

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
DIRECTOR

LEILA A. KAGAWA
DEPUTY DIRECTOR

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

January 23, 2014

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

For Hearing on Friday, January 24, 2014
8:30 a.m., Conference Room 309

BY

BARBARA A. KRIEG
DIRECTOR

House Bill No. 1961
Relating to Workers' Compensation

TO CHAIRPERSON MARK NAKASHIMA AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on H.B. 1961.

The purposes of H.B. 1961 are to require independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees; and allow for the use of an out-of-state physician under certain conditions.

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 opposes this bill.

First, an independent medical examination conducted by a physician of the employer's choice is the primary tool that is available to the employer to help overcome the statutory presumption that a claim is for a covered work injury, to show that ongoing medical treatment may be unreasonable or unnecessary, and to determine whether a requested medical treatment, e.g., surgery, is reasonable and related to the work injury. Amending the statute in this fashion would deprive the employer of a very fundamental

right to conduct its discovery, using physicians of its choice, to evaluate whether the employer is liable for the claim or medical treatment. We note that the workers' compensation law allows an employee to select any physician of his or her choice as the attending physician—and make a first change of physician—without having to seek mutual agreement from the employer. An IME physician, as selected by the employer which is paying for the examination, provides an alternative medical opinion and serves as a check and balance to the attending physician when objective evidence indicates that a claim may not be compensable or a contemplated treatment regimen may be unnecessary, unreasonable, or even harmful to the employee.

Second, if the parties are unable to agree on a physician to perform an examination, this bill requires that the parties alternately strike names of physicians from a list whereby the last remaining physician would conduct the examination. We believe this would add another layer of delay to an already complex claims process when compensability of a claim or further medical treatment are at issue.

Third, this bill would require that any mutually agreed upon physician examine the employee within forty-five calendar days of selection or appointment, or as soon as practicably possible. In our experience, the employer often has to wait ninety days or more for an available appointment. The bill 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 practicable” requirement. These unresolved issues may lengthen the process and make it more burdensome.

Finally, the bill would apparently make the claimant's attending physician the sole arbiter as to when an injured worker attains medical stability. This would have the unintended consequence of potentially lengthening certain claims because 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.

Based on the foregoing, we respectfully request that this measure be held.



**Testimony to the House Committee on Labor and Public Employment
Friday, January 24, 2014, at 8:30 a.m.
Conference Room 309
Hawaii State Capitol**

RE: HOUSE BILL 1961 RELATING TO WORKERS' COMPENSATION

Chair Nakashima, Vice Chair Yamashita, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") respectfully **opposes H.B. 1961** as it will increase the cost and time in the worker compensation system and that cost will be passed onto employers and consumers.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 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 its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

HB 1961 seeks to replace the existing employer requested examinations in workers compensation claims disputes with a new system for obtaining "independent medical examinations".

Under the bill, an independent medical examination (IME) process is replaced with a new program. First the IME must be conducted by a mutually agreed upon physician. Should there not be a mutually agreed upon physician, a process of 3-2 selection will be set into motion with the employer being allowed 3 physicians on the list and the employee 2, with the employee being able to remove a physician from the list first. The bill also allows, with the Director's approval, an out of state physician to be used to conduct the IME should that specialty not be available. Lastly, the bill removes among other things, the loss of wage payments to the employee during the time of not cooperating or submitting to an IME.

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 which the employee or employer must remove a physician from the list. This could add months to the process of getting an IME. Also, under existing law, if the employee does not submit to an employer's IME, the employee's right to claim compensation for the work injury is suspended. While this provision is added at a later part of the bill it appears it will take effect after the selection process.

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 hold HB 1961. Thank you for the opportunity to submit testimony.



To: The Honorable Mark M. Nakashima, Chair
Committee on Labor & Public Employment

From: Mark Sektnan, Vice President

**Re: HB 1961 – Relating to Workers’ Compensation
PCI Position: OPPOSE**

Date: Friday, January 24, 2014
8:30 a.m., Conference Room 309

Aloha Chair Nakashima and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is in opposition to HB 1961, which is unnecessary and unfair, and would result in significant administrative delays.

HB 1961 would replace the existing employer requested examinations in workers compensation claims with a new, complicated system for obtaining “independent medical examinations”. Instead of the existing system that allows an employer to obtain an examination of a claimant to evaluate the merits of a claim, HB 1961 would require first that the employer and employee reach a mutual agreement on the physician who conducts the examination.

The term “independent medical examination” is typically used to describe the examinations contemplated by Hawaii Revised Statutes § 386-79, but its use in this bill ignores the important function of the employer requested examination and strips out the employer’s right to discovery of facts in workers compensation proceedings. This is neither fair nor prudent.

The employer requested examination is intended to establish a procedure for the employer to access his right to discovery of a claimant’s physical condition and course of treatment. The effect of this bill is to do away with the employer’s right altogether at the option of the injured employee.

Under the existing law there are many protections for the employee built in. The employer is limited to only one employer requested examination unless good and valid reasons exist with regard to the progress of the employee’s treatment. Therefore, the employer has an incentive to obtain a credible examination - on the first try - that will withstand scrutiny on appeal before the DLIR’s Disability Compensation Division. Also the report of the employer requested examination must be given to the employee, who has a right to challenge the report and to offer evidence that disputes the report’s findings, so there is a check against employer abuse.

