



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

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

February 25, 2013

To: The Honorable Sylvia Luke, Chair,  
The Honorable Scott Y. Nishimoto, Vice Chair,  
The Honorable Aaron Ling Johanson, Vice Chair, and  
Members of the House Committee on Finance

Date: Monday, February 25, 2013  
Time: 11:00 a.m.  
Place: Conference Room 308, State Capitol

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

**Re: H.B. No. 437 H.D. 1 Relating to Workers' Compensation**

**I. OVERVIEW OF PROPOSED LEGISLATION**

The Department supports this proposal with the requested amendments identified in paragraph 8 in the Comments Section. The DLIR believes that this measure 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.

HB437 HD1 proposes to repeal Section 386-79, Hawaii Revised Statutes (HRS), relating to medical examinations by an employer's physician, and to replace it with a new section that proposes:

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

- An unspecified appropriation be made in FY 13 – 14 to carry out the purposes of this measure; and
- The measure to be repealed on June 30, 2018 and Section 386-79, HRS, shall be reenacted in the form in which it read on the day before the effective date of section two of this measure.

## **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 3 to 4 months to schedule a hearing from the time the request is made, while cases with less compelling issues such as permanent disability could take 8 to 9 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. Difficulty with establishing the list of physicians. Establishing a list of doctors willing to conduct IMEs for the purposes of compensability or permanent disability under this bill becomes the responsibility of the Director of Labor.

Issues such as willingness of doctors to be on the list of different medical specialties and allowable fees for the evaluations will have to be addressed. Doctors may not be willing to be on the Director's list without adequate notice prior to the examination or if the compensation to conduct the exam is not adequate.

4. Another concern that is not addressed in this measure is what happens if the Department cannot find any physician willing to participate in specific specialties. The Department will not be able to refer anyone from the "List of Qualified Physicians".
5. Out-of-State claimants. The measure also provides for IMEs, where medical treatment is disputed, for claimants living out-of-state. The measure allows for physicians who reside outside the State of Hawaii and who are licensed in another state as a physician equivalent to a license under chapter 453 to perform IMEs and rating examinations for out-of-state claimants. Currently, the employer is responsible for locating these out-of-state physicians and for scheduling the examinations in the state where the claimants currently reside.

The department has serious concerns about having to maintain a list of out-of-state IME physicians willing to conduct IMEs and rating examinations. Due to the limited number of out-of-state claimants, it is not reasonable and practical for the Department to compile and maintain a list of out-of-state physicians in different specialties who are willing to perform IMEs and rating exams in compliance with Hawaii's regulations.

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

6. 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.
7. The Department supports this proposal contingent on adequate funding and notes that the biennium budget as submitted by the Governor contains additional resources, pending legislature approval, which may reduce or

eliminate the funding and additional staff provided for in Section 3. Without adequate funding and staffing, the Director will not be able to implement the proposed procedures.

8. The Department supports Section 3 of this measure to allow funding to establish and fill new positions effective July 1, 2013, providing it does not displace the priorities identified in the Executive Budget, and recommends that the appropriations period be extended through Fiscal Year 2015 to ensure the provisions of this measure continue beyond June 30, 2014. The Department also recommends that the effective date of the rest of the measure be extended to January 1, 2014, to allow the Department time to establish and fill the new positions, train the staff, and set out procedures and rules necessary to implement this proposal.





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

February 22, 2013

TESTIMONY TO THE  
HOUSE COMMITTEE ON FINANCE

For Hearing on Monday, February 25, 2013  
11:00 a.m., Conference Room 308

BY

BARBARA A. KRIEG  
DIRECTOR

**House Bill No. 437, H.D. 1**  
**Relating to Workers' Compensation**

TO CHAIRPERSON SYLVIA LUKE AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on H.B. 437, H.D. 1.

The purposes of H.B. 437, H.D. 1, are to require, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations; allow for the use of an out-of-state physician under certain conditions; and appropriate unspecified funds.

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 is opposed to Section 1 of this bill and strongly supports Section 3.**

With respect to **Section 1**, DHRD agrees with the underlying policy behind this proposal, which is to improve the fairness of the workers' compensation system and provide better quality care for those workers hurt on the job. However, as explained below, neither goal may be met by the mandatory provisions of this bill.

First, the Hawaii's workers compensation law contains a statutory presumption that a claim is for a covered work injury. In other words, an employee with, for example, a broken finger injury can simply file a claim and the law will automatically presume it is a valid work injury sustained in the course and scope of employment. An employer, including the State, will have no choice but to accept liability for the claim unless it can show substantial evidence that the broken finger is not covered, i.e., because the employee sustained it at home or play or that it was a pre-existing injury that was not caused or aggravated by his work. An independent medical examination (IME) conducted by a physician of the employer's choice is the primary tool that is available to the employer to help overcome this statutory presumption. The IME is also used 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.

Second, our workers compensation law also provides that the injured worker is free to select any physician or surgeon to render his medical care. The employer cannot direct the claimant to a particular physician. If the employee decides to change his original attending physician, he may do so after simply notifying the employer of his intent to change. Again, the employer has no input and cannot direct the claimant to any particular physician. It is only after the claimant attempts to change physicians for a second time that the change must receive prior approval from the Director of Labor or 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 the current treatment regimen may be unnecessary, unreasonable, or even harmful to the employee. This is especially important when large amounts of medications are being dispensed to the injured worker or when major surgery is being recommended by the attending physician with huge attendant risks to current and future health of the

injured worker.

Third, and closely related to the preceding point, the bill would also 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 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 may could possible return to work.

In summary, Section 1 of this bill would increase our workers' compensation costs because it would greatly restrict our ability to defend against questionable claims or terminate medical treatment that is not reasonable or necessary. The statutory presumption, the choice of attending physician by the claimant, and the mutually-agreed IME would combine to swing the pendulum of fairness almost entirely towards the claimants. Unfortunately, we are not able to quantify the specific fiscal impact since DHRD has no control over the number of new claims that are filed, the types of injuries sustained, and the nature and extent of medical and rehabilitative treatment needed. However, as indicated in our other testimonies to this committee, our WC allocation has remained unchanged at \$6,190,183 for several years. DHRD's budget request for the next fiscal biennium requests an increase of \$457,000 for FY14 and \$545,000 for FY15 to cover additional anticipated costs, even without factoring in the potential impact of this H.B. 437, H.D. 1.

With respect to **Section 3**, DHRD believes that an appropriation to provide for three additional hearings officers and two additional office assistant positions in the Disability Compensation Division would improve the DLIR's administration of workers' compensation claims in this State. Additional hearings officers, with office support, will help to reduce the waiting time for hearings and decisions on contested issues of compensability, medical treatment, and myriad other issues that arise in workers' compensation claims.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

850 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5583 • INTERNET: [www.honolulu.gov/hr](http://www.honolulu.gov/hr)

KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR DESIGNATE

NOEL T. ONO  
ASSISTANT DIRECTOR

February 25, 2013

The Honorable Sylvia Luke, Chair  
and Members of the Committee on Finance  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Luke and Members of the Committee:

Subject: House Bill No. 437, H.D. 1, Relating to Workers' Compensation

The City and County of Honolulu opposes House Bill No. 437, H.D. 1, repealing Section 386-79, Hawaii Revised Statutes (HRS), and adding a new section entitled, **Medical examinations; selection of physicians**. This bill requires independent medical examinations and permanent impairment rating examinations to be performed by mutually agreed upon physicians. Although the vast majority of workers' compensation claims proceed without controversy or disagreement, there are claims where this cannot be avoided.

The Hawaii Workers' Compensation Law permits a claimant to secure medical treatment from any physician practicing in the State of Hawaii. Occasionally questions arise concerning diagnosis, treatment, or disability status. While employers have no say in an employee's choice of physician, they currently have the right to obtain an independent opinion from a physician or specialist regarding the progress of a claim. HB 437, H.D. 1, greatly limits an employer's ability to obtain such independent examinations by mandating that only physicians agreed upon by claimants be used for employer requested medical examinations, or if both parties cannot reach a consensus, physicians assigned by the Department of Labor and Industrial Relations.

Most employers and insurance carriers have no problem using mutually agreed upon physicians for permanent impairment ratings, but to require mutual agreement for an employer to conduct an independent medical evaluation takes away from the very independence and purpose of the evaluation. The concept of an independent medical examination is incongruous with the words upon mutual agreement as proposed in this bill.

