

Honolulu, Hawaii

APR 06 2018

RE: H.B. No. 2202
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 2202, H.D. 2, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to specify that a duly qualified physician or duly qualified surgeon selected and paid for by an employer to perform a medical examination on an employee, relating to a work injury under workers' compensation, shall be duly qualified to treat the injury being examined, possess medical malpractice insurance, and owe the same duty of care to the injured employee as to a traditional patient.

Your Committee received testimony in support of this measure from the O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i; Hawaii Medical Association; Work Injury Medical Association of Hawaii; International Longshore and Warehouse Union, Local 142; and one individual. Your Committee received testimony in opposition to this measure from the Hawaiian Electric Company, Inc. Your Committee received comments on this measure from the Department of Labor and Industrial Relations and Department of Human Resources of the City and County of Honolulu.

Your Committee finds that existing workers' compensation law allows an employer to have a duly qualified physician or surgeon



designated and paid for by the employer to conduct an independent medical examination on an injured employee. Your Committee further finds that independent medical evaluations are a central element of the workers' compensation process. Thus, the fairness and integrity of these examinations are of paramount importance. This measure therefore establishes essential criteria for those duly qualified physicians and surgeons who conduct independent medical examinations as part of the workers' compensation system.

Your Committee has amended this measure by:

- (1) Clarifying that a physician or surgeon selected and paid for by an employer to perform a medical examination on an employee shall be duly qualified;
- (2) Clarifying that the definition of "duly qualified" includes being appropriately licensed in the State, possessing medical malpractice insurance, and owing the same duty and standard of care to the injured employee as would be owed to a traditional patient, rather than meaning a doctor whose specialty is appropriate for the injury to be examined;
- (3) Inserting an effective date of July 1, 2055, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2202, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2202, H.D. 2, S.D. 1.



Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



