

DAVID Y. IGE  
GOVERNOR



JAMES K. NISHIMOTO  
DIRECTOR

RYKER WADA  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

February 8, 2017

**TESTIMONY TO THE  
SENATE COMMITTEES ON JUDICIARY AND LABOR  
AND COMMERCE, CONSUMER PROTECTION, AND HEALTH**

For Hearing on Thursday, February 10, 2017  
8:30 a.m., Conference Room 016

BY

JAMES K. NISHIMOTO  
DIRECTOR

**Senate Bill No. 253  
Relating to Workers' Compensation**

**(WRITTEN TESTIMONY ONLY)**

TO CHAIRPERSONS KEITH-AGARAN AND BAKER, VICE CHAIRS NISHIHARA AND RHOADS, AND MEMBERS OF THE COMMITTEES:

Thank you for the opportunity to testify on S.B. 253.

The purposes of S.B. 253, are to require, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations; allow for the use of an out-of-state physician under certain conditions; and appropriate funds for positions to assist with workers' compensation claims.

The Department of Human Resources Development ("DHRD") has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. In that regard, DHRD respectfully submits these **comments on Section 1 of this bill and testimony in strong support of Section 2.**

## **SECTION 1:**

First, many, many bills and much testimony has been submitted to the legislature in sessions past to change the current law pertaining to independent medical examinations (“IMEs”) due to its alleged failings. The matter has also been debated at length in the Workers’ Compensation Working Group convened by House Concurrent Resolution 168 (2015) for the purpose of streamlining the WC process including the employer-requested medical examination, under chapter 386. From the employer’s perspective, the IME remains one of the few ways it can defend against a claim that did not arise out of the course and scope of employment or against medical treatment that is not related to the work injury. This is particularly true in light of the statutory presumption in Section 386-78, HRS, that a claim is for a covered work injury, and recent Hawaii Supreme Court decisions such as Pulawa v. Oahu Construction Co., Ltd., and Seabright Insurance Company, SCWC-11-0001019 (Hawai’i November 4, 2015) which liberalized the standard for medical treatment from “reasonable and necessary” to “reasonably needed” and allows claimants to “receive[ ] the opportunity for the greatest possible medical rehabilitation.”

Second, the bill is certain to have the unintended consequence of potentially lengthening certain claims because: 1) it is silent as to what would happen if there is no qualified physician available to perform the evaluation within the forty-five days or “as soon as possible” requirement; and 2) with the claimant’s attending physician being the sole arbiter as to when an injured worker attains medical stability, employers would lose the ability to challenge ongoing disability and medical treatment when the medical evidence indicates the claimant has reached medical stability and could possibly return to work.

Finally, in lieu of passing this bill with all of its unresolved issues in Section 1, we respectfully request consideration be given to deferring Section 1 of this measure pending completion of the working group report and the workers’ compensation closed claims study mandated by Act 188 (SLH 2016), wherein the legislature found that “a closed claims study is warranted to objectively review whether specific statutory

changes are necessary” to the workers’ compensation law. Upon delivery of the respective reports to the legislature, the empirical findings and specific recommendations of the working group and closed claims study can inform any legislative initiatives on workers’ compensation.

**SECTION 2:**

DHRD believes that an appropriation to provide for an additional three hearings officers and two office assistant positions in the Disability Compensation Division (“DCD”) would markedly improve the DLIR’s administration of workers’ compensation claims in this State. DHRD believes that such additional positions would benefit all stakeholders in the workers’ compensation system by allowing the DCD to expedite hearings, decisions, and resolutions of contested issues of compensability, medical treatment, vocational rehabilitation, and myriad other issues that arise in workers’ compensation claims.

Thank you for the opportunity to testify on this measure.



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321

HONOLULU, HAWAII 96813

[www.labor.hawaii.gov](http://www.labor.hawaii.gov)

Phone: (808) 586-8844 / Fax: (808) 586-9099

Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

February 10, 2017

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,  
The Honorable Karl Rhoads, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

To: The Honorable Rosalyn H. Baker, Chair,  
The Honorable Clarence K. Nishihara, Vice Chair  
Members of the Senate Committee on Consumer Protection, and Health

Date: Friday, February 10, 2017

Time: 8:30 a.m.

Place: Conference Room 016, State Capitol

From: Linda Chu Takayama, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 253 Relating to Workers' Compensation**

**I. OVERVIEW OF PROPOSED LEGISLATION**

S.B. 253 proposes to repeal Section 386-79, Hawaii Revised Statutes (HRS), relating to medical examinations by employer's physician, and to replace it with a new section that proposes:

- Independent Medical Examinations (IMEs) and permanent impairment rating examinations be performed by physicians currently licensed pursuant to chapter 453 and selected and mutually agreed upon by the employer and employee;
- If no agreement as to a physician can be reached, the Department shall appoint a qualified physician licensed in the relevant medical specialty and willing to conduct the examination within 45 calendar days or as soon as practicably possible after the request;
- The employer pays for the IME;
- The use of an out-of-state physician is allowed under certain circumstances;

- An unspecified appropriation shall be made in FY 2017 – 2018 to carry out the purposes of this measure; and
- The measure shall be repealed on June 30, 2023 and Section 386-79, HRS, shall be reenacted in the form in which it read on the day before the effective date of section five of this measure.

The Department supports the intent of this measure to bring greater assurance of impartiality in the IME and permanent impairment rating processes, and offers comments below.

## **II. CURRENT LAW**

Currently, section 386-79, HRS, specifies that the employee, when ordered by the director, shall submit to the examination by a qualified physician designated and paid by the employer. If an employee refuses to attend the examination, or obstructs in any way the examination, the claimant's rights to benefits are suspended for the period during which the refusal or obstruction continues.

## **III. COMMENTS ON THE SENATE BILL**

1. Reduction in number of disputes. Decisions on issues of compensability and permanent disability rely primarily on the doctors' reports that are submitted by the parties. In contested cases, the parties' primary concern is to have doctors' reports that support their position and they would therefore seek IME doctors who will likely support their positions.