Finally, the selection process set forth in HB 1961 would be stalled by built-in delays. The employer would have to first try to reach a mutual agreement. If the parties are unable to reach an agreement, the bill requires the employer and employee to develop a list of five physicians and then cross off names much as a jury is selected. This could be a very cumbersome and time consuming process. Once a physician is appointed to take the case, the examination is supposed to take place within 45 days. No doubt, that is an optimistic estimate as currently, delays in finding willing and able physicians are already widespread. All this means that examinations would be additionally burdened by these new administrative delays.

PCI respectfully requests that the Committee hold HB 1961.

TESTIMONY BEFORE THE HOUSE OF REPRESENTATIVES COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT

Friday, January 24, 2014
8:30 a.m.

HB 1961
RELATING TO WORKERS' COMPENSATION

By Marleen Silva
Director, Workers' Compensation
Hawaiian Electric Company, Inc.

Chair Nakashima, Vice Chair Yamashita and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **strongly oppose H.B. 1961.** Our companies represent over 2,000 employees throughout the State.

This bill mandates that independent medical examinations (IME's) and permanent impairment rating examinations for workers' compensation claims be performed by physicians mutually agreed upon by employers and employees, and removes the role of the director of the DLIR to appoint a physician if the parties are unable to come to an agreement.

Under the current statutes, employees select their own treating physician. Independent medical examinations are a tool which gives employers the ability to seek an expert medical opinion, at their expense, when the compensability of a claim (statutory presumption), excessive treatment, or reasonableness of a proposed surgical procedure is in question. A majority of IME's are conducted under the current statutes without incident or dispute today. Safeguards are also already in place to allow injured employees full disclosure of an employer's IME report, and the right to seek their own medical opinion if they disagree.

While we appreciate the intent, we cannot support a bill that takes away an employer's fundamental right in the discovery process to select their own expert medical opinion when a claim or treatment plan is in question and requires further investigation or clarification.

Medical stability is already defined in the statutes and the new definition proposed is not consistent with the *Guides* used to evaluate permanent impairment. Given the limited number of qualified physicians, permanent impairment ratings are currently selected by mutual agreement between parties, without the need for mandate by legislation.

For these reasons, we strongly oppose H.B. 1961 and respectfully request this measure be held.

Thank you for this opportunity to submit testimony.

KING & NEEL, INC.

1164 Bishop Street • Suite 1710 • Honolulu, Hawaii 96813
Telephone: (808) 521-8311
Fax: (808) 526-3893



Via E-mail: LABTestimony@capitol.hawaii.gov

Via Fax (808) 586-6680

January 23, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.**
Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

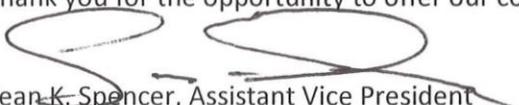
King & Neel, Inc. is **opposed** to H.B. 1961 Relating to Workers' Compensation, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.

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


Sean K. Spencer, Assistant Vice President

Via E-mail: LABTestimony@capitol.hawaii.gov
Via Fax (808) 586-6680

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND
PUBLIC EMPLOYMENT

FROM: ERIC G. TESSEM, SR. VICE PRESIDENT & GENERAL MANAGER
DCK PACIFIC CONSTRUCTION, LLC

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS'
COMPENSATION.** Requires independent medical examinations and permanent
impairment rating examinations for workers' compensation claims to be performed by
physicians mutually agreed upon by employers and employees. Allows for the use of an
out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

dck pacific construction, LLC is opposed to H.B. 1961 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 for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.

TESTIMONY OF JANICE FUKUDA

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Mark M. Nakashima, Chair
Representative Kyle T. Yamashita, Vice Chair

January 24, 2014
8:30 a.m.

HB 1961 (REVISED)

Chair Nakashima, Vice Chair Yamashita, and members of the Committee, my name is Janice Fukuda, Assistant Vice President, Workers' Compensation Claims at First Insurance, testifying 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 one third of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HB 1961, which amends Section 386-79, Medical Examination by Employer's Physician.

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 from a joint list of five physicians with the employer choosing the first and alternating with the employee. Then each may strike a physician until only one remains who shall be the IME physician. The proposed process will delay the ability to secure an examination in a timely manner and may hinder the ability to expeditiously resolve conflicts. 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.

For these reasons, we respectfully request that HB 1961 be held.

Thank you for the opportunity to provide comments.



SENT VIA E-MAIL: LABTestimony@capitol.hawaii.gov

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.** Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014

TIME: 8:30 a.m.

PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

Healy Tibbitts Builders, Inc. is a general contractor in the State of Hawaii and has been actively engaged in construction work in Hawaii since the early 1960's.

Healy Tibbitts Builders, Inc. is **opposed** to **H.B. 1961 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 for a pilot period of four years. 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.

Overall, 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's requested examination. Also, the bill will

likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard A. Heltzel". The signature is fluid and cursive, with a prominent initial "R" and "H".

Richard A. Heltzel
President

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.** Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.



HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

Royal Contracting is a company that cares for the well being of our employees when they are injured.

We provide opportunities for light duty so that they may transition back to regular duty.

In our discussions with the employees we have not heard of complaints about IME funding's.

As such we oppose H.B. 1961 since it offers no additional benefit to our employees.

Employees currently have options to seek their own medical opinion if they feel treatment is inadequate. Why do we want to remove these options for a second opinion?