The Honorable Sylvia Luke, Chair  
and Members of the Committee on Finance  
State House of Representatives  
February 25, 2013  
Page 2

The Hawaii Workers' Compensation Law weighs heavily in favor of the claimant. Under the presumption clause, any claim filed is deemed compensable unless the employer presents substantial evidence to the contrary. During the hearing process at the Disability Compensation Division (DCD) and the Labor and Industrial Relations Appeals Board (LAB), issues of doubt are often resolved in favor of the claimant. The employer currently has the right to select an independent medical examiner to review a claimant's medical progress. To change this as proposed is unfair and inequitable to employers. The DCD and LAB already provide the necessary checks and balances to ensure that employees are treated fairly, including limiting ordered medical examinations to one per case, while allowing employers to exercise their rights to review the progress of claims using independent medical examiners.

Finally, the bill allows only the attending physician to make the finding of medical stability. In most instances, this is self-serving and will undoubtedly prolong treatment, delay an employee's return to work and dramatically increase the cost of a claim.

We respectfully urge your committee to file House Bill No. 437, H.D. 1. The changes proposed by this bill seriously erode an employer's ability to efficiently and effectively manage claims and will most definitely increase the cost of workers' compensation in Hawaii.

Sincerely,

A handwritten signature in black ink, reading "Carolee C. Kubo". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Carolee C. Kubo  
Director Designate



The Twenty-Seventh Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Finance

Testimony by  
Hawaii State AFL-CIO  
February 25, 2013

H.B. 437, HD1 – RELATING TO WORKERS'  
COMPENSATION

The Hawaii State AFL-CIO supports H.B. 437, HD1 which requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations.

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.

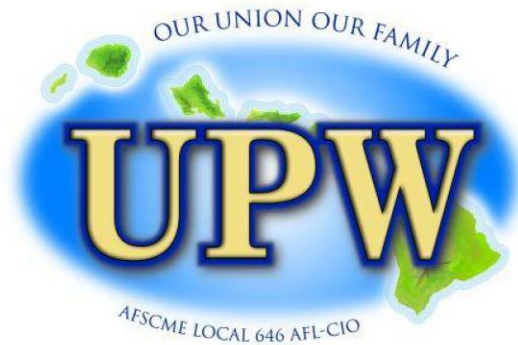
Presently, injured employees are required to go to non-treating doctors who are selected by the employers or insurance carriers. Employees have absolutely no say as to who the doctors will be, resulting in a lack of trust when the medical reports are generated. In fact, some physicians are paid handsomely 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. 437, HD1 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,

Jason Bradshaw  
COPE Director





THE HAWAII STATE HOUSE OF REPRESENTATIVES  
The Twenty-Seventh Legislature  
Regular Session of 2013

COMMITTEE ON FINANCE

The Honorable Rep. Sylvia Luke, Chair  
The Honorable Rep. Scott Nishimoto, Vice Chair  
The Honorable Rep. Aaron Ling Johanson, Vice Chair

DATE OF HEARING: Monday, February 25, 2013

TIME OF HEARING: 11 a.m.

PLACE OF HEARING: Conference Room 308

**TESTIMONY ON HB437 HD1 RELATING TO WORKERS' COMPENSATION**

By DAYTON M. NAKANELUA,  
State Director of the United Public Workers, AFSCME Local 646, AFL-CIO

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW supports the purpose and intent of HB437 HD1 that requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations; allows for the use of an out-of-state physician under certain conditions; and appropriates unspecified funds.

Thank you for the opportunity to testify on this measure.



HOUSE OF REPRESENTATIVES  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

**COMMITTEE ON FINANCE**

Rep. Sylvia Luke, Chair  
Rep. Scott Y. Nishimoto, Vice Chair  
Rep. Aaron Ling Johnason, Vice Chair

Hearing: Monday, February 25, 2013

Time: 11:00 a.m.

Place: Conference Room 308, State Capitol

**TESTIMONY OF ILWU LOCAL 142**

**RE: HB 437, HD 1 RELATING TO WORKERS COMPENSATION**

Chairman Luke, Vice Chair Nishimoto, Vice Chair Johnason, and Members of the Committee on Finance,

Thank you for the opportunity to present testimony regarding HB 437, HD 1. We enthusiastically support this measure.

This bill amends Section 386-79 HRS to require the mutual selection of examining physicians to conduct independent medical examinations and permanent impairment ratings for injured workers once they have attained medical stability. It also prohibits conducting both an independent medical examination under Section 386-79 HRS and a permanent impairment rating simultaneously without the consent of the injured worker.

HB 437, HD 1 will preserve the integrity of the independent medical examination and permanent impairment rating process. Physicians jointly selected recognize that they are being hired to conduct an independent and objective assessment of medical status or permanent impairment, and that future referrals are dependent on their impartiality, not their ability to please those who retain them. The requirement of mutual selection also serves to offset the enormous economic advantage insurers have in adjudication compared to individual employees, who cannot afford the substantial costs associated with these evaluations and thus literally cannot afford to acquire the medical proof necessary to prove their claims.

In recent years, some insurers have often tried to consolidate independent medical examinations and permanent impairment ratings, though they are designed to serve entirely separate functions, the former to assess medical treatment and progress, the latter to measure the extent of permanent disability. Combining the two separate functions is inappropriate because often employees have not truly reached maximum medical improvement and deserve further medical care. Physicians also often predict recovery

will occur and that there will be no permanent impairment, when they cannot possibly know the outcome of future treatment before that treatment has been concluded. In either instance, the right of the injured worker to care or compensation is sacrificed for the expedience of employers and insurers.

On still other occasions, insurers have tried to use a finding that an injured worker has no permanent impairment as a means of subverting the employee's right to vocational rehabilitation, since a finding that an employee has, or may have, a permanent impairment is a necessary condition for receiving vocational rehabilitation under Section 386-25(b) HRS. HB 437 HD 1 would end such abuses, restore neutrality, and promote fairness and objectivity among evaluating physicians.

In past years, certain government employers have argued that this measure will not promote cooperation between the parties and will increase cost. This is inaccurate.

In fact, Employers who oppose this bill sometimes wish to use their superior economic resources to tilt the medical evaluation process in their favor. They recognize that if joint selection of examiners becomes the norm of operation, then there will be no economic incentive for evaluators to favor one side or another. However, what these short-sighted Employers fail to recognize is that if true objectivity exists in the evaluation process, both industry and injured workers will benefit. That is, everyone within the system will strive to arrive at authentic determinations of disability. Adversarial posturing will be minimized, and resources can be directed toward either the rehabilitation of honest injuries or restitution of real rather than feigned impairment. This outcome is ultimately cost effective for all parties, and the correct result for our community as a matter of public policy.

An additional constructive feature of HB 437, HD 1 is that Section 3 of the bill provides an unspecified amount of funding for three full-time equivalent hearing officer positions and two full-time permanent office assistants. This is a direly needed supplement to the Disability Compensation Division's existing staff, who have worked valiantly to maintain the prompt adjudication of claims, but have gradually been overwhelmed because of budgetary cutbacks that have caused delay and resultant unnecessary cost increases. Restoring these personnel will help claims move more rapidly through the system and shorten the unnecessary payment of temporary total disability and restore workers more swiftly to productive employment. Funding additional staff at the Disability Compensation Division is an extremely modest price to pay for helping to reduce the overall expenditure of benefits through timely adjudication of claims. Section 3 takes effect on July 1, 2013.

The effective date of the bill should be modified so that it takes effect on July 1, 2013, not on January 1, 2113 as is currently specified. Section 6(2) of H.D. 1 allows the entire bill to be repealed on June 30, 2018, so in its current form the procedures contained in the bill are not permanent but will provide a healthy five year period to determine if the system proposed functions efficiently.

HB 437 HD 1 is an enlightened measure that will confer benefits to all participants in the workers' compensation system and we vigorously support its passage.

## **TESTIMONY OF JANICE FUKUDA**

---

HOUSE COMMITTEE ON FINANCE  
Representative Sylvia Luke, Chair  
Representative Scott Y. Nishimoto, Vice Chair  
Representative Aaron Ling Johanson, Vice Chair

February 25, 2013  
11:00 a.m.

### **HB 437, HD1**

Chair Luke, Vice Chair Nishimoto, 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 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HB 437, HD1, which repeals Section 386-79, Medical Examination by Employer's Physician and replaces it with a new section, Medical Examinations; selection of physicians.

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 off a list of physicians licensed under Chapter 453, Hawaii Revised Statutes. 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 in which the injured worker continues to get treatment, but the treatment is not medically curative.

There are today, 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 bills 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.

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 437, HD1 be held.

Thank you for the opportunity to testify.