Employers or insurance companies, however, have an economic advantage over claimants, so creating a mechanism that would limit this dynamic of "shopping for medical experts" could possibly reduce the number of disputes, especially for cases related to the issues of compensability and permanent disability.

2. Fair and impartial. Where there are disagreements about medical stability, the Department believes where it is possible the mechanism set forth in the measure may provide a fairer and more impartial method of dispute resolution as well as reduce the number of disputes.
3. Difficulty with establishing the list of physicians. Establishing a list of doctors willing to conduct IMEs for the purposes of compensability or permanent disability under this bill becomes the responsibility of the Director of Labor and Industrial Relations. DLIR has serious concerns about its capacity to do this. Issues such as willingness of doctors to participate with specialties and allowable fees for the evaluations will have to be addressed. Doctors may not be willing to be on the Director's list without adequate notice prior to the examination or if the compensation to conduct the exam is not adequate.

Another concern that is not addressed in this measure is what happens if the Director cannot find any physician within seven calendar days who is willing to participate in specific specialties in such cases. The Director will not be able to refer anyone from the "List of Qualified Physicians" on a timely basis.

4. Out-of-State claimants. The measure also provides for IMEs, where medical treatment is disputed, for claimants living out-of-state. The measure allows for physicians who reside outside the State of Hawaii and who are licensed in another state as a physician equivalent to a license under chapter 453 to perform IMEs and rating examinations for out-of-state claimants. Currently, the employer is responsible for locating these out-of-state physicians and for scheduling the examinations in the state where the claimants currently reside.

The department has serious concerns about having to maintain a list of out-of-state IME physicians willing to conduct IMEs and rating examinations. The department has serious concerns about having to maintain a list of out-of-state IME physicians willing to conduct IMEs and rating examinations. Due to the limited number of out-of-state claimants, it is not reasonable nor practical for the Department to compile and maintain a list of physicians in different specialties in every state who are willing to perform IMEs and rating exams in compliance with Hawaii's regulations.

If the employer and employee are unable to agree on an IME physician in the State where the claimant resides, the Department recommends using the same list of Hawaii physicians and have the employer arrange for the out-of-state claimant to return to Hawaii for the IME. The employer will continue to be responsible for arranging and paying for travel arrangements for claimants who must return to Hawaii for an IME. We in turn recommend that the measure also include a provision that allows for the return of the out-of-state claimant to undergo the IME in Hawaii at the employer's expense.

5. Medical records to IME physician. The Department recommends the measure stipulate that the employer shall send the claimant's medical records to the IME physician as is the current practice.
6. Medical stability. The Department has concerns about the language in Section 1, Subsection (b) which relies on medical stability to be determined solely by the injured employee's attending physician. Employers would lose the ability to challenge ongoing disability and medical treatment when the medical evidence indicates the claimant has reached medical stability. This may result in lengthening of certain claims.
7. The Department supports this proposal to increase staff that in turn will improve the division's quality and timeliness of services to the public as long as its passage does not adversely impact the priorities identified in the Governor's Executive Budget Request.

8. This Act will repeal on June 30, 2023 and section 386-79, Hawaii Revised Statutes, shall be reenacted. DLIR is concerned that once the measure is enacted it will be problematic to revert back.



**Testimony to the Senate Committee on Commerce, Consumer Protection and Health, and the Senate Committee on Judiciary and Labor  
Friday, February 10, 2017 at 8:30 A.M.  
Conference Room 016, State Capitol**

**RE: SENATE BILL 253 RELATING TO WORKERS' COMPENSATION**

Chairs Baker and Keith-Agaran, Vice Chairs Nishihara and Rhoads, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** SB 253, which requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations; allows for the use of an out-of-state physician under certain conditions; appropriates funds for positions to assist with workers' compensation claims.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber **opposes** this bill for the following reasons.

First, the bill is fundamentally unfair. If the employer has reason to question the treating physician's proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. As you all know, Hawaii is one of a few states that has presumption in its workers' compensation law. Essentially an employee cannot be denied treatment or compensation if they claim they were injured on the job. The burden is on the employer to prove otherwise. That is why the IME is so critical to provide balance in the law.

An IME is used as a second opinion when compensability is in question or when medical progress is stagnant. If an injured worker has been treated for some time, there is a point where additional medical treatment will not be curative. The injured worker is either ready to return to work in full capacity, is partially disabled, or is permanently disabled. If the IME process is restricted, it may greatly prolong the period the injured worker continues to get treatment that is not medically curative.

Second, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates. The bill does not set forth a timeline in





# Chamber of Commerce HAWAII

*The Voice of Business*

which the employee or employer must remove a physician from the list. This could add months to the process of getting an IME.

Third, there is no consensus on the problem which the bill seeks to solve. The bill is based upon the erroneous presumption that employers routinely abuse their limited right to discovery through employer requested examinations. The results of these examinations are subject to review and appeal by the employee and must be credible enough to withstand the scrutiny of DLIR's review. For this reason, and also since employers are only allowed one examination under most circumstances under the existing law, there is already a strong incentive for the employer to obtain a credible report on the first try.

In fact, it would be counter-productive for businesses to want employees not to get better and return to work. Additionally, businesses genuinely care and do everything they can to create a positive, healthy and safe work environment and provide benefits and assistance to employees.

The Chamber and the members they represent respectfully request that you defer SB 253. Thank you for the opportunity to submit testimony.