Royal Contracting Co., Ltd. is opposed to H.B. 1961 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 for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.



Since 1974

Via E-mail: LABTestimony@capitol.hawaii.gov

Via Fax (808) 586-6680

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.** Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014

TIME: 8:30 a.m.

PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

This year Jade Painting, Inc. is proudly celebrating its 40th year of doing business in Hawaii. We take pride in the care and concern we offer to both our customers and our employees.

JADE PAINTING, INC. is **opposed to H.B. 1961 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 for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.



94-1410 Moaniani St. • Waipahu, HI 96797 • Phone: 677-5233 • Fax: 677-6500
License C-7155 • www.jadepainting.com

yamashita1

From: Gary Feyerisen <amchi@alliedmachinerycorp.com>
Sent: Thursday, January 23, 2014 10:04 AM
To: LABtestimony
Subject: H.B. 1961

H.B. 1961

We are in opposition to this bill.

If we are the ones having to pay for this, we should be able to decide.

This will only serve to bottleneck this process and add additional cost.

Stop trying to always control everything.

Allied Machinery Corp.

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND
PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS'
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out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

**INSERT INTRODUCTORY SENTENCE WITH BACKGROUND REGARDING YOUR COMPANY.
(Optional)**

Hawthorne Pacific Corporation is opposed to H.B. 1961 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 for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.



RALPH S. INOUE CO LTD
GENERAL CONTRACTOR

2831 Awaawaloa Street
Honolulu, Hawaii 96819

T: 808.839.9002
F: 808.833.5971

License No. ABC-457
Founded in 1962

Via E-mail: LABTestimony@capitol.hawaii.gov
Via Fax (808) 586-6680

January 23, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND
PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS'
COMPENSATION.** Requires independent medical examinations and permanent
impairment rating examinations for workers' compensation claims to be performed by
physicians mutually agreed upon by employers and employees. Allows for the use of an
out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

Ralph S. Inouye Co., Ltd. (RSI), General Contractor and member of the General Contractors Association of Hawaii (GCA), is **opposed to H.B. 1961 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 for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.



PDCA of Hawaii Workers' Compensation Self-insurance Group

c/o KING & NEEL, INC.

1164 Bishop Street, Suite 1710, Honolulu, Hawaii 96813

Telephone: (808) 521-8311 • FAX: (808) 526-3893

Via E-mail: LABTestimony@capitol.hawaii.gov

Via Fax (808) 586-6680

January 23, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.**
Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014

TIME: 8:30 a.m.

PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

PDCA of Hawaii Workers' Compensation Self-Insurance Group is **opposed** to **H.B. 1961 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 for a pilot period of four years. 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.

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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 the proposed bill be held by this Committee.

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

Herbert Hirota, Chairman



S & M SAKAMOTO, INC.
GENERAL CONTRACTORS

Via E-mail: LABTestimony@capitol.hawaii.gov
Via Fax (808) 586-6680

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

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HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

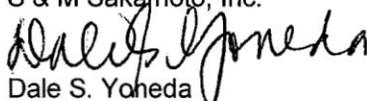
S & M Sakamoto, Inc. is opposed to H.B. 1961 Relating to Workers' Compensation, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.

Very truly yours,
S & M Sakamoto, Inc.


Dale S. Yoneda
Senior Vice President



Via E-mail: LABTestimony@capitol.hawaii.gov
Via Fax (808) 586-6680

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.**
Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.

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DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

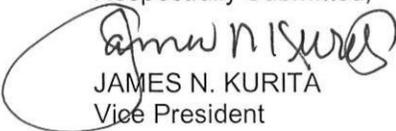
LYZ, Inc. is **opposed** to **H.B. 1961 Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees for a pilot period of four years. 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.

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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 the proposed bill be held by this Committee.

Respectfully Submitted,


JAMES N. KURITA
Vice President



INSURANCE AGENCY

1132 Bishop Street, Suite 1600

Honolulu, HI 96813

Phone: (808) 533-3222

Fax: (808) 533-8777

Via E-mail: LABTestimony@capitol.hawaii.gov

Via Fax (808) 586-6680

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.**
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HEARING

DATE: Friday, January 24, 2014

TIME: 8:30 a.m.

PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

As the largest insurance agency in Hawaii, we see firsthand the impact Workers' Compensation Insurance costs have on our more than **7,000 business clients** in Hawaii.

Atlas Insurance Agency is opposed to H.B. 1961 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 for a pilot period of four years. 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.

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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 the proposed bill be held by this Committee.

Thank you,

Daniel D. Gick
Account Executive
Atlas Construction Services

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.** Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Committee Members,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately six hundred (600) 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 **strongly opposed** to H.B. 1961, Relating to Workers' Compensation.

H.B. 1961 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. This will add to compensation costs and delay the delivery of medical treatments in certain cases. The added costs and delays do not benefit either the employer or the injured worker. The IME process is the employer's only safeguard against abusive practices by an employee that may be taking advantage of his or her worker's compensation benefits. The passage of this bill may likely lead to more contested workers' compensation claims because of the added burden placed on the employer to further defend against potentially fraudulent cases.

H.B. 1961 remains at odds with the interests of GCA members and other business organizations and for those reasons GCA opposes H.B. 1961 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.