1654 South King Street  
Honolulu, Hawaii 96826-2097  
Telephone: (808) 941.0556  
Fax: (808) 945.0019  
Web site: [www.hcul.org](http://www.hcul.org)  
Email: [info@hcul.org](mailto:info@hcul.org)



Testimony to the House Committee on Finance  
February 25, 2013

Testimony in opposition to HB 437, HD1 Relating to Workers' Compensation

To: The Honorable Sylvia Luke, Chair  
The Honorable Scott Nishimoto, Vice-Chair  
The Honorable Aaron Johanson, Vice-Chair  
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 78 Hawaii credit unions, representing approximately 804,000 credit union members across the state. We are in opposition to HB 437 HD1, Relating to Workers' Compensation.

In today's challenging economic climate, it has become common practice for the injured workers and employers to amicably agree to independent medical examination (IME) physicians, without a legislative mandate. Creating a restrictive statute for the few cases where agreement cannot be reached will harm the entire system. Restricting employers' ability to obtain an IME will take away balance in the system and can lead to runaway costs that will be paid for by employers. Increased workers' compensation costs could result in fewer jobs, lower benefits, and decreased wages.

Thank you for the opportunity to testify in opposition.



## Submitted in Opposition to HB437

February 23, 2013

On the surface HB437 has the appearance of being fair. It is not.

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. The bill seeks to punish all employers on the assumption that there are some employers who abuse this right.

Additionally, the bill is likely to create more delays and higher costs in the workers' compensation system and place pressure on premium rates. Therefore, it is likely to increase the already high cost of running a business and will force some to reevaluate their benefit structure due to today's economic climate.

Further, it creates added burdens to employers who seek to create jobs. Small "mom and pop" restaurants especially are more vulnerable to any increase as they operate on very small margins.

This bill is contrary to our recovering economy.

Respectfully submitted,

Roger Morey  
Executive Director

# **BIA-HAWAII**

## **BUILDING INDUSTRY ASSOCIATION**

*"Building Better Communities"*

### **2013 Officers**

---

**President**

**Greg Thielen**  
Complete Construction Services Corp.

**President-Elect**

**Brian Adachi**  
BKA Builders, Inc.

**Vice President**

**Sunny Walsh**  
Hunt Building Company, Ltd.

**Treasurer**

**Guy J. Shindo**  
First Hawaiian Bank

**Secretary**

**Richard Hobson, Jr.**  
Gentry Homes, Ltd.

**Special Appointee-BUILDER**

**Paul D. Silen**  
Hawaiian Dredging Construction Co., Inc.

**Special Appointee-Associate**

**Craig Washofsky**  
Servco Home & Appliance Distribution

**Immediate Past President**

**Dean I. Asahina**  
Universal Construction, Inc.

**Chief Executive Officer**

**Karen T. Nakamura**  
BIA-Hawaii

### **2013 Directors**

---

**Anthony Borge**

RMA Sales

**Clifton Crawford**

C&J Contracting, Inc.

**David S. Chang**

Chang Holding Company

**Dean Uchida**

SSFM International, Inc.

**Evan Fujimoto**

Graham Builders, Inc.

**Gary T. Okimoto**

Honolulu Wood Treating

**Mark Kennedy**

HASEKO Construction Kamakana, LLC

**Marshall Hickox**

Homeworks Construction, Inc.

**Michael Watanabe**

JW, Inc.

**Ryan Engle**

Bays Lung Rose & Holma

**Scotty Anderson**

Pacific Rim Partners

**W. Bruce Barrett**

Castle & Cooke Homes Hawaii, Inc.

### **Testimony to the House Committee on Finance**

**Monday, February 25, 2013**

**11:00 a.m.**

**Capitol Room 308**

### **RE: H.B. 437, H.D. 1, Relating to Workers' Compensation**

Dear Chair Luke, Vice-Chairs Nishimoto and Johanson, 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. 437, H.D. 1.**

H.B. 437, H.D. 1 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.

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.

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. H.B. 437, H.D. 1 removes an employer's **only** recourse to scrutinize the injured employee's physician's chosen course of treatment. This is fundamentally unfair as the statutory presumption places the burden of proof on the employer to present substantial evidence to the contrary.

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.

Mailing address: P.O. Box 970967, Waipahu, HI 96797 Street address: 94-487 Akoki St., Waipahu, HI 96797-0967;  
Telephone: (808) 847-4666 Fax: (808) 440-1198 E-mail: [info@biahawaii.org](mailto:info@biahawaii.org); [www.biahawaii.org](http://www.biahawaii.org)

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 **strongly opposed** to H.B. 437, H.D. 1, and respectfully requests that it be **held**.

Thank you for the opportunity to share our views with you.



Representative Sylvia Luke, Chair  
Representative Scott Y. Nishimoto, Vice Chair  
Representative Aaron Ling Johanson, Vice Chair  
Committee on Finance



HEARING      Monday, February 25, 2013  
                  11:00 am  
                  Agenda #1  
                  Conference Room 308  
                  State Capitol, Honolulu, Hawaii 96813

**RE      HB437, HD1 Relating to Workers' Compensation**

Chair Luke, Vice Chairs Nishimoto and Johanson, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

**RMH strongly opposes HB437, HD1**, which requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations; allows for the use of an out-of-state physician under certain conditions; and appropriates unspecified funds.

We do not dispute that an injured worker should receive quality and appropriate medical care as long as required.

From the employer's position, the IME process is a vital mechanism to ensure proper treatment for the injured employee and costs of the treatment incurred are justified. This measure erodes the ability of the employer to effectively and efficiently manage costs. As a safeguard, the existing statute requires full disclosure to the injured worker of the IME report, which affords the treating physician and the injured employee the opportunity to challenge the evaluation.

Considering that the employer ultimately bears the entire cost of the IME, the choice of the IME justifiably should be the employer's.

The members of the Retail Merchants of Hawaii respectfully request that you hold HB437, HD1. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President



House of Representatives  
Twenty-Seventh Legislature, 2013  
State of Hawai'i

TO: Honorable Sylvia Luke, Chair  
Honorable Scott Nishimoto, Vice Chair  
Honorable Aaron Ling Johanson, Vice Chair  
Members of the Committee on Finance

DATE: Friday, February 22, 2013  
TIME: 11:00 AM  
PLACE: Conference Room 308  
Hawai'i State Capitol  
415 South Beretania Street  
Honolulu, Hawai'i 96813

FROM: National Federation of Independent Business (NFIB) Hawai'i

**RE: HOUSE BILL 1028, HD1, RELATING TO EMPLOYMENT**

Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson, and members of the Committee,

Thank you for the opportunity to testify in opposition of HB 1028, HD1. NFIB Hawai'i respectfully **opposes** this measure.

This legislation would extend the maximum weekly benefit amount at 75% of the average weekly wage from 12/31/2012 to 12/31/2013. We are concerned that an extension of such benefits will result in a number of adverse effects for business owners. We note that small businesses play a major role in the American economy, representing 99% of all employer firms, employing about half of private-sector employees and generating 60 – 80 percent of net new jobs annually over the last decade. Therefore, we ask lawmakers to help ensure that public policies help spur economic growth by taking into account the unique perspective of those who own and operate a small business in America.

In addition, NFIB opposes increases in the current minimum wage. Mandatory wage increases hurt not only small businesses, but their employees as well. Most minimum-wage jobs are offered by small businesses. The overwhelming majority of economists continue to affirm the negative impact of mandatory wage increases on jobs. Mandatory minimum-wage increases end up reducing employment levels for those people with the lowest skills.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

**Monday – February 25, 2013 – 11:00 am**  
**Conference Room 308**

**The House Committee on Finance**

To: Representative Sylvia Luke, Chair  
Representative Scott Nishimoto, Vice Chair  
Representative Aaron Johanson, Vice Chair

From: Virginia Pressler, MD, MBA  
Executive Vice President  
Chief Strategic Officer

**Re: HB 437, HD1 RELATING TO WORKERS' COMPENSATION- Testimony in Strong Opposition**

---

My name is Virginia Pressler, MD, MBA, Executive Vice President and Chief Strategic Officer for Hawai'i Pacific Health (HPH). HPH is a nonprofit health care system and the state's largest health care provider anchored by its four nonprofit hospitals: Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital on Kauai. HPH is committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four affiliated hospitals, 49 outpatient clinics and service sites, more than 5,400 employees and 1,300 physicians on staff.

We are writing in **strong opposition** to HB 437, HD1 Relating to Workers' Compensation 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 or appointed by the director of the Department of Labor and Industrial Relations.

We are testifying as both a private non-profit employer and as a health care provider. As a private non-profit employer, we are concerned that HB 437 will substantially increase the cost of providing health care coverage to our employees. The end result is that non profit organizations like Hawai'i Pacific Health will be forced to reevaluate existing cost structures including reduce cutting costs elsewhere within our health care network.

As a healthcare provider we are also concerned that this additional layer of legislated costs has the potential of compromising community access to health care. Healthcare providers rely on fragile operating margins that in order to deliver quality care to our patients. This bill would negatively impact those margins and impact our ability to continue to provide access to care to our patients across all our hospitals.