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE  
CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA,  
VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER  
PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.**  
Requires, among other things, independent medical examinations and permanent  
impairment rating examinations for workers' compensation claims to be performed by  
physicians mutually agreed upon by employers and employees or appointed by the  
director of labor and industrial relations. Allows for the use of an out-of-state  
physician under certain conditions. Appropriates funds for positions to assist with  
workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and  
Committee Members,

**Alaka'i Mechanical Corporation is opposed to S.B. 253, Relating to Workers' Compensation,**  
which would require independent medical examinations (IME) and permanent impairment rating  
examinations for workers compensation claims to be performed by physicians mutually agreed upon  
by the employers and employees. We believe there is nothing wrong with the current procedure in  
place which provides for sound safeguards to allow injured employees full disclosure of an  
employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they  
disagree and an appeal process if the parties cannot agree. This bill would result in increased  
workers compensation cost to businesses both small and large. The existing law provides employers  
the ability to get a second medical opinion independent of the treating physician with regards to  
questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both  
employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by  
this Committee.

  
Ralph Inouye  
President

V27/09/2017 THU 01:00 FAX 000 3203093 KING W REBE  
Via E-mail: [CPHTestimony@capitol.hawaii.gov](mailto:CPHTestimony@capitol.hawaii.gov)  
Via Fax (808) 586-6071

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE  
CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA,  
VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER  
PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.**  
Requires, among other things, independent medical examinations and permanent  
impairment rating examinations for workers' compensation claims to be performed by  
physicians mutually agreed upon by employers and employees or appointed by the  
director of labor and industrial relations. Allows for the use of an out-of-state  
physician under certain conditions. Appropriates funds for positions to assist with  
workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING


DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and  
Committee Members,

**Fujikawa Associates, Inc.** is **opposed** to **S.B. 253, Relating to Workers' Compensation**, which  
would require independent medical examinations (IME) and permanent impairment rating  
examinations for workers compensation claims to be performed by physicians mutually agreed upon  
by the employers and employees. We believe there is nothing wrong with the current procedure in  
place which provides for sound safeguards to allow injured employees full disclosure of an  
employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they  
disagree and an appeal process if the parties cannot agree. This bill would result in increased  
workers compensation cost to businesses both small and large. The existing law provides employers  
the ability to get a second medical opinion independent of the treating physician with regards to  
questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both  
employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by  
this Committee.

  
Samuel T. Fujikawa  
CEO

1065 Ahua Street  
Honolulu, HI 96819  
Phone: 808-833-1681 FAX: 839-4167  
Email: [info@gcawhawaii.org](mailto:info@gcawhawaii.org)  
Website: [www.gcawhawaii.org](http://www.gcawhawaii.org)



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.**  
Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA is **opposed** to S.B. 253, Relating to Workers' Compensation, which would require that a mutually agreed upon physician be chosen by the employer and employee for the independent medical examination and permanent impairment rating examination for worker's compensation claims. GCA is opposed to this bill because it requires the selection of an Independent Medical Examiner (IME) physician by mutual agreement.

Currently, the employee has the right to select the treating physician of his/her choice and the employer has the right to request another medical opinion, separate from the employee's selected physician. The employer's examination should be properly referred to as the "Employer's Medical Examination." This may be the employer's sole tool to ensure the injured worker is receiving appropriate and adequate treatment for his work related injury. Moreover, the recent

work of the Working Group to Streamline the State's Workers' Compensation Process directed by [HCR 168 \(2015\)](#) provided an opportunity for insurers, injured workers, employers, employees, physicians and the departments to identify and address the issues plaguing the workers compensation system. As a result the Working Group has not identified amending the IME process as a solution.

S.B. 253 remains at odds with the interests of GCA members and other business organizations and for those reasons GCA opposes S.B. 253 and respectfully requests that this Committee hold the measure. The GCA believes the current system that is in place works. We believe this legislation is unnecessary. Thank you for the opportunity to express our concerns on this measure.



## HAWAII CHAPTER - AMERICAN PHYSICAL THERAPY ASSOCIATION

(800) 554-5569 x13 • [www.hapta.org](http://www.hapta.org) • [info@hapta.org](mailto:info@hapta.org)

**SB 253, Relating to Workers' Compensation  
Senate JDL/CPH Committee Hearing  
Friday, Feb. 10, 2017 – 8:30 am  
Room 016  
Position: Support**

Chairs Keith-Agaran and Baker, and Members of the Senate JDL/CPH Committees:

I am Gregg Pacilio, PT and Board President of the Hawaii Chapter of the American Physical Therapy Association (HAPTA), a non-profit professional organization serving more than 300 member Physical Therapists and Physical Therapist Assistants. Our members are employed in hospitals and health care facilities, the Department of Education school system, and private practice. We are movement specialists and part of the spectrum of care for Hawaii. We provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum functioning from neuromusculoskeletal injuries and impairments.

There are reports from injured workers of biased IME's performed by doctors hired by the insurer. The insurers themselves justify the practice as a means of cost control. They feel that since they are paying for the exam, they should have the right to select the physician of their choice. The issue really should be about fairness for the injured employee to get an accurate exam whether it is for a rating or for the issue of compensability or for continued medical care.

If an injured employee feels an IME was not performed fairly, they have the right to hire another physician to perform an exam. This exam however would be at their own expense. Many injured workers do not have the financial means to pay for these exams. Further more if the initial IME is questionable, it can delay the care given and the time an injured worker is without income.

Using an impartial examiner, chosen with input from the injured worker or chosen by the DLIR could avoid many of the above problems.

Your support of SB 253 is appreciated. Thank you for the opportunity to testify. Please feel free to contact Derrick Ishihara, HAPTA's Workers' Compensation Committee Chair at (808) 221-8620 for further information.



# *Hawaii Independent Insurance Agents*

---

## **A S S O C I A T I O N**

February 6, 2017

To: Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Karl Rhoads, Vice-Chair  
And Members of the Committee on Judiciary and Labor

Senator Rosalyn H. Baker, Chair  
Senator Clarence K. Nishihara, Vice-Chair  
And Members of the Committee on Commerce, Consumer Protection  
and Health

Re: SB253 Relating to Workers Compensation  
Hearing: Friday, February 10, 2017 8:30 am Conference Room 016

---

The Hawaii Independent Insurance Agents Association (HIIA) opposes SB253 which will require Independent Medical Examinations (IME) be performed by a physician mutually agreed upon by employers and employees.