The Twenty-Seventh Legislature
Regular Session of 2014

HOUSE OF REPRESENTATIVES
Committee on Labor & Public Employment
Rep. Mark M. Nakashima, Chair
Rep. Kyle T. Yamashita, Vice Chair
State Capitol, Conference Room 309
Friday, January 24, 2014; 8:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1961
RELATING TO WORKERS' COMPENSATION**

The ILWU Local 142 supports H.B. 1961, which requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees and allows for the use of an out-of-state physician under certain conditions. The measure sunsets on 6/30/2018.

When the workers' compensation law was enacted in Hawaii decades ago, the premise was simple. If a worker became injured in the course of his or her employment, the injury was presumed compensable and the employer was obligated to arrange, with payment by the employer or through an insurer, to provide the worker with medical treatment for the injury and compensation (at least in part) for the worker's lost income. In exchange for this consideration, the injured worker was prohibited from suing his employer for the injuries. Other laws were also enacted to provide for safe and healthful work environments, presumably to prevent work injuries from occurring.

In the ensuing years, this "grand bargain" began to unravel. The workers' compensation arena became more adversarial as employers sought to deny workers injured on the job their rightful entitlement to compensation by delaying payment of benefits and challenging presumption.

One of the ways in which the adversarial nature of the system manifested itself is in the so-called "independent" medical examination. This examination is requested by the employer and its insurer to determine compensability, to assess medical treatment and progress, and to otherwise determine what benefits, if any, the injured worker should receive under the law. However, because the physician is requested by the employer and paid by the employer, physicians chosen by the employer/insurer to conduct the "independent medical examination are viewed as suspect.

To counter this perceived bias, H.B. 1961 proposes that the physician who is to perform an independent medical examination be selected by mutual agreement of the employer/insurer and the injured worker. If both sides agree to a physician, questions of bias are likely to be reduced and the adversarial nature of the process will be diminished. Independent medical examiners themselves need not rely on employers/insurers alone for continuing referrals but rather on the examiner's reputation for neutrality and objectivity. Furthermore, there should be no adverse cost factor as the fees for a physician chosen by mutual agreement of the parties should be no different than if he was chosen by the employer/insurer.

Another aspect of H.B. 1961 is to prohibit combining the independent medical examination and the permanent impairment rating into a single examination. The two have different purposes—one to assess compensability, medical treatment and progress, and the other to measure the extent of permanent disability. In the latter case, permanent disability should only be determined when the injured worker has reached maximum medical improvement.

The ILWU urges passage of H.B. 1961. We thank you for the opportunity to share our views on this important matter.

Hawaii State Legislature
House Committee on Labor and Public Employment
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

January 23, 2014

Filed via electronic testimony submission system

**RE: HB 1961, Workers' Compensation; Medical Examinations; Mutual Agreement -
NAMIC's Written Testimony for Committee Hearing**

Dear Representative Mark M. Nakashima, Chair; Representative Kyle T. Yamashita, Vice Chair;
and members of the House Committee on Labor and Public Employment:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the January 24, 2014, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 69 members who write property/casualty and workers' compensation insurance in the State of Hawaii, which represents 30% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC's members appreciate the importance of streamlining and economizing the independent medical examination and permanent impairment rating examination process, and commend the bill sponsor for his sincere desire to improve the law in this area. In the spirit of cooperation, NAMIC respectfully tenders the following concerns and suggested revisions to HB 1961:

1) NAMIC is concerned that the proposed amendments to Section 386-79, Hawaii Revised Statutes will delay the timely treatment of injured workers.

The proposed amendments create an elaborate and time-consuming process for selecting a mutually agreed upon qualified physician for an independent medical examination and permanent impairment rating examination. Although this type of collaborative process may sound like a good idea in theory, the practical realities of the situation, especially when an injured worker has retained legal counsel, support the conclusion that this type of selection process will be plagued by unnecessary conflict between the parties over the mutual selection and striking of recommended physicians. The very nature of this selection process and the conflict that will result from the inevitable and unavoidable disagreements between the parties will ultimately delay the retention of a qualified physician, the necessary evaluation of the worker's alleged injuries, and the commencement of medical treatment for the benefit of the worker.

2) As the time-tested adage goes, "if it isn't broken, don't try to fix it", especially when the proposed fix may actually break it.

Since the current procedure for selecting and appointing a qualified physician is clear, straightforward, and readily implemented with minimal conflict, NAMIC believes that it makes sense to "stay the course" and not create a new physician selection process that could be rife with conflict.

Moreover, the proposed procedure will only create administrative work and expense for the worker and the employer or insurer. If the parties are unable to mutually agree on a qualified physician, the contemplated selection process will lead to nothing more than a dragged-out stalemate where no qualified physician is ever selected.

Specifically, the proposed alternating activity process basically allows the employer or insurer to recommend three of the physicians and the worker recommends the remaining two physicians, then the worker gets to strike three of the physicians (likely the three selected by the employer or insurer) and then the employer or insurer gets to strike two qualified physicians (likely the two selected by the worker). Hence, there will be no ultimate agreement as to the selection of a qualified physician. The only thing guaranteed is that the parties will be forced to engage in a costly and time-consuming procedure that will lead to no meaningful or beneficial outcome for the parties.

3) NAMIC believes that the current law provides the parties with effective legal protection and medical counsel.