We ask that you hold this measure. Thank you for the opportunity to testify.



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



# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol website

February 25, 2013

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO  
AND HONORABLE AARON JOHANSON, VICE CHAIRS AND MEMBERS  
OF THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **STRONG OPPOSITION TO H.B. 437, HD1, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates unspecified funds. Effective January 1, 2013. Repealed on June 30, 2018. (HB437 HD1)

HEARING

DATE: Monday, February 25, 2013  
TIME: 11:00 a.m.  
PLACE: Conference Room 309

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee,

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

GCA is **strongly opposed** to H.B. 437, HD1, Relating to Workers' Compensation. This measure remains at odds with the interests of GCA members and other business organizations. GCA strongly opposes H.B. 437, HD1 and respectfully requests that this Committee hold the measure.

H.B. 437, HD1, among other things 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. H.B. 437, HD1 also proposes to appropriate funds and positions for the Department of Labor and Industrial Relations for three full time workers' compensation hearings officers and two full time office assistant positions in the disability compensation division to assist with workers' 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.

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 GCA believes the current system that is in place works. We believe this legislation is unnecessary and respectfully urge the Committee to hold this measure. Thank you for the opportunity to express our concerns on this measure.

**HB 437 HD1**

**RELATING TO WORKERS' COMPENSATION**

**SHERI BRAUNTHAL  
SENIOR MANAGER – HUMAN RESOURCES  
HAWAIIAN TELCOM**

**February 25, 2013**

Chair Luke and members of the Committee:

I am Sheri Braunthal, testifying on behalf of Hawaiian Telcom on HB 437 HD1 – Relating to Workers' Compensation.

Hawaiian Telcom is opposed to this measure.

The language in HB 437 HD1 will greatly restrict the ability for all parties to benefit from the results of an Independent Medical Examination (IME). Restricting the number of the already limited amount of IME physicians currently available as well as reducing the timeframe in which the IME must be performed will result in accessibility issues and add unnecessary delays for both the injured worker as well as the employer. These restrictions would likely result in the inability for an IME to be performed at all.

An IME is used to objectively evaluate a claim to ensure proper medical treatment is being provided to the injured worker. As with any worker's compensation claim, the goal to resolve the claim is to ensure the injured worker receives the appropriate care and treatment that is needed in order for the injured worker to be able to return to work. The IME provides assurance for patient safety by validating the care and treatment being delivered.

Without an IME the injured worker may potentially be harmed as there have been instances where the IME has provided correction to the injured workers diagnosis and treatment thereby reducing the period of time to return to full duty. Employer Workers Compensation costs would also increase as the IME facilitates resolution of workers compensation claims by identifying when workers have reached maximum medical improvement.

Based on the aforementioned, Hawaiian Telcom respectfully requests that this measure be held. Thank you for the opportunity to testify.



Via E-mail: [FINTestimony@capitol.hawaii.gov](mailto:FINTestimony@capitol.hawaii.gov)  
Via Fax (808) 586-9391

February 25, 2013

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO AND  
HONORABLE AARON JOHANSON, VICE CHAIR AND MEMBERS OF THE HOUSE  
COMMITTEE ON FINANCE

SUBJECT: **STRONG OPPOSITION TO H.B. 437, HD1, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates unspecified funds. Effective January 1, 2013. Repealed on June 30, 2018. (HB437 HD1)

**HEARING**

DATE: Monday, February 25, 2013  
TIME: 11:00 a.m.  
PLACE: Conference Room 309

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee:

Nordic PCL Construction, Inc. is a 75 year old kama'aina company with a portfolio of completed projects that include high-rise condominiums, educational facilities, retail developments, healthcare and hospitality work. Based in Honolulu, we also have operations on the neighbor islands.

Nordic PCL is opposed to H.B. 437, HD1, 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 or appointed by the director of the department of labor and industrial relations. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

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.

Yours truly,

A handwritten signature in black ink, appearing to read "Glen Kaneshige".

Glen Kaneshige  
President





To: COMMITTEE ON FINANCE  
Representative Sylvia Luke, Chair  
Representative Scott Y. Nishimoto, Vice Chair  
Representative Aaron Ling Johanson, Vice Chair

www.itoen.com

From: Wendy Chuck  
Human Resources Manager, ITO EN (USA) Inc.

ITO EN (USA) INC.  
125 PUUHALE ROAD  
HONOLULU, HI 96819  
TEL 808 847 4477  
FAX 808 841 4384

Date: Monday, February 25, 2013  
Time: 11:00 a.m.  
Place: Conference Room 308

ITO EN (NORTH AMERICA) INC.  
45 MAIN STREET, SUITE 3A  
BROOKLYN, NY 11201

TEL 718 250 4000  
FAX 718 246 1325

**RE: Regarding HB 437 - Opposed**

We appreciate and support having workers compensation benefits for working men and women in Hawaii. We share its purpose to provide injured workers treatment that is **reasonable** and **necessary** in order and to help them get back to work. However, the proposed measure – HB 437 - is bad for employers because it severely restricts an employer's ability to conduct any meaningful discovery of a workers' compensation claim that may be in dispute and will result in higher workers compensation insurance costs for Hawaii employers.

Claimants enjoy a strong presumption that a claim for workers' compensation benefits is valid. In order to rebut this presumption, employers must provide "substantial evidence" to the contrary. Without the use of a meaningful IME, however, employers will be severely restricted in their ability to challenge the validity of a claim for workers' compensation benefits.

Why the Proposed Legislation will result in meaningless IME's and a waste of money:

- A worker who files a claim and does not want to return to work and continue to be paid temporary total disability benefits only needs to reject any IME physician proposed by their work comp carrier. The bill then says the Director of DLIR must appoint an IME within 7 days. So now add 7 days more time off from work.
- Many doctors will choose not to be on the Directors list because of the low reimbursement levels to them. As a result, top doctors will presumably not want to participate. What if the Director is unable to appoint a doctor within 7 days? The bill does not specify what happens then.
- The proposed legislation does not allow employers to object - or even have any input - on the IME physician selected by the Director of Labor. This is extremely problematic, because it could potentially result in the selection of a physician who would be required to render an opinion on a medical matter for which they are not qualified to do so;
- The bills states the IME must be conducted within 45 days. Considering the staffing shortage within DLIR, I would expect the department to use the full 45 days to schedule the IME. So add another 45 days to the employee's time off from work. But what if the DLIR is unable to schedule the IME in 45 days or within a "reasonable period"? There is no provision in the bill what happens next. So add more days or weeks or months off for the employee.
- The bill says only the employee's attending physician may determine maximum medical improvement. Physicians who depend on revenues resulting from injured worker claims will have an incentive to delay return to work and find ways to prescribe more treatment to the physician's own benefit. So add an indefinite period of time to the employee's time off from work.

The workers compensation insurance will be paying out the temporary total disability benefits racked up each day by workers who would rather collect benefits than return to work, and also the medical reimbursements to physicians who would rather prescribe unreasonable and unnecessary treatment. In the end the work comp carriers will have no choice but to pass on these costs to Hawaii employers in the form of higher premiums.

Thank you for the opportunity to submit our comments.

**HB437**

Submitted on: 2/22/2013

Testimony for FIN on Feb 25, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Derrick Ishihara	HIWA	Support	Yes

Comments:

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

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

## **FINTestimony**

---

**From:** Susan Gante [sgante@proservice.com]  
**Sent:** Saturday, February 23, 2013 6:22 PM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

My name is Susan Gante, Claims Manager at ProService Hawaii. We provide HR administration (payroll, HR consulting, WC insurance, healthcare insurance, etc.) to over 1,000 local businesses, employing approximately 14,000 workers. We have WC insurance coverage through our Captive policy with Headland Insurance Company.

Please do not pass HB 437. A Carrier's right to obtain an independent medical expert opinion is crucial to cost containment of WC claims. We are true believers of providing WC insurance in accordance with its intent - to provide medical benefits and wage replacement to an employee as it relates to the injury arising out of and during the course of employment. It would be unfair to continue such payments once the injured worker reaches pre-injury status. Solely relying on the attending physician to keep within these boundaries and declare the injured worker to be at maximum medical improvement is not realistic as it is not usually the case. We need to rely on independent medical experts to assist with making the determination. Being held to having to mutually agree on an independent medical examiner will delay the case from timely and reasonable resolution. This will lead to further costs as benefits will need to continue while the IME request is addressed by the DLIR Director/DCD.

In addition to the points above, we need to keep in mind the reality of the demands it will place on DLIR-DCD who is already behind on other responsibilities (hearings, determinations/decisions, document approvals, etc.). Lastly, the agreement last year in response to this Bill was to conduct research on the IMEs. It is not evident that this was done.

