
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. Section 386-21, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§386-21 Medical care, services, and supplies.** (a)
4 Immediately after a work injury sustained by an employee and so
5 long as reasonably needed the employer shall furnish to the
6 employee all medical care, services, and supplies as the nature
7 of the injury requires. The liability for the medical care,
8 services, and supplies shall be subject to the deductible under
9 section 386-100.

10 (b) Whenever medical care is needed, the injured employee
11 may select any physician or surgeon who is practicing on the
12 island where the injury was incurred to render medical care. If
13 the services of a specialist are indicated, the employee may
14 select any physician or surgeon practicing in the State. The
15 director may authorize the selection of a specialist practicing
16 outside the State where no comparable medical attendance within
17 the State is available. Upon procuring the services of a
18 physician or surgeon, the injured employee shall give proper



1 notice of the employee's selection to the employer within a
2 reasonable time after the beginning of the treatment. If for
3 any reason during the period when medical care is needed, the
4 employee wishes to change to another physician or surgeon, the
5 employee may do so in accordance with rules prescribed by the
6 director. If the employee is unable to select a physician or
7 surgeon and the emergency nature of the injury requires
8 immediate medical attendance, or if the employee does not desire
9 to select a physician or surgeon and so advises the employer,
10 the employer shall select the physician or surgeon. The
11 selection, however, shall not deprive the employee of the
12 employee's right of subsequently selecting a physician or
13 surgeon for continuance of needed medical care.

14 (c) The liability of the employer for medical care,
15 services, and supplies shall be limited to the charges computed
16 as set forth in this section. The director shall make
17 determinations of the charges and adopt fee schedules based upon
18 those determinations. Effective January 1, 1997, and for each
19 succeeding calendar year thereafter, the charges shall not
20 exceed one hundred ten per cent of fees prescribed in the
21 Medicare Resource Based Relative Value Scale applicable to
22 Hawaii as prepared by the United States Department of Health and



1 Human Services, except as provided in this subsection. The
2 rates or fees provided for in this section shall be adequate to
3 ensure at all times the standard of services and care intended
4 by this chapter to injured employees.

5 If the director determines that an allowance under the
6 medicare program is not reasonable or if a medical treatment,
7 accommodation, product, or service existing as of June 29, 1995,
8 is not covered under the medicare program, the director, at any
9 time, may establish an additional fee schedule or schedules not
10 exceeding the prevalent charge for fees for services actually
11 received by providers of health care services, to cover charges
12 for that treatment, accommodation, product, or service. If no
13 prevalent charge for a fee for service has been established for
14 a given service or procedure, the director shall adopt a
15 reasonable rate which shall be the same for all providers of
16 health care services to be paid for that service or procedure.

17 The director shall update the schedules required by this
18 section every three years or annually, as required. The updates
19 shall be based upon:

20 (1) Future charges or additions prescribed in the Medicare
21 Resource Based Relative Value Scale applicable to



1 Hawaii as prepared by the United States Department of
2 Health and Human Services; or

3 (2) A statistically valid survey by the director of
4 prevalent charges for fees for services actually
5 received by providers of health care services or based
6 upon the information provided to the director by the
7 appropriate state agency having access to prevalent
8 charges for medical fee information.

9 When a dispute exists between an insurer or self-insured
10 employer and a medical services provider regarding the amount of
11 a fee for medical services, the director may resolve the dispute
12 in a summary manner as the director may prescribe; provided that
13 a provider shall not charge more than the provider's private
14 patient charge for the service rendered.

15 When a dispute exists between an employee and the employer
16 or the employer's insurer regarding the proposed treatment plan
17 or whether medical services should be continued, the employee
18 shall continue to receive essential medical services prescribed
19 by the treating physician necessary to prevent deterioration of
20 the employee's condition or further injury until the director
21 issues a decision on whether the employee's medical treatment
22 should be continued. The director shall make a decision within



1 thirty days of the filing of a dispute. If the director
2 determines that medical services pursuant to the treatment plan
3 should be or should have been discontinued, the director shall
4 designate the date after which medical services for that
5 treatment plan are denied. The employer or the employer's
6 insurer may recover from the employee's personal health care
7 provider qualified pursuant to section 386-27, or from any other
8 appropriate occupational or non-occupational insurer, all the
9 sums paid for medical services rendered after the date
10 designated by the director. Under no circumstances shall the
11 employee be charged for the disallowed services, unless the
12 services were obtained in violation of section 386-98. The
13 attending physician, employee, employer, or insurance carrier
14 may request in writing that the director review the denial of
15 the treatment plan or the continuation of medical services.

16 (d) The director, with input from stakeholders in the
17 workers' compensation system, including but not limited to
18 insurers, health care providers, employers, and employees, shall
19 establish standardized forms for health care providers to use
20 when reporting on and billing for injuries compensable under
21 this chapter. The forms may be in triplicate, or in any other
22 configuration so as to minimize, to the extent practicable, the



1 need for a health care provider to fill out multiple forms
2 describing the same workers' compensation case to the
3 department, the injured employee's employer, and the employer's
4 insurer.