The current statutory approach allows each party to select a qualified physician to be involved in the medical examination process. The employer or insurer selects and pays for the qualified physician to conduct the examination and the employee has the right to retain and pay for his/her own physician to be present at the examination. This process affords the worker the opportunity to have his/her *own* medical expert involved in the process. The proposed mutual selection process would require the retention of a mutually agreed upon qualified physician who could end up being placed in a role where he/she could be confronted with a professional conflict of interest.

4) NAMIC is also concerned that the proposed amendments would improperly hinder employers or insurers in their efforts to reasonably manage medical costs.

Current law allows an employer or insurer, who is dissatisfied with the progress of the worker's medical treatment to appoint a physician to examine the injured worker and report to the employer or insurer. If the employer remains dissatisfied, the medical report may be forwarded to the director for consideration. This is a reasonable and appropriate way for an employer or insurer to make sure that the injured worker is receiving beneficial medical care so that the injured worker may return to work and his/her pre-injury life in a timely manner. The proposed amendments to the statute would prevent the employer or insurer from being able to engage in this type of reasonable claims supervision, without having to go through a time-consuming and costly administrative process where the employer or insurer would have to demonstrate the need for a follow-up examination. Pursuant to the proposed amendments, if the Director eventually grants a second examination, the employer or insurer would need to go back to the ineffective mutual selection of a qualified physician process outlined in the proposed amendments. For all practical purposes, it would be near-impossible for an employer or insurer to be able to secure a timely and cost-effective follow-up examination of the worker's medical treatment.

The proposed amendments to the statute also have a number of other provisions that are likely to increase the cost of the workers' compensation system. For example, the proposed amendments would allow for the selection of an out of state physician if the worker does not reside in the state of Hawaii. Pursuant to the proposed regulation, the employer or insurer is solely responsible for the cost of the medical examinations, so the allowance of the retention of an out of state physician could be a workers' compensation insurance rate cost-driver. Additionally, the proposed amendments prevent the independent medical examination and the permanent impairment rating examination from being performed together in a single medical examination, even if such an undertaking would be medically appropriate and cost-effective. The proposed amendments require that the employee consent, in writing, prior to the scheduling of the examination of the final independent selected physician in order for the two examinations to be administered at the same time. This type of administrative requirement will only create needless conflict, delay, and expense for the parties.

In closing, NAMIC is concerned that the proposed amendments will turn a straightforward medical examination process into a convoluted procedure, where costly conflict and needless administrative delays will burden the system to the detriment of both the employer or insurer and the injured worker.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,



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



January 23, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.** Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

TOMCO CORP. is opposed to **H.B. 1961 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 for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.

500 Ala Kawa St., Suite #100A Honolulu, Hawaii 96817
Telephone #: (808) 845-0755 Fax #: (808) 845-1021
Lic# ABC 16941



Randy Perreira
President

HAWAII STATE AFL-CIO

320 Ward Avenue, Suite 209 • Honolulu, Hawaii 96814

Telephone: (808) 597-1441

Fax: (808) 593-2149

The Twenty-Seventh Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor & Public Employment

Testimony by
Hawaii State AFL-CIO
January 24, 2014

H.B. 1961 – RELATING TO WORKERS'
COMPENSATION

The Hawaii State AFL-CIO supports H.B. 1961 which requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees and allows for the use of an out-of-state physician under certain conditions.

The purpose of this bill is to reduce workers' compensation costs and speed up an employee's ability to return to work by selecting physicians who are mutually agreed upon.

Presently, injured employees are required to go to non-treating doctors who are selected by the employers or insurance carriers. Employees have absolutely no say as to who the doctors will be, resulting in a lack of trust when the medical reports are generated. In fact, some physicians are paid handsomely each year by insurance carriers to perform medical examinations. This should raise a red flag and lead us to question the validity of the medical reports. As a result, unnecessary hearings are conducted, resulting in various delays causing higher costs for both the employers and insurance carriers.

Most notably, H.B. 1961 would reduce workers' compensation costs by eliminating the unnecessary struggles that exist between the employers and employees. It would require mutual cooperation when selecting a doctor to perform a medical examination.

Respectfully submitted,

Randy Perreira
President



House Committee on Labor & Public Employment
Friday, January 24, 2014 / 8:30 AM
Hawai'i State Capitol, Room 309

House Bill 1961: Relating to Workers' Compensation

Aloha Chair Nakashima, Vice Chair Yamashita and members of the committee. On behalf of the Society for Human Resource Management – Hawai'i Chapter (SHRM Hawai'i) I am writing in adamant opposition to House Bill 1961.

HB 1961 requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. The bill also allows for use of an out-of-state physician under certain conditions.

Human resource professionals are responsible for businesses' most valuable asset: people. As such, we are keenly aware of the needs of both employers and employees; we truly have everyone's best interest at heart. We adamantly oppose this measure for its significant alteration of the manner in which workers' compensation claims are handled and resolved. In addition, we believe there will be a host of unintended consequences and costs associated with this bill.

Our most significant concerns are:

1. If the employer and employee must agree on a physician to perform a medical examination or permanent impairment rating, the employer loses the ability to meaningfully participate in the selection of an appropriate physician based on education, experience and specialty.
2. If the medical examination must be conducted within 45 calendar days of the selection or appointment process or as soon as practically possible, the physicians will have insufficient time to schedule and conduct the examination, review medical records – which are often substantial – and prepare a detailed and professional report.
3. If the employer cannot combine the medical examination and rating without the employee's consent – even where the physician deems the employee stable and ratable – the employer will be required to unnecessarily schedule additional examinations and report. Additional examinations and reports will increase the cost to the employer in the form of physician fees as well as extended workers' compensation benefits associated with an extended examination period.

