
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. Chapter 386, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§386- Independent medical examination; permanent
5 impairment rating examination; mutual agreement. (a) After an
6 injury and after a claim is filed by the injured employee, the
7 employer, upon mutual agreement of the parties, may appoint a
8 qualified physician, paid by the employer, to conduct an
9 independent medical examination of the injured employee, or a
10 permanent impairment rating examination of the injured employee,
11 and make a report to the employer.

12 If the parties cannot agree on a physician to perform the
13 independent medical examination, or permanent impairment rating
14 examination, the employer may request in writing that the
15 director, from the director's list of qualified physicians,
16 appoint a physician licensed in a relevant medical specialty,
17 licensed to practice in Hawaii, and willing to undertake such
18 examination within seven calendar days of the director's receipt



1 of the request. Any physician mutually selected by the employer
2 and employee or selected by the director shall examine the
3 employee within thirty days of selection. The director shall
4 keep and maintain a list of qualified physicians including their
5 respective qualifications.

6 In no event shall an independent medical examination and a
7 permanent impairment rating examination be combined into a
8 single medical examination unless the injured employee consents
9 in writing prior to the scheduling of the examinations.

10 In no event shall the director, appellate board, or court
11 order more than one employer requested independent medical
12 examination and one permanent impairment rating per case, unless
13 valid reasons exist with regard to the medical progress of the
14 employee's treatment.

15 If an employee unreasonably refuses to submit to, or in any
16 way unreasonably obstructs an examination, the employee's right
17 to claim compensation for the work injury shall be suspended
18 until the unreasonable refusal or obstruction ceases and no
19 compensation shall be payable for the period during which the
20 refusal or obstruction continues. The cost of conducting the
21 ordered independent medical examination shall be limited to the



1 complex consultation charges governed by the medical fee
2 schedule established pursuant to section 386-21(c).

3 (b) Every physician selected to perform independent
4 medical examinations or permanent impairment rating examinations
5 as provided in subsection (a) shall be currently licensed in
6 Hawaii; provided that for claimants whose residency is not
7 Hawaii, the physicians performing the independent medical
8 examination or permanent impairment rating shall be licensed in
9 the state where the claimant resides for a period of five
10 consecutive years immediately preceding the examination.

11 (c) When an injured employee has attained medical
12 stability as determined by the injured employee's attending
13 physician, the employer may appoint a physician, paid by the
14 employer and selected by agreement of the parties, who shall
15 conduct a permanent impairment rating examination of the injured
16 employee pursuant to section (a).

17 For the purposes of this subsection, "medical stability"
18 means that the injured employee's medical condition is well
19 stabilized so that no further improvement in the injured
20 employee's work injury can be expected from further medical
21 treatment and continued medical care will only prevent
22 deterioration of the condition."



1 SECTION 2. Section 386-79, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§386-79 Medical examination by employer's physician.~~

4 ~~After an injury and during the period of disability, the~~
5 ~~employee, whenever ordered by the director of labor and~~
6 ~~industrial relations, shall submit to examination, at reasonable~~
7 ~~times and places, by a duly qualified physician or surgeon~~
8 ~~designated and paid by the employer. The employee shall have~~
9 ~~the right to have a physician or surgeon designated and paid by~~
10 ~~the employee present at the examination, which right, however,~~
11 ~~shall not be construed to deny to the employer's physician the~~
12 ~~right to visit the injured employee at all reasonable times and~~
13 ~~under all reasonable conditions during total disability.~~

14 ~~If an employee refuses to submit to, or in any way~~
15 ~~obstructs such examination, the employee's right to claim~~
16 ~~compensation for the work injury shall be suspended until the~~
17 ~~refusal or obstruction ceases and no compensation shall be~~
18 ~~payable for the period during which the refusal or obstruction~~
19 ~~continues.~~

20 ~~In cases where the employer is dissatisfied with the~~
21 ~~progress of the case or where major and elective surgery, or~~
22 ~~either, is contemplated, the employer may appoint a physician or~~



1 ~~surgeon of the employer's choice who shall examine the injured~~
2 ~~employee and make a report to the employer. If the employer~~
3 ~~remains dissatisfied, this report may be forwarded to the~~
4 ~~director.~~

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

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

14 SECTION 4. This Act shall take effect on July 1, 2008, and
15 shall be repealed on July 1, 2011.



Report Title:

Workers' Compensation; Independent Medical Examinations;
Permanent Impairment Rating Examinations

Description:

Requires independent medical examinations and permanent
impairment rating examinations to be performed by mutually
agreed upon physicians. Effective 07/01/2008. Sunset
7/01/2011. (SD1)