The Employee (injured Claimant) has the right to select his or her own physician for Treatment. The Employer has the right of discovery to measure the progress of the Employee's treatment. This has been impartial and fair for both sides.

The Current Workers Compensation process has been working. We anticipate that should this new proposal be put in place, it will have more of a negative impact including delay in services and increased cost of the claim and put an additional burden on the Courts and Arbitration.

HIIA is a nonprofit trade association of independent insurance producers dedicated to assisting the insurance buying public with their insurance needs. Workers Compensation is a very complex issue with so many interrelated factors that one change could tip the delicate balance.

Thank you for this opportunity to submit testimony.





**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for SB253 on Feb 10, 2017 08:30AM  
**Date:** Wednesday, February 8, 2017 4:09:18 PM

---

**SB253**

Submitted on: 2/8/2017

Testimony for JDL/CPH on Feb 10, 2017 08:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Douglas Moore	Hawaii Injured Workers Association	Support	No

Comments: Aloha: the current mutually agreed physician selection PPD rating process has been used successfully in Hawaii for at least 25 years. The IME physician selection process by mutual agreement can & should also be used. Mutual agreement of physician should reduce disagreement & conflict while encouraging fairness. Please support passage. mahalo, Douglas Moore, HIWA Pres.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

## TESTIMONY OF LINDA O'REILLY

---

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH  
Senator Rosalyn H. Baker, Chair  
Senator Clarence K. Nishihara, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Karl Rhoads, Vice Chair

Friday, February 10, 2017  
8:30 a.m.

### **SB 253**

Chair Baker, Vice Chair Nishihara, and members of the Committee on Commerce, Consumer Protection, and Health, and Chair Keith-Agaran, Vice Chair Rhoads, and members of the Committee on Judiciary and Labor, my name is Linda O'Reilly, Assistant Vice President of Claims - Workers Compensation of First Insurance Company of Hawaii. I am testifying today on behalf of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** sections 1 and 5 of SB 253.

Our members believe this bill will substantially increase workers' compensation costs, which will translate into a higher cost of doing business, limiting business' ability to compete, adversely affect employees by limiting job availability, pay, and benefits and ultimately find its way into the costs of goods and services in Hawaii.

The current system regarding Independent Medical Examinations (IMEs) has been in place for some time and we believe it is working. It appears that this legislation is prompted by claims that IME physicians are biased toward the employer. We do not believe this is true. Employers seek access to clinical expertise to help return the injured worker to the job. Currently, there are numerous safeguards in place to ensure the IME is objective and unbiased. Injured workers are able to obtain opinions or comments from their treating physician or other doctors regarding the IME opinion if they disagree. Injured workers are also able to obtain their own rating and if the hearings officer relies on it, the employer has to pay for it. Finally, there is an appeals process that provides further due process to both sides if an agreement cannot be reached.

The current system provides an approach for the employer and injured worker to resolve medical treatment disputes in an efficient manner. The proposal to mandate mutual agreement will increase workers' compensation costs and delay the delivery of medical treatment in certain cases. This is detrimental to the injured worker and does not benefit the employer.

This bill requires mutual agreement between the employer and employee of an IME physician. If there is no agreement, the IME physician is chosen BY DLIR. Furthermore, only one IME is allowed unless another is approved by the Director.

An IME is used as a second opinion when compensability is in question or when medical progress is stagnant. If an injured worker has been treated for some time, there is a point where additional medical treatment will not be curative. The injured worker is either ready to return to work in full capacity, is partially disabled, or is permanently disabled. If the IME process is restricted, it may greatly prolong the period the injured worker continues to get treatment that is not medically curative.

There are very few cases where mutual agreement cannot be reached. However, if the law is changed to *require mutual agreement*, we believe many cases *will not have mutual agreement* because there is no incentive to do so. If there is no mutual agreement, the physicians who are licensed under Chapter 453 are a very broad pool, however, we believe the result of having inexperienced physicians perform IMEs will not serve the injured worker or the employer and ultimately increase appeals and costs. Subsequently, if an IME is not performed at a high standard, the employer may not be able to get another one if the Director does not approve it. This leaves the injured worker in limbo and the employer must keep paying for medical treatment that may be unnecessary.

The bill also allows *only* the treating physician to say the injured worker has reached medical stability. This definition differs than that of “medical stabilization” in the administrative rules. The difference is the rules definition has an additional part that says if an injured worker refuses to get recommended treatment by the treating physician, he or she has reached medical stabilization. There is no need for a new truncated definition. By allowing only the treating physician to say when the injured worker has reached medical stability or stabilization, the injured worker will continue to be in limbo as long as the treating physician says so. This disallows the IME physician from saying the injured worker has reached medical stability or stabilization. Again, this will leave the injured worker in limbo with continued treatment which may be unnecessary and the employer will have to pay for it.

The provision to require impairment IMEs to be separate from treatment IMEs presents an inconvenience to the injured worker and does not correspond to better outcomes. A comprehensive examination often takes several hours and this requirement will add costs to the system by requiring two separate examinations that could be addressed in one visit. IMEs are performed to address various aspects of an injured worker’s injury and recovery such as primary and secondary diagnosis, appropriate treatment, utilization and measurement of the degree of physical impairment. *In many cases, it is*

*important to obtain a baseline impairment rating to later determine the effectiveness of treatment.* It is beneficial for the injured worker to have one physician review the medical records and conduct the physical examination in a comprehensive manner. It is also more cost effective if treatment and impairment are addressed by a single IME instead of requiring two. The suggestion that two separate examinations benefits the injured worker is not substantiated by evidence and will only add costs and delay the delivery of benefits. Requiring prior written consent from the injured worker to allow for an Impairment rating during the IME exam will delay the process and add cost. The bill also limits IMEs to one per case, unless approved by the Director. There is no measurable benefit to the injured worker by limiting IMEs to one per case. In fact, such a restriction may harm the injured worker. Several IMEs may be necessary in some cases to clarify the diagnosis, establish a baseline, determine whether there has been improvement or deterioration, explain a change in the condition, or impairment. A subsequent IME may be necessary if the injured worker develops new symptoms or conditions secondary to the work injury. The bill does not allow for any exceptions for an ordered IME for impairment ratings. In the event that an injured worker is ordered to attend an impairment examination and the physician determines that the injured worker is not at maximum medical improvement, or is a no-show for the appointment, the injured worker is precluded from obtaining a subsequent impairment rating. Neither an employer nor an injured worker should be restricted in securing an IME.