We respectfully request this bill not be advanced. However, should the bill continue, we would like to ask for the opportunity to discuss these issues with you further. Thank you for the opportunity to testify.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Sixth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor & Public Employment

Testimony by
Hawaii Government Employees Association
January 24, 2014

H.B. 1961 – RELATING TO WORKERS' COMPENSATION

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 1961, which requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by mutually agreed upon physicians. We believe that employees who are injured on the job deserve to be evaluated by an impartial physician selected with their input and agreement. As drafted, the bill provides a reasonable alternative to selection of an impartial physician in the event no mutual agreement is reached.

Thank you for the opportunity to testify in support of H.B. 1961.

Respectfully submitted,

Randy Perreira
Executive Director

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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Alan Shintani, Inc.

Mark Hertel

Inter-Island Solar Supply, Oahu-Maui-
Hawaii-Kauai

Marshall Hickox

Homeworks Construction, Inc.

Michael Watanabe

JW, Inc.

Ryan Engle

Bays Lung Rose & Holma

Stephen Hanson

simplicityHR by ALTRES

Testimony to the House Committee on Labor & Public Employment

Friday, January 24, 2014

8:30 a.m.

Capitol Room 309

SUBJECT: H.B. 1961, Relating to Workers' Compensation

Dear Chair Nakashima, Vice-Chair Yamashita, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii). BIA-Hawaii is the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit, professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii is strongly opposed to H.B. 1961.

H.B. 1961 would require that the independent medical examination (IME) and permanent impairment rating examination for workers' compensation claims be performed by physicians mutually agreed upon for employers and employees, or appointed by the Director of the Department of Labor and Industrial Relations. It would also amend the workers compensation laws of the State of Hawaii to allow the benefits of an injured employee to be suspended for any refusal to submit to an examination not just unreasonable refusals.

The current statutes have numerous safeguards in place to allow injured employees full disclosure of an employer/insurance carrier's IME report, the right to seek their own medical opinion if they disagree, and an appeal process if the parties cannot agree. A majority of IME's are conducted today under the current statutes without incident or dispute. Permanent impairment rating examinations are currently performed by mutual agreement between parties, without any need for mandate by legislation.

Both changes to the system may be at the expense of finding the best available care for injured claimants in a timely manner. Simply finding qualified physicians to conduct these reviews is time consuming and results in delays due to a shortage of such professionals. Pushing the selection of IME physician on to the DLIR will create more delays if claimants choose to gamble that they will receive a more favorable review by the government-appointed physician.

The ability for an employer to select an IME ensures there is a check and balance system for overall medical care for the injured worker because injured workers select their own treating physician. Without it, the system would be one-sided and costs for any employer, whether private or government, could quickly escalate, resulting in an inequitable, unaffordable, and unsustainable program.

If the intent of this bill is to build trust and reduce confrontation in the workers' compensation system, it will fail at both objectives. Instead, this bill will compel claimants to rely more heavily on plaintiffs' attorneys to navigate increasingly complex procedures.

BIA-Hawaii is **opposed** to H.B. 437 and respectfully requests that it be held.

House Committee on Labor and Public Employment
Thursday, January 24, 2014
8: 30 AM
Room 309

RE: HB 1961 Related to Workers' Compensation Medical Examinations

Dear Honorable Chair Nakashima, Vice Chair Yamashita, and members of the House Committee on Labor and Public Employment. I am a Physical Therapist working in Hawaii who evaluates and treats hundreds of injured workers in Hawaii per year, and I am in **STRONG SUPPORT** of HB1961, related to workers' compensation.

Currently Independent Medical Examiners are selected by and also paid for by the employer which can create a bias. The objective of these evaluations is to evaluate and document a patient's medical status without prejudice. I have observed patients have a change in attitude and motivation due to this lack of fairness. This can result in a poor prognosis and create a lack of motivation to return to work.

I believe that the proposed requirement to allow for mutual agreement on the physician by the employee and employer would minimize bias and optimize fairness and consequently expedite patients' return to work.

Mahalo,

Elyse Nakama, DPT OCS

yamashita1

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 23, 2014 9:34 AM
To: LABtestimony
Cc: frankvannatta@hotmail.com
Subject: Submitted testimony for HB1961 on Jan 24, 2014 08:30AM

HB1961

Submitted on: 1/23/2014

Testimony for LAB on Jan 24, 2014 08:30AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
James Van Natta	Individual	Support	No

Comments: This Bill is critical for all workers in Hawaii to allow an impartial physician's evaluation.

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



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

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dliir.director@hawaii.gov

LATE

January 24, 2014

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Kyle T. Yamashita, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Friday, January 24, 2014
Time: 8:30 a.m.
Place: Conference Room 309, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1961 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 1961 proposes to repeal Section 386-79, Hawaii Revised Statutes (HRS), relating to medical examinations by employer's physician, and to replace it with new language that proposes:

- Independent Medical Examinations (IMEs) and permanent impairment rating examinations be performed by physicians selected and mutually agreed upon by the employer and employee;
- If no agreement as to physician can be reached, the parties shall jointly prepare a list of 5 physicians and by elimination, choose one physician to perform the IME;
- The selected physician shall be currently licensed pursuant to chapter 453 or 442 and shall conduct the examination within 45 calendar days or as soon as practicably possible after the selection;
- The employer shall pay for the IME;
- The use of an out-of-state physician is allowed under certain circumstances and;
- The measure shall be repealed on June 30, 2018 and Section 386-79, HRS, shall be reenacted in the form in which it read on the day before the effective date of this measure.