5 (e) If it appears to the director that the injured
6 employee has wilfully refused to accept the services of a
7 competent physician or surgeon selected as provided in this
8 section, or has wilfully obstructed the physician or surgeon, or
9 medical, surgical, or hospital services or supplies, the
10 director may consider such refusal or obstruction on the part of
11 the injured employee to be a waiver in whole or in part of the
12 right to medical care, services, and supplies, and may suspend
13 the weekly benefit payments, if any, to which the employee is
14 entitled so long as the refusal or obstruction continues.

15 (f) Any funds as are periodically necessary to the
16 department to implement the foregoing provisions may be charged
17 to and paid from the special compensation fund provided by
18 section 386-151.

19 (g) In cases where the compensability of the claim is not
20 contested by the employer, the medical services provider shall
21 notify or bill the employer, insurer, or the special
22 compensation fund for services rendered relating to the



1 compensable injury within two years of the date services were
2 rendered. Failure to bill the employer, insurer, or the special
3 compensation fund within the two-year period shall result in the
4 forfeiture of the medical services provider's right to payment.
5 The medical [+]services[+] provider shall not directly charge
6 the injured employee for treatments relating to the compensable
7 injury.

8 (h) Chiropractic treatments shall be allowed for not more
9 than thirty visits at no more than \$75 per visit plus no more
10 than five x-rays at no more than \$50 per x-ray."

11 SECTION 2. Section 442-1, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§442-1 Chiropractic defined.** [~~Chiropractic is defined to~~
14 ~~be the science of palpating and adjusting the articulations of~~
15 ~~the human spinal column by hand; provided that the practice of~~
16 ~~chiropractic as contemplated and set forth in this chapter may~~
17 ~~include the use of necessary patient evaluation and management~~
18 ~~procedures of the human spinal column, hot or cold packs,~~
19 ~~whirlpool, therapeutic and rehabilitative exercise, traction,~~
20 ~~electrical and electromechanical stimulation, therapeutic~~
21 ~~ultrasound, myofascial release, diathermy, infrared, and~~
22 ~~chiropractic spinal manipulative treatment and extraspinal~~



1 ~~evaluations for the diagnosis and treatment of~~
2 ~~neuromusculoskeletal conditions related to the human spinal~~
3 ~~column, subject to the restrictions contained in this chapter,~~
4 ~~and provided further that the practice of chiropractic as~~
5 ~~contemplated and set forth in this chapter shall not include the~~
6 ~~practice of lomilomi or massage. For the purposes of this~~
7 ~~section, spinal refers to the five spinal regions: cervical~~
8 ~~region (includes atlanto occipital joint); thoracic region~~
9 ~~(includes costovertebral and costotransverse joint); lumbar~~
10 ~~region; sacral region; and pelvic (sacroiliac joint) region.]~~
11 Chiropractic is the system of specific adjustment or
12 manipulation of the joints and tissues of the body and the
13 treatment of the human body by the application of manipulative,
14 manual, mechanical, physical modalities, or clinical nutritional
15 methods for which those persons licensed under this chapter are
16 trained. A person licensed to practice under this chapter may
17 examine, diagnose, and treat patients; provided that the
18 licensee shall not perform surgery or direct the use of legend
19 drugs.

20 Chiropractic is a portal of entry for consumers to obtain
21 services from licensees whose practice includes all hygienic,
22 sanitary, and therapeutic measures incident to humans. The



1 scope of practice of chiropractic shall include those diagnostic
2 and treatment services and procedures that have been taught by
3 an accredited chiropractic college and have been approved by the
4 board in accordance with this chapter and rules adopted pursuant
5 to this chapter.

6 Licensees may examine, analyze, and diagnose the human body
7 to:

- 8 (1) Correct, relieve, or prevent neuromusculoskeletal
- 9 conditions by any physical, electrical, or thermal
- 10 method;
- 11 (2) Use or order diagnostic imaging; and
- 12 (3) Use or order laboratory testing."

13 SECTION 3. Section 442-6, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) The board may require additional post-licensure
16 examinations administered by the National Board of Chiropractic
17 Examiners [~~Special Purposes Examination~~] in circumstances where
18 the board needs to assess a person's fitness to practice
19 chiropractic, including [~~but not limited to~~]:

- 20 (1) State-to-state reciprocity or endorsement;
- 21 (2) Disciplinary action; or
- 22 (3) Licensure lapse, suspension, or revocation."



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

6 SECTION 6. This Act shall take effect on December 21,
7 2112.



Report Title:

Chiropractic; Scope of Practice; Workers' Compensation Rate

Description:

Updates the scope of practice for chiropractic to reflect standards, practices, and terminology accepted by the National Board of Chiropractic Examiners. Limits employer liability for chiropractic treatment under the Workers' Compensation Law.
(SB2478 HD2)

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