Section 2 appropriates monies from the general fund for three full time permanent workers' compensation hearings officers and two full time permanent office assistant positions in the DCD. We support this appropriation and their attendant positions. An adequately staffed office serves all.

Finally, the bill imposes a sunset date of June 30, 2023 which we oppose. Except for the funding provision for positions in DLIR, we object to Sections 1 and 5 of the bill and ask that they be deleted.

Thank you for the opportunity to testify.



P.O. Box 4088  
Honolulu, HI 96812-4088  
Phone: (808) 735-3211

Via E-mail: [CPHTestimony@capitol.hawaii.gov](mailto:CPHTestimony@capitol.hawaii.gov)

February 9, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

Hawaiian Dredging Construction Company, Inc. is **opposed to S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

Opposition to S.B. 253, Relating to Workers' Compensation

February 9, 2017

Page 2

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

With best regards,



Joseph P. Majkut

President

Hawaiian Dredging Construction Company, Inc.





V270972017 INO 0:00 FAX 000 3203093 RING W REBE 00017002

Via E-mail: [CPHTestimony@capitol.hawaii.gov](mailto:CPHTestimony@capitol.hawaii.gov)  
Via Fax (808) 586-6071

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE  
CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA,  
VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER  
PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.**  
Requires, among other things, independent medical examinations and permanent  
impairment rating examinations for workers' compensation claims to be performed by  
physicians mutually agreed upon by employers and employees or appointed by the  
director of labor and industrial relations. Allows for the use of an out-of-state  
physician under certain conditions. Appropriates funds for positions to assist with  
workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and  
Committee Members,

**Hirota Painting Company is opposed to S.B. 253, Relating to Workers' Compensation**, which  
would require independent medical examinations (IME) and permanent impairment rating  
examinations for workers compensation claims to be performed by physicians mutually agreed upon  
by the employers and employees. We believe there is nothing wrong with the current procedure in  
place which provides for sound safeguards to allow injured employees full disclosure of an  
employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they  
disagree and an appeal process if the parties cannot agree. This bill would result in increased  
workers compensation cost to businesses both small and large. The existing law provides employers  
the ability to get a second medical opinion independent of the treating physician with regards to  
questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both  
employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by  
this Committee.

  
Herbert Hirota  
President

The Twenty-Ninth Legislature  
Regular Session of 2017

THE SENATE

Committee on Judiciary and Labor

Senator Gilbert S.C. Keith-Agaran, Chair

Senator Karl Rhoads, Vice Chair

Committee on Commerce, Consumer Protection, and Health

Senator Rosalyn H. Baker, Chair

Senator Clarence K. Nishihara, Vice Chair

State Capitol, Conference Room 016

Friday, February 10, 2017; 8:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 253  
RELATING TO WORKERS' COMPENSATION**

The ILWU Local 142 **supports** S.B. 253, which requires that independent medical examinations (IME) and permanent impairment rating examinations for workers' compensation claims shall be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of Labor and Industrial Relations. The bill also appropriates funds for positions to assist with workers' compensation claims. The law is to be repealed on June 30, 2023.

In the workers' compensation arena, independent medical examinations and examinations for permanent impairment ratings are performed by physicians who are expected to be **unbiased** and will provide their opinions based on a physical examination of the patient and a review of the medical records. Consideration about who pays their fees should not enter the picture, yet the **perception of bias** will exist if the examiner is both selected and paid for by the insurance company or employer.

Mutual agreement regarding the selection of the IME physician will serve to minimize or even eliminate negative perceptions about the examiner and will offer assurance to the injured worker that the examination will be conducted fairly.

Contrary to what employers and insurers have misrepresented, the independent medical examination is NOT the trade-off to presumption under the workers' compensation law. **The trade-off is the right to sue.** The law provides for presumption of work-relatedness (thus, compensability) if the accident occurs in the course of employment or at a workplace. In exchange for this presumption, the injured worker is prohibited from suing the employer for the accident. Over the years, however, presumption for compensability has been increasingly challenged—yet the prohibition on suing the employer continues.

The bill also prohibits combining the IME and permanent impairment rating examination into a single medical examination. Ratings for permanent impairment should occur only after the injured worker is determined by his attending physician to be “medically stable”—i.e., “no further improvement of the employee's work-related condition can reasonably be anticipated from curative health care or the passage of time.” An absurdity occurs when an injured worker is referred to an examiner for both an IME to determine compensability and a permanent impairment rating. How can the examiner determine if there is permanent impairment when the disability has yet to be acknowledged and no treatment has been provided? Nevertheless, this has been known to occur.

The bill further appropriates funds for DLIR to hire three hearings officers and two office assistants in the Disability Compensation Division (DCD) to assist with workers' compensation claims. Since the reduction-in-force of a few years ago, the DCD has been sorely understaffed. Providing funds for additional staff will help to alleviate the backlog of hearings and allow for expedited processing of claims to allow injured workers to get treatment and return to work in a timely manner.

S.B. 253 provides for a repeal of the law, presumably as a means of testing its effectiveness in providing for more fairness in the IME process. However, we prefer that repeal language be deleted from the bill. We firmly believe that mutual selection of an IME physician will work toward restoring trust and confidence in the IME process.

ILWU urges passage of S.B. 253. Thank you for the opportunity to provide testimony on this measure.