The Department supports this measure that will bring a greater assurance of impartiality in the IME and permanent impairment rating processes and, importantly, has the potential to reduce the number of Workers' Compensation medical disputes.

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 HOUSE 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.

Reducing the number of disputes will assist the Disability Compensation Division that is currently backlogged in scheduling cases for hearings where disputes between the parties occur. Cases involving compensability could take about 6 months to schedule a hearing from the time the request is made, while cases with less compelling issues such as permanent disability could take 4 to 5 months for a hearing to be scheduled.

2. Fair and Impartial. Where there are disagreements about medical stability, the Department believes the mechanism set forth in the measure will provide a fairer and more impartial method of dispute resolution as well as reduce the number of disputes.
3. 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 or 442 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 employer will continue to be responsible for arranging and paying for travel arrangements for claimants who must return to Hawaii for an IME.

4. 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.
5. Medical stability. The Department has concerns about the language in Section 1, Subsection (f) 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.
6. The Department recommends that the words "relevant medical" specialty be added in Section 1, subsection (c), first paragraph, 9th line, to read: "...a physician equivalent to a license under chapter 453 or 442, may be selected if there is no State of Hawaii-licensed physician available in a relevant medical specialty to conduct the examination.
7. The Department has concerns that the proposal will not be advantageous to "Pro se" claimants who have no legal representation. "Pro se" claimants may not have the knowledge to appoint physicians to be on the list of five physicians and they may have to seek legal counsel to represent them, which will increase costs to them. Therefore, the department respectfully requests that the Chair defer decision-making on the measure so that they department may develop language to address this issue.

**Estimated Number of IMEs vs. Number of Decisions
2006 – 2011**

Calendar Year	Estimated IMEs	Total Decisions Issued	% IMEs vs. Decisions
2006	5,053	9,806	52%
2007	4,506	8,625	52%
2008	4,231	7,886	54%
2009	4,045	7,529	54%
2010	3,547	6,690	53%
2011	3,507	6,944	51%



Hawaii Independent Insurance Agents

ASSOCIATION

January 23, 2014

To: Representative Mark M. Nakashima, Chair
Representative Kyle T. Yamashita, Vice Chair

From: Sonia M. Leong, Executive Director
Hawaii Independent Insurance Agents Association

Re: HB 1961 Relating to Workers Compensation
Hearing: Friday, January 24, 2014 8:30 am Conference Room 309

The Hawaii Independent Insurance Agents Association (HIIA) **opposes** HB1961 which would require Independent Medical Examinations (IME) and Permanent Impairment Rating Examinations (PIRE) to be performed by mutually agreed upon physicians by employers and employees or appointed by the Director of Labor and Industrial Relations.

The Workers Compensation law is intended to be impartial and fair to both Employee and Employer. If you visualize a scale, on one side the Employee(Injured Claimant) has the right to select his or her own physician for treatment. On the other side of the scale, the Employer has the right of discovery to measure the progress of the Employee's treatment, medical stability and & disability. In addition, the Employee also has the right to challenge the IME findings.

We feel the current Workers Compensation has been working at least 98% of the time with 2% of the new and pending cases requiring an ordered IME. If the existing law is working, we anticipate that adding this additional requirement will create more negative consequences including delay in services and increased cost of the claim.

HIIA is a non profit trade association of independent insurance producers dedicated to Assisting the insurance buying public with their insurance needs. Many of our clients are business owners who are already struggling to keep the business going. Workers Compensation is a very complex issue with so many interrelated factors that one change could tip a delicate balance.

Thank you for this opportunity to submit testimony.



January 24, 2014

Via E-mail: LABTestimony@capitol.hawaii.gov
Via Fax (808) 586-6680

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.** Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee:

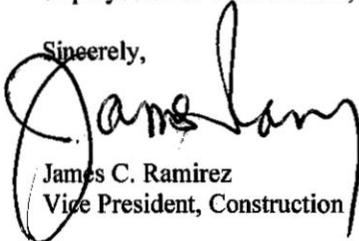
FOREST CITY HAWAII is opposed to H.B. 1961 Relating to Workers' Compensation, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.

Sincerely,



James C. Ramirez
Vice President, Construction

LATE

HIWA

Hawaii Injured Worker Association
715 South King Street, Suite #410
Honolulu, Hawaii 96813
info@hiwahawaii.org
Phone: (808) 538-9771

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Kyle T. Yamashita, Vice Chair, and
Members of the Committee on Labor & Public Employment

Date: Friday, January 24, 2014

Time: 8:30 a.m.

Place: Conference Room 309, State Capitol

From: Derrick Ishihara, Legislative Chair
Hawaii Injured Worker Association

Position: Strong Support

Re: H.B. 1961 Relating to Worker's Compensation

Chair Nakashima, Vice Chair Yamashita, and Members of the
Committee,

Thank you for the opportunity to present testimony on this very
important issue.

HIWA strongly supports this measure that offers injured workers a
voice in selecting a physician to perform an IME. This is already

common practice in selecting a physician to perform an Impairment Rating examination, however including it in statute and expanding this to IMEs are strongly supported by medical providers, injured workers, and their families.

