

STAND. COM. REP. NO.

316

Honolulu, Hawaii

February 12, 2013

RE: H.B. No. 437

H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 437 entitled:

"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION,"

begs leave to report as follows:

The purpose of this measure is to improve the workers' compensation system by, among other things:

- (1) Requiring independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by a physician mutually agreed upon by the employer and employee, or appointed by the Director of Labor and Industrial Relations (Director) from a list of qualified physicians in the event that the parties cannot agree, and requiring that the exam be conducted within specified time limits;
- (2) Establishing licensing and qualification requirements for physicians performing workers' compensation-related medical examinations;
- (3) Specifying rules for the conduct, payment, and allowable number of workers' compensation-related medical exams;
- (4) Suspending an employee's right to claim compensation for the work injury if the employee refuses to submit to or



obstructs an independent medical examination or a permanent impairment rating examination;

- (5) Repealing section 386-79, Hawaii Revised Statutes, relating to medical examinations by the employer's physician; and
- (6) Appropriating funds for positions in the Department of Labor and Industrial Relations Disability Compensation Division to assist in workers' compensation claims.

Hawaii Rehabilitation Counseling Association; Work Injury Medical Association of Hawaii; ILWU Local 142; Hawaii State AFL-CIO; Hawaii Injured Worker Association; and several individuals supported this measure. The City and County of Honolulu; Hawaii Insurers Council; Retail Merchants of Hawaii; BIA-Hawaii; Property Casualty Insurers Association of America; Hawaii Restaurant Association; L&R Farm Ent LLC; Hawaii Island Adult Care, Inc.; ALTRES, Inc.; The Chamber of Commerce of Hawaii; General Contractors Association of Hawaii; Camp Mokule'ia; Hawai'i Pacific Health; Starwood Hotels & Resorts Worldwide, Inc.; Society for Human Resources Management Hawai'i Chapter; Hawaiian Telecom; Hawaiian Electric Co. Inc.; Maui Electric Company, LTD.; Hawaii Electric Light Company, Inc.; Westin Princeville Ocean Resort Villas; NFIB Hawaii; Outrigger Hotels Hawaii; RMA Sales; and numerous individuals opposed this measure. The Department of Human Resources Development and the Department of Labor and Industrial Relations provided comments.

After further consideration of concerns raised by the Department of Labor and Industrial Relations, your Committee defers to that Department's expertise and has adopted language recommended by the Department that is substantially similar to the original language of this measure and includes the following operative amendments:

- (1) Specifying that a physician selected by the parties or appointed by the Director shall be licensed to practice in Hawaii, except in specific cases;
- (2) Extending the time within which an independent medical examination shall be conducted from 30 to 45 days;
- (3) Specifying that the contemplation of major surgery or elective surgery are exceptions to limits on the number



of allowable workers' compensation-related medical examinations;

- (4) Specifying instances when a physician who is licensed in a state other than Hawaii may be selected;
- (5) Changing the effective date to January 1, 2113, to promote further discussion; and
- (6) Making technical, nonsubstantive amendments for the purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 437, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 437, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,


MARK M. NAKASHIMA, Chair



State of Hawaii
House of Representatives
The Twenty-seventh Legislature

HSCR 316

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 437	Committee Referral: LAB, FIN	Date: 1/29/2013 MS		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	X			
2. HASHEM, Mark J. (VC)	X			
3. AQUINO, Henry J.C.	X			
4. ICHIYAMA, Linda	X			
5. ING, Kaniela	X			
6. TAKUMI, Roy M.	X			
7. YAMANE, Ryan I.				X
8. YAMASHITA, Kyle T.	X			
9. JOHANSON, Aaron Ling		X		
TOTAL (9)	7	1	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				