# **JBL** HAWAII, LTD.

905 KOKEA STREET • HONOLULU, HAWAII 96817  
TELEPHONE (808) 847-4021 • FAX (808) 845-9638

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS,  
VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND  
LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE  
NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON  
CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.**  
Requires, among other things, independent medical examinations and  
permanent impairment rating examinations for workers' compensation claims to  
be performed by physicians mutually agreed upon by employers and employees  
or appointed by the director of labor and industrial relations. Allows for the use of  
an out-of-state physician under certain conditions. Appropriates funds for  
positions to assist with workers' compensation claims. Effective January 1, 2018.  
Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara  
and Committee Members,

**JBL Hawaii, Limited is opposed to S.B. 253, Relating to Workers' Compensation**, which would  
require independent medical examinations (IME) and permanent impairment rating examinations for  
workers compensation claims to be performed by physicians mutually agreed upon by the employers  
and employees. We believe there is nothing wrong with the current procedure in place which  
provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance  
carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they  
disagree and an appeal process if the parties cannot agree. This bill would result in increased  
workers compensation cost to businesses both small and large. The existing law provides employers  
the ability to get a second medical opinion independent of the treating physician with regards to  
questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both  
employers and employees. For these reasons, we respectfully request that that S.B. 253 be  
held by this Committee.



Taylor Kaaina  
Asst. VP/General Manager



Since 1974

Via E-mail: [CPHTestimony@capitol.hawaii.gov](mailto:CPHTestimony@capitol.hawaii.gov)  
Via Fax (808) 586-6071

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

**JADE PAINTING, INC.** is opposed to **S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.



Since 1974

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

Sincerely,

Christine McGurk  
Treasurer

**KAUAI COMMUNITY HEALTH ALLIANCE**  
**HALE LEA MEDICINE**

---

2460 Oka Street  
Kilauea, Kauai, HI 96754  
808.828.2885 phone  
808.828.0119 fax  
www.kauai-medical.org  
[winkler@kauai-medical.org](mailto:winkler@kauai-medical.org) (email)

February 3, 2017

Re: **Support** of SB253

Hale Lea Medicine has been serving Kauai's residents for over 25 years, and is one of the few remaining clinics still accepting Workers Compensation insurance ("WC") on the island of Kauai.

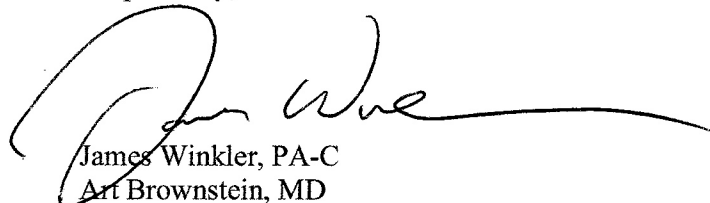
"Independent Medical Exams" (IME) have never been independent. They are performed by physicians chosen and paid for by the insurer.

When a physician is paid a large sum of money for a relatively brief encounter there is a not so subtle pressure that the physician feels knowing that if they repeatedly rule in favor of the insurer they will likely receive more referrals, and conversely if they rule in favor of the patient they won't continue to get these lucrative referrals.

Those of us providing care to our community members refer to these doctors as having "gone to the dark side." Insurers pay IME physicians handsomely, and select physicians that more often than not rule against the patient, human nature being what it is.

Making IMEs truly *independent* by requiring mutually agreed upon IME physicians, will go a long way toward making this process more fair to the citizens of Hawaii, and less heartbreaking to those of us truly trying to care for them.

Respectfully,



James Winkler, PA-C

Art Brownstein, MD

Steve Rogoff, MD

KAUAI COMMUNITY HEALTH ALLIANCE  
HALE LEA MEDICINE

# KING & NEEL, INC.

1164 Bishop Street \* Suite 1710 \* Honolulu, Hawaii 96813  
Phone: (808) 521-8311  
Fax: (808) 526-3893



February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.**  
Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and Industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

## HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

King & Neel, Inc. is **opposed to S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

~~Thank you for the opportunity to offer our comments on this matter.~~

  
Sean K. Spencer  
Vice President





Via E-mail: [CPHTestimony@capitol.hawaii.gov](mailto:CPHTestimony@capitol.hawaii.gov)

Via Fax (808) 586-6071

February 09, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

**KONA INDUSTRIES INC.**, is opposed to **S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

*Duke Kamaka*

Duke Kamaka - President

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.**  
Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

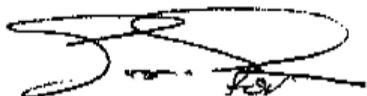
DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

Mechanical Contractors Workers' Compensation Self-Insurance Group is **opposed to S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.



Sam Fujikawa, Chairman

Hawaii State Legislature

February 8, 2017

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair  
Senator Clarence K. Nishihara, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Karl Rhoads, Vice Chair

*Filed via electronic testimony submission system*

**RE: SB 253, WC Medical Examination Physician Selection - NAMIC's Written Testimony in Opposition**

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 10, 2017, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

The proposed legislation states:

*If the employer and the employee cannot agree on a physician to perform the independent medical examination or permanent impairment rating examination, the employer or employee may request in writing that the physician be appointed by the director. Within seven calendar days of the receipt of request, the director shall appoint from the director's list of qualified physicians, a physician licensed in a relevant medical specialty, licensed to practice in Hawaii, willing to undertake the examination, and paid for by the employer.*

NAMIC respectfully submits the following statement of concerns with the proposed amendments to the statute:

**1) SB 253 will create an unnecessary administrative cost and burden for insurance companies and require the Director to needlessly intervene in the IME process.**

NAMIC is concerned that the proposed legislation will lead to routine disputes over the employer's or workers' compensation insurer's selection of an IME physician, because trial lawyers will use this as a litigation strategy to get the Director to intervene in the IME process. NAMIC is concerned that this will create unnecessary additional work for the Director, delay the selection of an IME physician, and increase claims administrative costs.

