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STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
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Statement of
BRENNA H. HASHIMOTO
Director, Department of Human Resources Development

Before the
HOUSE COMMITTEE ON LABOR
Tuesday, January 28, 2025
9:00AM
State Capitol, Conference Room 309

In consideration of
HB 480 Relating to Workers' Compensation

Chair Sayama, Vice Chair Lee, and the members of the committee.

The Department of Human Resources Development (HRD) respectfully submits the following comments regarding HB 480.

The bill proposes to:

1. Authorize an attending physician to request a functional capacity exam and refer an injured employee for the exam without first obtaining permission from the employee's employer.
2. Allow licensed occupational and physical therapists to be deemed qualified to perform functional capacity exams.

Under Hawai'i Revised Statutes (HRS) §26-5, HRD is responsible for administering and managing the State's self-insured and centralized workers' compensation program. This includes all employees of the Executive Branch, public charter schools, the Hawaii Public Housing Authority, and the Legislature.

HRD recognizes the importance of functional capacity exams. These exams are essential in assessing an injured worker's ability to return to work, as they provide valuable medical information to objectively determine an employee's physical abilities.

While the intent of HB 480 is to expedite the process of assessing an injured worker's physical capabilities, endurance, and work tolerance, we have concerns regarding the timing of these evaluations. Section 386-25, HRS, specifies that vocational rehabilitation

should begin by determining whether the employee's return to usual and customary employment represents suitable gainful employment. To avoid functional capacity exams being conducted prematurely, HRD recommends that the language of the bill be revised. Specifically, we suggest the following revision to Section 2 (a):

“When an injured employee’s attending physician has determined that the employee has reached medical stabilization **and is permanently unable to return to the employee’s usual and customary employment**, the physician may request a functional exam to be performed by a qualified healthcare provider...”

This revision ensures that functional capacity exams are conducted at the appropriate stage in the workers’ compensation process.

Thank you for the opportunity to provide testimony.



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

January 28, 2025

To: The Honorable Jackson D. Sayama, Chair,
The Honorable Mike Lee, Vice Chair, and
Members of the House Committee on Labor

Date: Tuesday, January 28, 2025
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 480 RELATING TO WORKERS' COMPENSATION

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR supports** this measure that adds a new section to Chapter 386, Hawaii Revised Statutes (HRS) that authorizes an attending physician to request or refer an employee to a functional capacity exam (FCE) without prior authorization. This measure also proposes to amend §386-27(a), HRS by allowing licensed occupational and physical therapists to be deemed qualified to perform functional capacity exams.

II. CURRENT LAW

§386-21 (a), HRS, states that immediately after a work injury is sustained by an employee and for so long as reasonable needed, the employer shall furnish to the employee all medical care, services, and supplies as the nature of the injury requires.

III. COMMENTS ON THE HOUSE BILL

The DLIR supports this measure which encourages timely and accurate assessments of an injured worker's physical abilities. FCEs utilize a series of tests to assess an individual's level of ability to perform work-related tasks. The results can determine an employee's ability to return to work with or without accommodations and may also provide the employer with guidance on job duties to avoid while the employee recovers to full duty. These guidelines may prevent re-injury and ultimately accelerate the injured worker's return to full-duty work.

TESTIMONY OF MILIA LEONG

COMMITTEE ON LABOR
Representative Jackson D. Sayama, Chair
Representative Mike Lee, Vice Chair

Tuesday, January 28, 2025
9:00 a.m.

HB 480

Chair Sayama, Vice Chair Lee, and members of the Committee on Labor, my name is Milia Leong, Executive Claims Administrator for HEMIC Insurance Managers, Inc. I am testifying today on behalf of Hawaii Insurers Council. The 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 **supports** this bill. We believe that the provisions outlined in this bill will streamline the workers' compensation process and move the claim forward without unnecessary delays.

Thank you for the opportunity to testify.

Hawai'i Association of Professional Nurses (HAPN)



To: The Honorable Representative Jackson Sayama, Chair of the House Committee on Labor

From: Hawaii Association of Professional Nurses (HAPN)

Subject: HB480 – Relating to Workers' Compensation

Hearing: January 28, 2025, 9:00 a.m.

Aloha Representative Sayama, Chair; Representative Lee, Vice Chair; and Members of the Committee,

On behalf of the Hawaii Association of Professional Nurses (HAPN), we strongly support HB480 **with amendments**, which seeks to streamline the approval process for functional capacity exams within Hawaii's workers' compensation system. This measure addresses critical delays that injured workers face in accessing timely and accurate assessments, ultimately expediting their recovery and return to work.

The Importance of Provider-Neutral Language

While we fully support the intent of this bill, we respectfully urge the committee to consider amending the language to replace the term "attending physician" with "attending provider" or "licensed healthcare provider."

Advanced Practice Registered Nurses (APRNs) are independently licensed healthcare providers who are authorized under Hawaii law to assess, diagnose, and manage care for patients, including those within the workers' compensation system. Restricting the role of "attending physician" solely to physicians unnecessarily excludes APRNs, who are fully qualified to serve in this capacity.

Adopting provider-neutral language ensures the following:

- 1. Alignment with Hawaii Law:** Current law recognizes APRNs as autonomous providers in healthcare, including workers' compensation cases. Inclusive terminology reflects this legal authority.
- 2. Improved Access to Care:** In a state grappling with a significant provider shortage, APRNs play a critical role in ensuring timely and equitable access to care, especially in rural and underserved areas.
- 3. Equity and Efficiency:** By including APRNs as attending providers, this bill removes barriers that delay care and ensures injured workers receive evaluations promptly from the most accessible and qualified provider.

Impact on Workers' Compensation

The delays in functional capacity exams prolong injured workers' recovery and exacerbate their financial and emotional stress. By streamlining approval processes and better incorporating APRNs into the language of HB480, this measure ensures workers receive timely and appropriate care, while also improving the overall efficiency of the workers' compensation system.

Conclusion

HB480 represents a significant step forward in improving Hawaii's workers' compensation system by addressing delays in functional capacity exams. By adopting provider-neutral language, the bill ensures that all qualified healthcare professionals, including APRNs, can contribute to its implementation, addressing critical workforce shortages and improving outcomes for injured workers.

HAPN's mission, to be the voice of APRNs in Hawaii, has been the guiding force that propelled us to spearhead the advancement of patients' access to healthcare as well as supporting the recognition of the scope of practice for APRNs in Hawaii. We have worked to improve the physical and mental health of our communities. As our ability to provide close care with our patients progressed, we also opened our own clinics to provide the care our patients deserve.

Thank you for the opportunity to offer testimony to your committee. Thank you for your enduring support of the nursing profession in the Aloha State.

Respectfully,

Dr. Jeremy Creekmore, APRN
HAPN President

To: Rep. Jackson D. Sayama, Chair
Rep. Mike Lee, Vice Chair
Members of the House Committee on Labor

Date: Tuesday, January 28, 2025

Time: 9:00 a.m.

Place: Conference Room 309

State Capitol

415 South Beretania Street

Support for HB 480

I strongly support the intent of HB 480, which authorizes an attending physician to request a functional capacity exam and refer an injured employee for the exam without first obtaining permission from the employee's employer. It also allows licensed occupational and physical therapists to be deemed qualified to perform functional capacity exams.

This bill is one of the three workers' comp bills that were originated by the 2024 Workers' Comp Working Group Chaired by Rep. Scot Matayoshi. Our group felt this change in law would improve upon the current workers' compensation process for functional capacity exams.

Thank you for your consideration.

Cathy Wilson