

JAN 23 2015

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. Section 386-79, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§386-79 Medical examination by employer's physician.** (a)

4 After an injury and during the period of disability, the
5 employee, whenever ordered by the director of labor and
6 industrial relations, shall submit to examination, at reasonable
7 times and places, by a duly qualified physician or surgeon
8 designated and paid by the employer. The employee shall have
9 the right to have a physician or surgeon designated and paid by
10 the employee present at the examination, which right, however,
11 shall not be construed to deny to the employer's physician the
12 right to visit the injured employee at all reasonable times and
13 under all reasonable conditions during total disability.

14 If an employee refuses to submit to, or in any way
15 obstructs such examination, the employee's right to claim
16 compensation for the work injury shall be suspended until the
17 refusal or obstruction ceases and no compensation shall be



1 payable for the period during which the refusal or obstruction
2 continues.

3 (b) In cases where the employer is dissatisfied with the
4 progress of the case or where major and elective surgery, or
5 either, is contemplated, the employer may appoint a physician or
6 surgeon of the employer's choice who shall examine the injured
7 employee and make a report to the employer. If the employer
8 remains dissatisfied, this report may be forwarded to the
9 director.

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

17 (c) Any physician or surgeon who is selected and paid for
18 by the employer to perform a medical examination pursuant to
19 this section on the employee shall:

20 (1) Be actively treating at least ten patients in any
21 one-month period;



- 1 (2) Be actively treating at least 50 per cent of all
- 2 patients examined by the physician or surgeon in a
- 3 one-month period; and
- 4 (3) Possess medical malpractice insurance.
- 5 (d) For the purposes of this section, "actively treating"
- 6 means examining and treating a patient for the purpose of
- 7 providing ongoing medical advice and treatment and shall not
- 8 include patients that the physician or surgeon is examining for
- 9 purposes of performing a medical examination paid for by a third
- 10 party for the purpose of analyzing a workers' compensation
- 11 claim, federal or state disability benefit claim, or other
- 12 personal injury claim."

13 SECTION 2. This Act does not affect rights and duties that

14 matured, penalties that were incurred, and proceedings that were

15 begun before its effective date.

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 766

Report Title:

Workers' Compensation; Independent Medical Examination

Description:

Requires that a physician selected and paid for by an employer to conduct a medical examination for workers' compensation purposes shall be actively treating at least ten patients in a one-month period; be actively treating at least 50 per cent of the physician's total patient load in a one-month period; and possess medical malpractice insurance. Defines "actively treating".

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