**2) NAMIC is concerned that the proposed requirement that, “the selection of the examining doctor shall be by mutual agreement” will needlessly delay the IME process to the detriment of the injured workers, increase the IME costs for insurers and employers, and make the IME process unnecessarily contentious.**

Policyholders already possess the legal right to have the IME reviewed by a doctor of their selection, if they want to contest the insurer’s IME doctor’s medical assessment. Therefore, the proposed requirement that the IME doctor be selected by “mutual agreement” (whatever that means procedurally) doesn’t really provide the policyholder with any new consumer protection. The only thing it does is make the insurance claims process more complicated and protracted.

Moreover, the proposed “mutual agreement” selection requirement could create unintended professional liability and ethical duty problems for medical professionals. When the insurer retains the IME doctor and the injured worker retains his own doctor, the ethical and professional duties of the respective medical professionals are quite clear. The proposed “mutual agreement” selection requirement makes the physician’s duties unclear to the detriment of both parties and the physician.

**3) NAMIC is concerned that the proposed legislation will adversely impact an insurer’s ability to secure a timely and accurate medical evaluation and the injured worker’s ability to secure prompt medical treatment.**

The proposed legislation states, that “if no agreement is reached, the selection shall be submitted to the Director ...” However, the proposed legislation does not address what criteria the Director will use in selecting a particular IME physician, or the process for a party to contest said selection.

If a party wants to contest the selection of a particular IME physician by the Director, a resolution of that dispute would need to be resolved *before* any IME may be conducted. Therefore, the insurer could be hindered in its ability to comply with its regulatory duty to promptly investigate and settle claims, and will be prevented from securing timely information about the injured worker’s medical diagnosis. Additionally, this new IME selection process, especially in situations where a party is contesting the Director’s IME physician selection, could end up delaying the injured worker’s ability to secure timely medical treatment.

In closing, NAMIC believes that SB 253 is unnecessary, and likely to create unintended adverse consequences for injured workers, impose needless requirements on employers and insurers that will be insurance rate cost-driver for the workers’ compensation system, and turn a standard medical evaluation claims process (IME) into a costly, complicated, and contentious procedure.

For the aforementioned reasons, NAMIC respectfully asks the committees to **VOTE NO on SB 253.**

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you would like to discuss NAMIC’s written testimony.

Respectfully,

A handwritten signature in black ink, appearing to read "Christian John Rataj". The signature is fluid and cursive, with the first name "Christian" being the most prominent.

Christian John Rataj, Esq.  
NAMIC Senior Director – State Affairs, Western Region



SHARING YOUR VISION. BUILDING SUCCESS.

Via E-mail: [CPHTestimony@capitol.hawaii.gov](mailto:CPHTestimony@capitol.hawaii.gov)  
Via Fax (808) 586-6071

February 9, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE  
CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA,  
VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER  
PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.**  
Requires, among other things, independent medical examinations and permanent  
impairment rating examinations for workers' compensation claims to be performed by  
physicians mutually agreed upon by employers and employees or appointed by the  
director of labor and industrial relations. Allows for the use of an out-of-state  
physician under certain conditions. Appropriates funds for positions to assist with  
workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017

TIME: 8:30 a.m.

PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and  
Committee Members,

Nordic PCL Construction, Inc. is **opposed to S.B. 253, Relating to Workers' Compensation**,  
which would require independent medical examinations (IME) and permanent impairment rating  
examinations for workers compensation claims to be performed by physicians mutually agreed upon  
by the employers and employees. We believe there is nothing wrong with the current procedure in  
place which provides for sound safeguards to allow injured employees full disclosure of an  
employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they  
disagree and an appeal process if the parties cannot agree. This bill would result in increased  
workers compensation cost to businesses both small and large. The existing law provides employers  
the ability to get a second medical opinion independent of the treating physician with regards to  
questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both  
employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by  
this Committee.

Yours truly,

NORDIC PCL CONSTRUCTION, INC.

Glen Kaneshige, President

**NORDIC PCL CONSTRUCTION, INC.**

1099 Alakea Street, Suite 1600, Honolulu, HI 96813

Telephone: 808-541-9101 ♦ Fax: 808-541-9108 ♦ [www.nordicpcl.com](http://www.nordicpcl.com)

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.**  
Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

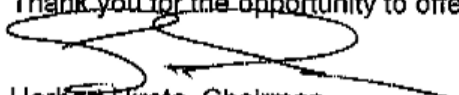
Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

PDCA of Hawaii Workers' Compensation Self-Insurance Group is **opposed to S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

Thank you for the opportunity to offer our comments on this matter.

  
Herbert Hirota, Chairman



February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

**Performance Systems Inc.** is opposed to **S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.





1088 BISHOP STREET #408  
HONOLULU, HI 96813  
PH: (808) 597-1216

GREGG S. SERIKAKU  
EXECUTIVE DIRECTOR

Via Email

February 9, 2017

Senator Rosalyn H. Baker, Chair  
Senator Clarence K. Nishihara, Vice-Chair  
Senate Committee on Commerce, Consumer Protection and Health

Senator Gil Keith Agaran, Chair  
Senator Karl Rhoads, Vice-Chair  
Senate Committee on Judiciary and Labor

The Twenty-Ninth Legislature, Regular Session of 2017

Chairs Baker and Agaran, Vice Chairs Nishihara and Rhoads, and Members of the Committees:

**SUBJECT: SB 253 Relating to Workers' Compensation**

My name is Gregg Serikaku. I am the Executive Director of the Plumbing and Mechanical Contractors Association of Hawaii.

The Association for which I speak is **opposed** to SB 253.

Under current law an employee has the right to select the treating physician of his/her choice and the employer has the right to request a physician of his/her choice to perform an independent medical examination (IME) that is separate from the employee's physician. The IME is the employer's only method to ensure that the injured worker is receiving appropriate and adequate treatment for his work related injury and to determine whether there may be any unnecessarily protracted claims. In addition there are established appeals processes in place to resolve any differences between employers and employees resulting from the IME.

