
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, or chaperone
10 designated and paid by the employee present at the examination,
11 which right, however, shall not be construed to deny to the
12 employer's physician the right to visit the injured employee at
13 all reasonable times and under all reasonable conditions during
14 total disability. The employee shall also have the right to
15 record such examination by a recording device designated and
16 paid for by the employee.



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 (b) 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).



1 (c) A duly qualified physician or surgeon who is selected
2 and paid for by the employer to perform a medical examination on
3 the employee pursuant to this section shall:

- 4 (1) Be duly qualified to treat the injury being examined;
- 5 (2) Possess medical malpractice insurance; and
- 6 (3) Owe the same duty of care to the injured employee
7 while performing such a medical examination as would
8 be owed to a traditional patient."

9 SECTION 2. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 2017.

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INTRODUCED BY: *Hakubone*
JAN 23 2017



H.B. NO. 977

Report Title:

Workers' Compensation; Medical Examination

Description:

Defines duly qualified physician or surgeon. Allows an employee to record medical examinations of the employee that are ordered by the Director of Labor and Industrial Relations. Allows employees to have a chaperone present at medical examinations.

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