With WC costs already being at an all time high due to the prescription repackaging epidemic, passing HB 437 will unnecessarily increase costs even further, which will in turn cause employers' rates to rise. This could ultimately result in causing financial hardship on our employers and lead to more business closures, adding to the economic crisis we are experiencing.

Injured workers have the right to select their attending physician. By the same token, the Carrier should have the right to select an independent medical examiner.

Sincerely,

Susan Gante  
6600 Kalaniana'ole Hwy Ste 200  
Honolulu, HI 96825

February 25, 2013

The Honorable Sylvia Luke, Chair  
House Committee on Finance

**RE: HB437 HD1 – Relating to Workers’ Compensation - Oppose**  
Committee on Finance – Conference Room 308, 11 AM (Agenda #1)

Aloha Chair Sylvia Luke and Members of the Committee:

My name is Nona Tamanaha, Regional Director of Human Resources Starwood Hotel & Resorts, Hawaii & French Polynesia (“Starwood”). I am testifying on behalf of Starwood in opposition to HB437 HD1 – Relating to Workers’ Compensation.

Starwood diligently works to foster a nurturing environment for our employees and are keenly attuned to their occupational and safety needs. Should this bill be enacted, it will disrupt the manner in which workers’ compensation claims are managed and resolved for the employee and the employer because it makes it more difficult to obtain an independent medical examination (“IME”).

An IME occurs when a physician who has not previously been involved in person’s care examines an employee to determine the cause, extent and medical treatment of a work-related injury where liability is at issue. This entails a thorough and independent review of the employee’s medical records and a medical examination. It provides us with the ability to verify whether the injury is work related, whether the treatment is reasonable and whether the employee is able to return to work. As an employer, which covers 100% of the costs for the treatment for our employee, we are entitled to verify the extent of the injury.

Our greatest concerns about the proposal are as follows:

- It limits our ability as an employer to utilize the IME process that an essential part of the employers’ discovery process to ensure proper treatment and costs;
- It substantially increases the cost of claims and the cost of doing business in Hawaii;
- It mandates unrealistic time frames for a medical examination to occur;
- It becomes a disincentive for the limited pool of qualified physicians who are experienced in the rating guidelines; and





- If the Director must select a physician within seven days, it may result in examinations by physicians who are not familiar with particular issues or are lacking certain education, experience or specialty in the treatment of certain injuries.

None of these consequences are beneficial to the employee and to the employer.

In closing, this bill proposes to add more costs and another layer of administration to business, which is currently overly burdensome.

For these reasons, we respectfully urge members of the committees to hold this bill.

Thank you for the opportunity to share our views on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Nona Tamanaha". The script is cursive and fluid.

Nona Tamanaha  
Regional Director of Human Resources  
Starwood Hotel & Resorts – Hawaii & French Polynesia

## **FINTestimony**

---

**From:** Michael Steiner [msteiner@steinerassoc.com]  
**Sent:** Saturday, February 23, 2013 4:40 PM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please defer HB 437.

My name is Michael Steiner and I am the Principal of Steiner & Associates, a consulting firm.

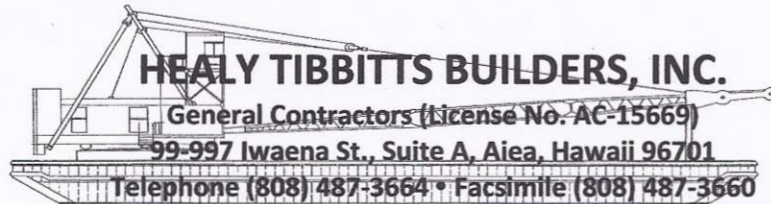
The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

While my company is small, when consulting with larger companies we always recommend companies treat their employees with respect as good employees forge the backbone of any successful organization. Providing a healthy and safe work environment creates a culture of care and a desire to see the company and employees succeed. HB 437 is unneeded for the vast majority of small businesses.

Again, please defer this bill.

Sincerely,

Michael Steiner  
702 Kanaha St  
Kailua, HI 96734



February 25, 2013

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

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO AND HONORABLE AARON JOHANSON, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **STRONG OPPOSITION TO H.B. 437, HD1, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the Director of the Department of Labor and Industrial Relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates unspecified funds. Effective January 1, 2113. Repealed on June 30, 2018. (HB437 HD1)

HEARING

DATE: Monday, February 25, 2013  
TIME: 11:00 a.m.  
PLACE: Conference Room 309

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee:

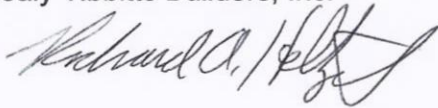
**Healy Tibbitts Builders, Inc.** is **strongly opposed** to **H.B. 437, HD1, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees or appointed by the director of the department of labor and industrial relations. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

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,  
Healy Tibbitts Builders, Inc.

A handwritten signature in dark ink, appearing to read "Richard A. Heltzel", written in a cursive style.

Richard A. Heltzel  
President





HB 437hd1, Workers' Compensation, IME  
House FIN Hearing  
Monday, February 25, 2013  
11:00 am, Room 308

Written Testimony By: Darrel Tajima  
Position: Oppose

Chair Luke and Members of the House Finance Committee:

My name is Darrel Tajima, Human Resources Business Partner of Meadow Gold Dairies. Our company has been in Hawaii since 1897—116 years, providing Hawaii consumers with a variety of milk products and juices. Meadow Gold's long history has not come without effort. We continually adapt to our customers' and consumers' ever-changing needs, and we constantly evolve along with our industry, our community and our market. Over the years, this has required that we struggle, tighten our belts, innovate and work extremely hard, making us a better company in the process. The foundation of this work rests with the 330 employees that are committed to providing superior quality products.

I respectfully ask that you do not pass HB 437hd1.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the term "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and only tool for the employer to look into statutory presumption, excessive treatment, etc.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to our business. We already must contend with many of the expenses and costs to comply with many other government imposed mandates and regulations.

Our company does our best to take care of our employees. They are an important asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time may force us to restructure our benefits system.

Thank you for the opportunity to submit testimony. I can be reached at 944-5958 if there are any questions.





P.O. Box 757  
Kailua, HI 96734  
Ph. (808) 263-4900  
Fax (808) 263-5966  
[www.ccs-hawaii.com](http://www.ccs-hawaii.com)

February 24, 2013

**Testimony to the House Committee on Finance**  
**Monday, February 25, 2013**  
**11:00 a.m.**  
**Capitol Room 308**

**RE: H.B. 437, H.D. 1, Relating to Workers' Compensation**

Dear Chair Luke, Vice-Chairs Nishimoto and Johanson, and members of the Committee:

I am Greg Thielen, President and RME of Complete Construction Services. I am a Small Business Owner and have over 20 years experience in the Construction Industry. I am also the 2013 President of BIA Hawaii.

**Complete Construction Services is strongly opposed to H.B. 437, H.D. 1.**

H.B. 437, H.D. 1 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.

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.

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. H.B. 437, H.D. 1 removes an employer's **only** recourse to scrutinize the injured employee's physician's chosen course of treatment. This is fundamentally unfair as the statutory presumption places the burden of proof on the employer to present substantial evidence to the contrary.

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.

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.

Complete Construction Services is **strongly opposed** to H.B. 437, H.D. 1, and respectfully requests that it be **held**.

Thank you for the opportunity to share our views with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Thielen". The signature is fluid and cursive, with the first name "Greg" being more prominent than the last name "Thielen".

Greg Thielen  
President/RME



House Committee on Finance  
Monday, February 25, 2013 / 11:00 AM  
Hawai'i State Capitol, Room 308

House Bill 437, HD1, RE: Workers' Compensation

Aloha Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson and members of the Committee. On behalf of the Society for Human Resource Management – Hawai'i Chapter (SHRM Hawai'i) I am writing in opposition to House Bill 437, House Draft 1.

HB 437, HD1, requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of the Department of Land and Natural Resources (DLNR). The bill also allows for the use of an out-of-state physician under certain conditions and appropriates unspecified funds.

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 this bill will have a host of unintended consequences and costs associated with it.

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 Director must select a physician within seven calendar days of a request, the Director may not be familiar with the particular issues involved and the need for a physician with certain education, experience or specialty.
3. If the medical examination must be conducted within 45 days of selection or appointment by the Director, 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.
4. 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.