Senate Bill 253, would adversely change the current method and would require that a mutually agreed upon physician be chosen by the employer and employee to perform the IME for worker's compensation claims, thus removing the employer's sole method to independently validate ongoing claims.

PAMCA opposes S.B. 253 because it would ultimately result in increased workers compensation costs, protracted adjudication of claims, inadequate or inappropriate treatment for the injured employee, and finally unnecessary delays in return to employment.

We therefore respectfully urge the committee to hold this bill.

Respectfully yours,

A handwritten signature in black ink that reads "Gregg S. Serikaku". The signature is written in a cursive, flowing style.

Gregg S. Serikaku  
Executive Director



# S & M SAKAMOTO, INC.

GENERAL CONTRACTORS

Via E-mail: [CPHTestimony@capitol.hawaii.gov](mailto:CPHTestimony@capitol.hawaii.gov)

Via Fax (808) 586-6071

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

## HEARING

DATE: February 10, 2017

TIME: 8:30 a.m.

PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

S & M Sakamoto, Inc. is **opposed to S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

Very truly yours,  
S & M Sakamoto, Inc.

Gerard Sakamoto  
Chairman of the Board



Hawaii Contracting License Number BC-25436

Via E-mail: [CPHTestimony@capitol.hawaii.gov](mailto:CPHTestimony@capitol.hawaii.gov)  
Via Fax (808) 586-6071

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

**INSERT COMPANY NAME** is **opposed to S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.



Hawaii Contracting License Number BC-25436

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

*MJ Mazzone*  
Michael Mazzone  
President

 **TOMCO CORP.**  
*General Contractors*

February 9, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

**HEARING**

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

**TOMCO CORP.** is **opposed** to **S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

**1007 Makepono Street, Honolulu, Hawaii 96819**  
**Telephone #: (808) 845-0755 Fax #: (808) 845-1021**  
**Lic# ABC 16941**

Via E-mail:

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017  
TIME: 8:30 a.m.  
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

**Zelinsky Company is a well-established local commercial painting company that has been doing business in Hawaii since 1976.**

**Zel-Tec, Inc. dba: Zelinsky Company** is opposed to **S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision. "

Name: *Anthony Alvarez*

Phone Number:

Email:

Date: *2/8/2017*

JDI/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

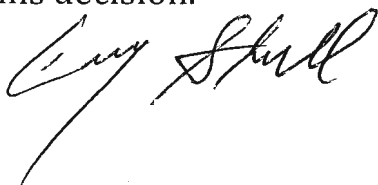
Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision. "

Name:



Phone:

Email:

Date:



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for SB253 on Feb 10, 2017 08:30AM\*  
**Date:** Monday, February 6, 2017 7:43:29 PM

---

**SB253**

Submitted on: 2/6/2017

Testimony for JDL/CPH on Feb 10, 2017 08:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
cathy wilson	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

JDI/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: *Manissa Ho*

Phone:

Email:

Date: *2/8/16*

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision. "

Name: Donna KARA

Phone Number:

Email:

Date: 2/8/17

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for SB253 on Feb 10, 2017 08:30AM\*  
**Date:** Monday, February 6, 2017 11:11:31 AM

---

**SB253**

Submitted on: 2/6/2017

Testimony for JDL/CPH on Feb 10, 2017 08:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Fern Rosenstiel	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

JDI/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: Frankie T. Bangal

Phone:

Email:

Date: February 8, 2017

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: JACQUELINE CHING

Phone Number:

Email:

Date: 2/8/17

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: JAVELTINE SEGI

Phone Number:

Email:

Date: 2/08/17

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: Joshua Amara - Antone

Phone Number:

Email:

Date: 2/8/17



JDI/CPL Committee (s)

Measure title: Relating to Workers Compensation


Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision. "

Name: 

Phone:

Email:

Date: 2/8/17

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision. "

Name:

KY

Phone Number:

Email:

Date:

2-08-2017

JDI/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: *Margaret Thompson*

Phone: *8* ?

Email:

Date: *2/8/2017*

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision. "

Name: *Preston Kadialai PDAF*

Phone Number:

Email:

Date: *2/8/17*

JDI/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: Raj K. Wong

Phone:

Email:

Date:

2/8/17

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision. "

Name: ROBERT JESSER

Phone Number:

Email:

Date: 2/08/2017

JDI/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name:  Sondra Ullberg

Phone:

Email:

Date: 2/8/17

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: *Savika Notani*

Phone Number:

Email:

Date: *2/8/17*



JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: TAUMAOE TOOMALATAI

Phone Number:

Email:

Date: 02/08/17

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for SB253 on Feb 10, 2017 08:30AM\*  
**Date:** Friday, February 3, 2017 7:21:33 PM

---

**SB253**

Submitted on: 2/3/2017

Testimony for JDL/CPH on Feb 10, 2017 08:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Terri Pacheco APRN	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision. "

Name: THANG PHAM

Phone Number:

Email:

Date: 2-8-2017

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name: "Tony" Anthony Jacob Keolaui Bradley

Phone Number:

Email:

Date: 2/8/17

JDL/CPL Committee (s)

Measure title: Relating to Workers Compensation

Hearing scheduled on February 10, 2016 at 8:30 am in Conference Room 016

Testimony in support of SB 253

Dear JDH/CPL Committee Chair and members,

I am in strong support of SB 253. The changes requested in this measure will ensure transparency and fairness in Workers' Compensation cases. Mutually agreed upon licensed IME doctor will ensure that the IME reports will not be biased since the Employer currently appoints IME doctors. Setting a deadline to submit IME reports will prevent any delay in the treatment of the employee and in deterioration of employee's health conditions.

Further, I feel that this measure needs to be amended to include "a hearing in case more than one IME is requested by the Employer. Employers always give and justify their reasons for more than one IME. Hearing Officer should decide if an additional IME is required. Employer should be liable to pay for work compensation until the Hearing Officer makes his decision."

Name:

Tu Anh Thuan

Phone Number:

( ) - - - - -

Email:

Date:

02/08/17