to deny to the employer's physician the~~
21 ~~right to visit the injured employee at all reasonable times and~~
22 ~~under all reasonable conditions during total disability.~~



1 ~~If an employee refuses to submit to, or in any way~~
2 ~~obstructs such examination, the employee's right to claim~~
3 ~~compensation for the work injury shall be suspended until the~~
4 ~~refusal or obstruction ceases and no compensation shall be~~
5 ~~payable for the period during which the refusal or obstruction~~
6 ~~continues.~~

7 ~~In cases where the employer is dissatisfied with the~~
8 ~~progress of the case or where major and elective surgery, or~~
9 ~~either, is contemplated, the employer may appoint a physician or~~
10 ~~surgeon of the employer's choice who shall examine the injured~~
11 ~~employee and make a report to the employer. If the employer~~
12 ~~remains dissatisfied, this report may be forwarded to the~~
13 ~~director.~~

14 ~~Employer requested examinations under this section shall~~
15 ~~not exceed more than one per case unless good and valid reasons~~
16 ~~exist with regard to the medical progress of the employee's~~
17 ~~treatment. The cost of conducting the ordered medical~~
18 ~~examination shall be limited to the complex consultation charges~~
19 ~~governed by the medical fee schedule established pursuant to~~
20 ~~section 386-21(c)."]~~

21 SECTION 3. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2013-2014 for the
 2 establishment of three full-time equivalent (3.00 FTE) permanent
 3 workers' compensation hearings officer positions and two full-
 4 time equivalent (2.00 FTE) permanent office assistant positions
 5 in the disability compensation division of the department of
 6 labor and industrial relations to assist in workers'
 7 compensation claims.

8 The sum appropriated shall be expended by the department of
 9 labor and industrial relations for the purposes of this Act.

10 SECTION 4. This Act does not affect rights and duties that
 11 matured, penalties that were incurred, and proceedings that were
 12 begun before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval,
 16 provided section 3 shall take effect on July 1, 2013.

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INTRODUCED BY:

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H.B. NO. 437

Report Title:

Workers' Compensation; Medical Examinations; Appropriation

Description:

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.

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