House Committee on Finance  
Monday, February 25, 2013 / 11:00 AM  
Hawai'i State Capitol, Room 308

House Bill 437, HD1, RE: Workers' Compensation

5. Currently, employers are already limited to one medical evaluation and rating unless valid justification exists for additional measures. Employers are already required to show justification to the Director for additional medical evaluations and/or ratings, which are reviewed for approval or denial by the Director.
6. If this bill is passed, employers will lose the ability to conduct reasonable discovery of disputed claims and the ability to present a meaningful defense either to a disputed claim or disputed medical treatment. This will result in an increase to the cost of workers' compensation benefits and workers' compensation premium rates. Such increases in cost will adversely impact all businesses and discourage new businesses from operating.

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.

# KING & NEEL, INC.

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



February 23, 2013

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR, HONORABLE AARON LING JOHANSON, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE.

SUBJECT: **STRONG OPPOSITION TO HB 437, HD1, RELATING TO WORKERS COMPENSATION.**

HEARING

DATE: Monday, February 25, 2013  
TIME: 11:00 a.m.  
PLACE: Conference Room 308

Dear Chair Luke, Vice Chairs and Members of the Committee:

King & Neel, Inc. **strongly opposes** the passage of HB 437, HD1, relating to Workers' Compensation.

Our greatest concerns about the proposal are as follows:

- It limits our clients' ability as employers to utilize the IME process that an essential part of the employers' discovery process to ensure proper treatment and costs;
- It substantially increases the cost of claims and the cost of doing business in Hawaii;
- It mandates unrealistic time frames for a medical examination to occur;
- It becomes a disincentive for the limited pool of qualified physicians who are experienced in the rating guidelines; and
- If the Director must select a physician within seven days, it may result in examinations by physicians who are not familiar with particular issues or are lacking certain education, experience or specialty in the treatment of certain injuries.

Accordingly, King & Neel, Inc. **strongly opposes** HB 437,HD1

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



Sean K. Spencer  
Assistant Vice President



## **FINTestimony**

---

**From:** Judith Jennet [jjennet@hawaiiioceansports.com]  
**Sent:** Saturday, February 23, 2013 2:38 PM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

I represent Nanea Kai, Inc. as President, Judith Jennet. We employ close to 100 persons in many entry level positions. While we work to maintain a safe workplace, there may be accidents which require investigation and verification. I believe employers carry all the burden of showing if a claim is work related or not. I have seen much abuse of this system and it is always the employer who pays. This is the one tool we have in our defense. It is always the employer guilty until proven innocent...therefore I strongly believe employers need to have the ability to choose an independent examiner so that the procedure is fair and timely.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

Sincerely,

Judith Jennet  
PO Box 383291  
Waikoloa, HI 96738

## **FINTestimony**

---

**From:** Malulani Eccleshall [meccleshall@reynoldsrecycling.com]  
**Sent:** Sunday, February 24, 2013 12:30 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Malulani Eccleshall, Director of Human Resources Reynolds Recycling, Inc.

Please do not pass HB 437. The workers' compensation system is riddled with fraudulent claims and passing this would will have serious negative implications for businesses.

Thank you for your consideration.

Sincerely,

Malulani Eccleshall  
41-023 EHUKAI ST  
WAIMANALO, HI 96795

## FINTestimony

---

**From:** Robert Miller [armldt@hawaii.rr.com]  
**Sent:** Saturday, February 23, 2013 12:52 PM  
**To:** FINTestimony  
**Subject:** Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

Aloha,

I'm the business manager for Pizza Bob's in Haleiwa.

Fortunately in our nearly 40 years of operations, we have only had two employees who attempted to defraud our worker's compensation carrier. Because of safeguards currently in the worker's compensation regulation, our carrier was able to stop the frauds and prevent increases in WC costs for us and all businesses.

The bill seeks to punish all businesses on the theory that there are some who abuse this right.

However, it is important to remember that abuses are just as likely, if not more likely, to occur as the result of fraudulent claims.

This bill creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

Robert Miller  
PO Box 487  
Haleiwa, HI 96712

# DENNIS W. S. CHANG

Attorney at Law, LLC

WORKER'S RIGHTS - LABOR LAW  
WORKER'S COMPENSATION  
SOCIAL SECURITY DISABILITY  
LABOR UNION REPRESENTATION  
EMPLOYEES RETIREMENT SYSTEM  
BODILY INJURIES

## HOUSE OF REPRESENTATIVES TWENTY-SEVENTH LEGISLATURE, 2013 STATE OF HAWAII

February 24, 2013

VIA ELECTRONIC MAIL

TO: Rep. Sylvia Luke, Chair  
Rep. Scott Y. Nishimoto, Vice Chair  
Rep. Aaron Ling Johanson, Vice Chair  
and Members of the Committee on Finance

DATE: Monday, February 25, 2013  
TIME: 11:00 a.m.  
PLACE: Conference Room 309, State Capitol  
415 South Beretania Street

FROM: Dennis W. S. Chang  
Labor and Workers' Compensation Attorney

### **Re: AMENDED TESTIMONY HB 437, HD 1 Relating to Workers' Compensation Strong Support**

#### **Introduction**

The "IME" process is the biggest scam in the workers' compensation process. Injured workers are routinely deprived of their statutory benefits by the use of the "IME" process. It is essential that we review the entire workers compensation process to fully appreciate the compelling need to pass this vital bill and give injured workers a level playing field in our dysfunctional Workers Compensation Law.

#### **Current Crises**

*DILLINGHAM TRANSPORTATION BUILDING*

735 BISHOP STREET • SUITE 320 • HONOLULU, HAWAII 96813 • TELEPHONE: (808) 521-4005

Let me begin with an apt illustration where a worker who engages in a repetitive work and is injured. He<sup>1</sup> continues to work and work and his coworkers and supervisors all know that he has been injured. There are videos at the work place on the days that he worked showing that he has been injured and limping and having difficulty work. Dedicated and needing income, he continues to work until his coworkers and supervisors alike urge him not work because his condition is deteriorating. Eventually he calls in to report that he would not be able to work the next day. Ultimately he files a claim for a workers compensation injury. Unquestionably, everyone agrees that he was injured on the job and the employer submits the employer's report which is called a WC-1.

The WC-1 is transmitted to the insurance carrier and an adjuster is assigned. Meanwhile, the worker finally finds a physician since there is a gross shortage of doctors willing to accept workers who are injured (other bills are addressing this issue like HB 152, HD1). To his chagrin the adjuster informs the physician's office that the claim is denied pending investigation. This is the beginning of the cottage industry that undoubtedly adds tremendous costs in the workers compensation process and inherently causes an injured worker economic ruin.

Aside from not having treatment because the claim is "denied pending an investigation," he is not paid his rightful statutory wage loss replacement under the Workers' Compensation Law. The adjuster immediately takes a statement. Then, she maintains she must conduct an investigation which is actually ridiculous in light of what all workers and supervisors have verified at the workplace for the injured worker. She maintains that she is legally entitled to schedule what is called and "IME" which may be months down the road while the injured worker suffers economic ruin or since they use the same doctor, the injured worker may be plugged into a cancellation which was previously scheduled for another injured worker who cancelled that appointment.

The so-called "IME" which ought to be of objective and independent is really bogus. In this regard I incorporate my prior testimony on the "IMEs" submitted previously which shows the insurance carriers' doctors are beholden to them. There is along delay under the law because the insurance carrier has up to four months to conduct its investigation pending investigation. Is this fair? No. The insurance carrier can also request an extension of the four months, cause further delay and "bleed" the injured worker. Meanwhile, he, the injured worker, languishes in pain and anxiety due to the uncertainty of no treatment and no replacement income. This is all in the name of the need for an "IME" pending an investigation. There is nothing that can be done for the injured worker during this outrageous process unless he seeks out an attorney at the outset (most do not if it is the first work injury, they believe the employer will do the right thing, they fear that they may be fired and/or believe attorneys

---

<sup>1</sup> He is gender neutral and includes she.



charge when they already have no monies coming in).

The insurance carrier almost always compels an "IME" by a physician of its choosing, usually one that it has been used repeatedly because it is inevitable that it will secure an "independent" opinion of its liking. There is more. An adjuster for the insurance carrier is well trained with a skill set. She also has access to professionals when in doubt like senior adjusters and defense attorneys while the worker injured worker is usually is clueless and relying on the adjuster and employer about the workers' compensation process.

If the injured worker is so fortunate as to consult with an attorney because he was screwed previously and/or out of desperation, by that time the damage is already done because the adjuster or its defense attorney already set the case up to ultimately deny the claim. In this regard it is noteworthy to stress that the fees for workers' compensation attorneys are regulated and some get paid as low as \$145.00 an hour, thus aggravating the process with few attorneys willing to handle workers' compensation claims, especially when negative "IMEs" are already secured without a chance for mutual selection to ensure truly independent medical examinations. Unlike adjusters and defense attorneys, they also generally can only get paid at the end of a claim. And, if there is no recovery, they may not be paid at all.

