
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. The purpose of this Act is to clarify that
2 employer-appointed medical professionals who conduct independent
3 medical examinations are subject to applicable medical
4 malpractice laws.

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

7 "**§386-79 Medical examination by employer's physician.** (a)
8 After an injury and during the period of disability, the
9 employee, whenever ordered by the director of labor and
10 industrial relations, shall submit to examination, at reasonable
11 times and places, by a duly qualified physician or surgeon
12 designated and paid by the employer. The employee shall have
13 the right to have a physician or surgeon designated and paid by
14 the employee present at the examination, which right, however,
15 shall not be construed to deny to the employer's physician the
16 right to visit the injured employee at all reasonable times and
17 under all reasonable conditions during total disability.



1 If an employee refuses to submit to, or in any way
2 obstructs such examination, the employee's right to claim
3 compensation for the work injury shall be suspended until the
4 refusal or obstruction ceases and no compensation shall be
5 payable for the period during which the refusal or obstruction
6 continues.

7 (b) In cases where the employer is dissatisfied with the
8 progress of the case or where major and elective surgery, or
9 either, is contemplated, the employer may appoint a physician or
10 surgeon of the employer's choice who shall examine the injured
11 employee and make a report to the employer. If the employer
12 remains dissatisfied, this report may be forwarded to the
13 director. The employer-appointed physician or surgeon shall be
14 subject to the laws pertaining to medical malpractice in this
15 State, including chapter 671.

16 ~~[Employer requested]~~ (c) Employer-requested examinations
17 under this section shall not exceed more than one per case
18 unless good and valid reasons exist with regard to the medical
19 progress of the employee's treatment. The cost of conducting
20 the ordered medical examination shall be limited to the complex
21 consultation charges governed by the medical fee schedule
22 established pursuant to section 386-21(c)."

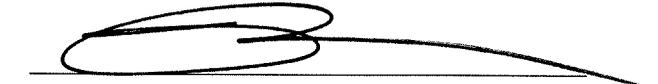
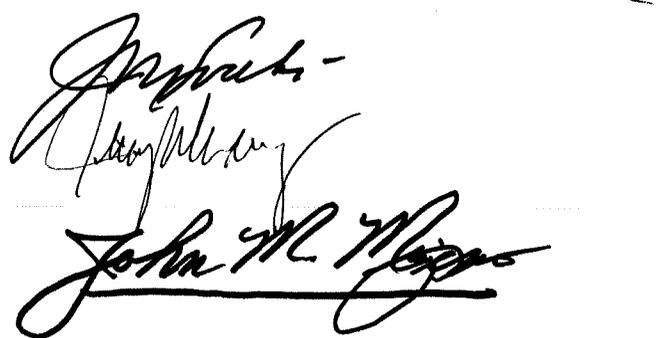


1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.
7

INTRODUCED BY:

JAN 17 2007



Report Title:

Workers' Compensation Law

Description:

Subjects the employer-selected "independent medical examiner" to general medical malpractice standards as applicable in Hawaii.