This measure, in one form or another has come before the legislature many times in the past. Opponents rightly state that all IME reports are available for claimants to review and if there are disagreements, they are free to obtain another IME. This is not adequate recourse for most injured workers. Many are not represented by legal counsel, and even if they are, the cost of obtaining another IME is prohibitive for many. In all likelihood, these are cases where complex cases or cases involving severe injury where the worker has been unable to work and has had wage loss benefits withheld.

Opponents have stated that IMEs are their only discovery tool to see if appropriate care is being given. We don't want to take this tool away from them. We only want it to be used in a fair and impartial manner.

Opponents have also stated that since the injured employee gets to choose the treating physician, the employer should have the right to choose the IME physician. They state that since they pay for the IME, they should have a 100% say in who performs it. What they don't say is that they weigh the "opinion" of their chosen IME examiner above that of the treating physician most if not all the time. The attending physician has almost no say once an IME decision is delivered. Additionally, most attending physicians will not spend uncompensated time writing challenges to "bad IMEs" or time out of the office at hearings and depositions to refute "bad IME" findings and recommendations.

Not all insurers routinely require injured workers to submit to IMEs by the handful of biased examiners, but enough of a problem has existed for many years to create distrust in the “system”.

Please help return fairness in the worker’s compensation system by passing this measure.

WIMAH

WORK INJURY MEDICAL ASSOCIATION OF HAWAII
91-2135 FORT WEAVER ROAD SUITE #170
EWA BEACH, HAWAII 96706

LATE

MAULI OLA
THE POWER OF HEALING

JANUARY 24, 2014

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

HOUSE BILL 1961 RELATING TO WORKERS' COMPENSATION

REQUIRES INDEPENDENT MEDICAL EXAMINATIONS AND PERMANENT IMPAIRMENT RATING EXAMINATIONS FOR WORKERS' COMPENSATION CLAIMS TO BE PERFORMED BY PHYSICIANS MUTUALLY AGREED UPON BY EMPLOYERS AND EMPLOYEES. ALLOWS FOR THE USE OF AN OUT-OF- STATE PHYSICIAN UNDER CERTAIN CONDITIONS.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII STRONGLY SUPPORTS HOUSE BILL 1961.

WORK INJURY MEDICAL ASSOCIATION OF HAWAII BELIEVES THIS WILL BILL WILL SPEED UP THE PROCESS OF WORKERS' COMPENSATION AND ALSO INSURE THE EXAMINATION IS DONE BY A PHYSICIAN WHO IS QUALIFIED.

THE PASSAGE OF THIS BILL WILL BENEFIT BOTH THE INJURED WORKER AND THEIR EMPLOYER.

YOUR PASSAGE OF THIS BILL WILL BE GREATLY APPRECIATED.

GEORGE M. WAIALEALE
EXECUTIVE DIRECTOR
WORK INJURY MEDICAL ASSOCIATION OF HAWAII

yamashita1

LATE

From: Garner Shimizu <gshimizu1@hawaii.rr.com>
Sent: Thursday, January 23, 2014 11:12 PM
To: LABtestimony
Subject: HB 1961

Via E-mail: LABTestimony@capitol.hawaii.gov

January 24, 2014

TO: HONORABLE MARK NAKASHIMA, CHAIR, HONORABLE KYLE YAMASHITA, VICE CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: STRONG OPPOSITION TO H.B. 1961, RELATING TO WORKERS' COMPENSATION.
Requires independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees. Allows for the use of an out-of-state physician under certain conditions. Repeals on 06/30/2018.

HEARING

DATE: Friday, January 24, 2014
TIME: 8:30 a.m.
PLACE: Conference Room 309

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

Having been in business, and understanding the requirements of implementing worker's compensation and the associated costs, I am **opposed to H.B. 1961 Relating to Workers' Compensation**. This bill 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 for a pilot period of four years. 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.

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

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 the proposed bill be held by this Committee.

Respectfully,
Garner Shimizu
1734 Ala Aolani Place
Honolulu 96819



JAYAR CONSTRUCTION, INC.

1176 Sand Island Parkway ▼ Honolulu, Hawaii 96819
Tel (808) 843-0500 ▼ Fax (808) 843-0067
Contractor's License ABC-14156

LATE

January 23, 2014

Via Fax: (808)586-6680

To: **Honorable Mark Nakashima, Chair, Honorable Kyle Yamashita, Vice Chair
and
Members of the House Committee on Labor and Public Employment**

Subject: **Strong Opposition to H.B. 1961, Relating to Workers' Compensation.**

Dear Chair Nakashima, Vice Chair Yamashita and Members of the Committee,

Jayar Construction, Inc. is a General Contractor specializing in site work. Jayar currently employ over 100 employees and has been in operation for over 27 years.

Jayar is strongly opposed to H.B. 1961 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 for a pilot period of four years. Under the proposed bill, if an employer has reason to question the treating physicians proposed course of action, the employer's only tool to evaluate his assessment is an employer requested examination. As written, the proposed bill will create more delays and increase costs in the workers' compensation system and place upward pressure on workers compensation premiums.

We believe the current system has procedures in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report. Under the current system employees have the right to seek their own medical opinion if they disagree with a decision and an appeal process. The existing law also provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

We feel 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 the proposed bill be held by this Committee.

Very Truly Yours,