You always hear the false rhetoric from the opposition that an injured worker is free to secure his own opinion but in light of the economics of the situation of having to save every penny or already in economic ruin, it is literally impossible for him to secure his own personal opinion. Even when he may secure an attorney, the attorney will not be able to front the monies, thousands of dollars at a shot, to secure an opinion because he is already struggling to carry on his practice by the system of regulated attorney's fees and generally getting paid way down at the end of the case for the most part. At the same time, adjusters and defense attorneys may also circumvent the "IME" process by sneaking in more than one "IME" and getting records' reviews to support the initial IME.

### **Dysfunctional System**

The discussion is the reality in the workers' compensation process. The Legislature should be compelled to look at the overall working process and not the rhetoric espoused by the opposition. An injured worker stands no chance against the skill set of the insurance carrier and its disproportionate resources. There is no independent selection by the insurance carrier's chosen physicians, some of whom have made more than \$1 million in a year (previously documented).

What we really have is a dysfunctional system with a cottage industry of adjusters, defense attorneys and defense doctors who purport that they are independent. This set-up increases premiums for all employers who are misled. This

is the fact in our workers' compensation process. Or, what belongs to the injured worker is now shifted to adjusters, defense attorneys and defense doctors.

## **Conclusion**

The previous testimony that I submitted is incorporated in full here and for the foregoing reasons I fully endorse the passage of HB 437, HD 1. Injured workers were robbed of their right to sue with the passage of the Workers Compensation Law in 1915 what was intended to be the "Great Bargain." It was intended to be no-fault with a presumption the accident would be covered. Even without the presumption, an injured worker who suffers a legitimate injury or repetitive injury should be promptly paid as full and eloquently articulated by the Hawai'i Supreme Court.

Most injured workers have only one goal: get prompt treatment, recover and return to work. I can attest to this after practicing for more than 36 years. Now they have been robbed of the "Great Bargain" which stripped them of the right to sue and their statutory entitlements are denied, or at the minimum, delayed needlessly by the "IME" process. Just as important, it is the insurance carriers who have built a cottage industry to justify their work along with army of adjusters, defense attorneys and "IME" doctors. More monies are spent on "administrative" matters than payouts. They are artificially increasing premiums when there is really no need for that and injured workers are blamed for everything and receiving the short end of the stick. What happened to the grand public policy considerations?

The Legislature can correct the well intentioned beginning that is running amok today at great costs to an injured worker. Please, please pass this critical bill.

**HB437**

Submitted on: 2/22/2013

Testimony for FIN on Feb 25, 2013 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
ANSON REGO	Individual	Support	No

Comments: I am testifying in favor of House Bill 437. House Bill 437 ensures that a fair and impartial examination for partial disability ratings will occur. This obviously makes sense. The present situation wrongly allows a defense biased examiner who may also be doing a review for the insurance carrier to give the disability rating to the injured employee. This is a clear conflict of interest. That medical physician is beholden to the employer or insurance carrier that pays him, pure and simple, and is used again and again and again to limit the award of disability. No one can say this is a fair situation. House Bill 437 would alleviate this problem by allowing a mutual physician trusted by both sides to do the evaluation of the permanent disability award AND/OR Ime. As soon as this law is passed, an agreed-upon physician will be mutually agreed upon by employers and employees most of the time and rarely if ever would the Dir. of the Department of labor need to be involved. Why? Because it will now be the law that the PPD or IME rating will be performed by physicians mutually agreed upon by employers and employees. THANK YOU ANSON REGO ATTORNEY

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

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

## FINTestimony

---

**From:** warren asing [warren@funfactoryinc.com]  
**Sent:** Saturday, February 23, 2013 3:30 PM  
**To:** FINTestimony  
**Subject:** Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Further, while we are not in charge of our employees general health we are in charge of their welfare. Poor personal health combined with an inadequate workout regimen while bordering alcohol abuse are signs that point to an accident waiting to happen even when proper tools and training are apparent.

Sincerely,

warren asing  
98-873 Hapuu St  
Aiea, HI 96701

## **FINTestimony**

---

**From:** Vivian Kanetani [vkanetani@htbyb.com]  
**Sent:** Sunday, February 24, 2013 11:05 AM  
**To:** FINTestimony  
**Subject:** Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

Vivian Kanetani  
1331 N Nimitz Hwy Pier 40  
Honolulu, HI 96817



## **FINTestimony**

---

**From:** Scott Ushijima [scott@landscapehi.com]  
**Sent:** Saturday, February 23, 2013 10:33 AM  
**To:** FINTestimony  
**Subject:** Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

Scott Ushijima  
2621 Waiwai Loop  
Honolulu, HI 96819

## **FINTestimony**

---

**From:** LANE MURAOKA [lane@bigcitydinerhawaii.com]  
**Sent:** Saturday, February 23, 2013 9:22 AM  
**To:** FINTestimony  
**Subject:** Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

LANE MURAOKA  
2141 Pauoa Rd  
Honolulu, HI 96813

## FINTestimony

---

**From:** Joel Bonfiglio [joel@alan-shintani.com]  
**Sent:** Sunday, February 24, 2013 11:25 AM  
**To:** FINTestimony

### **Background on H.B. 437, HD1, Relating to Worker's Compensation**

GCA is **strongly opposed** to H.B. 437, HD1, Relating to Workers' Compensation. H.B. 437, HD1, among other things, 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. H.B. 437, HD1 also proposes to appropriate funds and positions for the Department of Labor and Industrial Relations for three full time workers' compensation hearings officers and two full time office assistant positions in the disability compensation division to assist with workers' compensation claims.

H.B. 437, HD1 remains at odds with the interests of GCA members and other business organizations, GCA opposes H.B. 437, HD1 and is requesting that the Committees hold the measure.

**Joel Bonfiglio, CHST**

Alan Shintani, Inc.  
94-409 Akoki St.  
Waipahu, Hawaii, 96797  
808-841-7631 office  
808-841-0014 fax  
808-864-3519 cel

## **FINTestimony**

---

**From:** Glenn Poulain, D.C. [drpoulain@ohanachiropracticcenter.com]  
**Sent:** Saturday, February 23, 2013 9:11 AM  
**To:** FINTestimony  
**Subject:** Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

Glenn Poulain  
3049 Ualena St Ste 104  
Honolulu, HI 96819

## **FINTestimony**

---

**From:** Bert Ito [bertito@hawaii.rr.com]  
**Sent:** Sunday, February 24, 2013 4:12 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

I would like to see that someone monitor the doctors' who just sign off on the employee as incapacitated, but we see them driving around doing things that all other working folks do. there should have a committee set up to monitor the doctor's and put them on notice and suspend their license to practice or revoke them. do not pass this bill. we have no say now as to how long they can be off from work. Why work the doctors' are just fattening their pockets.

Sincerely,

Bert Ito  
662 Hoohai Pl  
Pearl City, HI 96782



## **FINTestimony**

---

**From:** Darlene Ashley [DrDarleneAshley@gmail.com]  
**Sent:** Saturday, February 23, 2013 9:17 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

Sincerely,

Darlene Ashley  
76-6360 KUPUNA ST  
KAILUA KONA, HI 96740

## **FINTestimony**

---

**From:** David Bateman [coffee@heavenlyhawaiian.com]  
**Sent:** Saturday, February 23, 2013 8:32 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

Sincerely,

David Bateman  
78-1136 BISHOP RD  
HOLUALOA, HI 96725

## **FINTestimony**

---

**From:** Frederick Perlak [frederick.j.perlak@monsanto.com]  
**Sent:** Saturday, February 23, 2013 8:56 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

My company prides itself on the benefits that we provide for our employees. We work hard to treat them fairly and provide them the support they have earned especially when they have been injured. Because of the generous nature of our plan we can potentially be the target of system abuse. An experienced, consistent, medical examiner of our choice insures fairness and consistency for our employees. Please do not pass HB 437.

Sincerely,

Fred Perlak, Ph.D.  
PO Box 200  
Kunia, HI 96759

## **FINTestimony**

---

**From:** Gay Porter [gporter@bisihi.com]  
**Sent:** Saturday, February 23, 2013 9:21 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437. It would significantly impact the cost of work comp for all small businessowners in our state, affecting employees and jobs and the overall business climate. Although in concept, this seems beneficial and lowers cost, I believe it will do just the opposite. The insurance marketplace is hardening in work comp after 3 -4 years of low rates. The economy is just returning and with the absence of Dan Inouye's clout in Washington, this will add fuel to the fire.

Sincerely,

Gay Porter  
67-1095 PALEKAIKO RD  
KAMUELA, HI 96743

## **FINTestimony**

---

**From:** Jerris Hedges [hedgesew@gmail.com]  
**Sent:** Saturday, February 23, 2013 1:57 PM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Knowing that the employee is unlikely to agree to any examiner who is not strongly aligned with the employee, this measure will penalize the employer and those physician evaluators who maintain a high degree of objectivity in the evaluation process.

In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and only tool for the employer to look into statutory presumption, excessive treatment, etc. We must keep this process out of the hands of individuals who seek to manipulate the process to favor their own personal agenda.

Please do not pass HB 437.

Sincerely,

Jerris Hedges  
1288 Kapiolani Blvd  
Honolulu, HI 96814



## **FINTestimony**

---

**From:** Laura Agustin [lagustin@avalonhci.com]  
**Sent:** Saturday, February 23, 2013 8:21 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.  
Hale Nani Rehab

Sincerely,

Laura Agustin  
1405 Kolopua St  
Honolulu, HI 96819

## **FINTestimony**

---

**From:** Charles Ota [charles@cochawaii.org]  
**Sent:** Saturday, February 23, 2013 8:21 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

Sincerely,

Charles Ota  
98-1394 KULAWAI ST  
AIEA, HI 96701

## **FINTestimony**

---

**From:** Mark Goldman, Ph.D. [mgoldman@ilhawaii.net]  
**Sent:** Saturday, February 23, 2013 2:10 PM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

Workers' Compensation laws are already very biased on the side of the worker, due to the exceptional union influence on the legislature. Please do not make it worse.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

Sincerely,

Mark Goldman  
1396 Kinooole St  
Hilo, HI 96720

## **FINTestimony**

---

**From:** Marshall Joy [marshall@hawnice.com]  
**Sent:** Saturday, February 23, 2013 8:09 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

Sincerely,

Marshall Joy  
3102 Kaohinani Dr  
Honolulu, HI 96817

## **FINTestimony**

---

**From:** Robert Williams [robert@realestatehawaii.com]  
**Sent:** Saturday, February 23, 2013 2:34 PM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

Sincerely,

Robert Williams  
101 Hualalai St  
Hilo, HI 96720



## **FINTestimony**

---

**From:** sandra lee [sandrale777@hotmail.com]  
**Sent:** Saturday, February 23, 2013 1:14 PM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

Sincerely,

sandra lee  
PO Box 1036  
Haleiwa, HI 96712

## **FINTestimony**

---

**From:** Jan Kaeo [jan.kaeo@dalecarnegie.com]  
**Sent:** Saturday, February 23, 2013 8:13 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

This will certainly provide an additional burden for employers. I am strongly against this bill.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system. Ultimately the people your are hurting with this bill are the employees -- please think about the total consequences of passing this bill -- the ripple effect negatively affects the peopel you are trying to help.

Thank you. Jan Kaeo, Business Owner

Sincerely,

Jan Kaeo  
2101 Nuuanu Ave  
Honolulu, HI 96817

## **FINTestimony**

---

**From:** Keith Robbins [bubbiesicecream@hawaii.rr.com]  
**Sent:** Saturday, February 23, 2013 9:55 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

Keith Robbins  
99-1267 WAIUA PL  
AIEA, HI 96701

## **FINTestimony**

---

**From:** Ken Sanders [ksanders@oceannetwork.tv]  
**Sent:** Saturday, February 23, 2013 9:48 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

My company is still working hard to completely recover from the Recession, hire new employees, compete nationally and internationally, and all of this will be good for the State. But if the State keeps heaping layers of cost and complexity on such young companies as ours, we may not survive...and the workers - with benefits continually getting better will possibly find themselves with no job or benefits at all. Please leave well-enough alone!

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

Ken Sanders  
269 Kaelepulu Dr  
Kailua, HI 96734

## **FINTestimony**

---

**From:** linda Fernandez [lindaf@funfactoryinc.com]  
**Sent:** Saturday, February 23, 2013 2:22 PM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

linda Fernandez  
91-246 Oihana St  
Kapolei, HI 96707

## **FINTestimony**

---

**From:** Mark Rodden [Mark.Rodden@paccoast.com]  
**Sent:** Saturday, February 23, 2013 9:29 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

Mark Rodden  
98-578 ALOALII ST  
AIEA, HI 96701



## **FINTestimony**

---

**From:** William Smith [billsmith@boydgaming.com]  
**Sent:** Saturday, February 23, 2013 11:12 AM  
**To:** FINTestimony  
**Subject:** FIN Committee and My Legislator, I OPPOSE HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill requires the employer and employee to "mutually agree" on an independent medical examiner (IME). Although the terms "mutually agree" appears fair, it is not. If anything, this bill will take the only tool that the employers have away from them when determining whether the injury is work-related.

In any enforcement of a claim for compensation, statutory presumption places the burden on employers to present substantial evidence to the contrary. So the independent medical examination serves as an objective and only tool for the employer to look into statutory presumption, excessive treatment, etc.

Please do not pass HB 437.

Sincerely,

William Smith  
1288 Ala Moana Blvd  
Honolulu, HI 96814

## **FINTestimony**

---

**From:** Antya Miller [millera012@hawaii.rr.com]  
**Sent:** Sunday, February 24, 2013 1:49 PM  
**To:** FINTestimony  
**Subject:** I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result, it creates added burdens to business. Businesses are already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations in this sluggish economy.

We need to free businesses of all sizes, but especially small business, from overtaxation and regulation so that they can create more jobs. This will add to the existing tax base and help the state move forward with more jobs and more tax revenues.

Mahalo for the opportunity to testify.

Sincerely,

Antya Miller  
59-661 Alapio Rd  
Haleiwa, HI 96712

## **FINTestimony**

---

**From:** Carol VanCamp [cvancamp3@hawaii.rr.com]  
**Sent:** Sunday, February 24, 2013 2:13 PM  
**To:** FINTestimony  
**Subject:** Chairs and My Legislator: I Oppose HB 437

Dear Chair Luke & Committee Members,

Please do not pass HB 437.

The bill seeks to punish all businesses on the theory that there are some who abuse this right. As a result it creates added burdens to my business. I'm already struggling with many of the expenses and costs to comply with many government imposed mandates and regulations.

Our company does our best to take care of the employees. They are an asset to the company and we make sure to have a healthy and safe work environment. We provide generous benefits and any increase in costs during this time will force me to restructure our benefits system.

Sincerely,

Carol VanCamp  
HC 2 BOX 9547  
KEAAU, HI 96749

To: HOUSE OF REPRESENTATIVES: THE TWENTY- SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

Rep. Sylvia Luke , Chair

Rep. Scott Y. Nishimoto, Vice Chair

Rep. Aaron Ling Johanson Vice Chair

Rep. Ty J.K. Cullen

Rep. Richard H.K. Onishi

Rep. Mark J. Hashem

Rep. Gregg takayama

Rep. Jo Jordan

Rep. Justin H. Woodson

Rep. Bertrand Kobayashi

Rep. Kyle T. Yamashita

Rep. Nicole E. Lowen

Rep. Beth Fukumoto

Rep. Dee Morikawa

Rep. Gene Ward

From: Cleon M. Bailey

Hawaii resident, presently on Worker's Compensation

NOTICE OF HEARING

DATE: Monday, February 25, 2013

TIME: 11:00 AM.

PLACE: Conference Room 308

State Capitol

415 Beretania Street

Re: H.B. No. 437 Relating to Workers' Compensation

Dear Chair, Vice Chair, and Committee members:

I need not provide an overview of the proposed legislation, as you are aware of the dynamics of HB 437.

I respectfully request that you follow the recommendations of Dwight Y. Takamine, Director of the Department of Labor and Industrial Relations in his support of this measure.

I have read the written testimony opposing this measure before submitting my letter of **support**.

I can sincerely testify that I have and currently live in purgatory by the causation of Section 386-79, Hawaii Revised Statutes (HRS).

Without question the Employers' W/C Insurance Carrier uses HRS. 386-79 to shop for examiners who covert their practice to the position of W/C Carrier's attorney; whereby are employed to promote the non-liability and/or treatment for my industrial injuries.

I agree with the Director of labor when he states: this measure 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 Worker's Compensation medical disputes.

I can understand the importance of Hawaii's businesses in promoting a healthy economy. However, the State, County, and/or private proprietors have an underhanded advantage with the current statute of HRS. 386-79 in the labor law, indisputably.

In Closing, I thank you for your public service.

Very truly yours,

Cleon M. Bailey

## **FINTestimony**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 23, 2013 11:50 AM  
**To:** FINTestimony  
**Cc:** bolger55@gmail.com  
**Subject:** Submitted testimony for HB437 on Feb 25, 2013 11:00AM

### **HB437**

Submitted on: 2/23/2013

Testimony for FIN on Feb 25, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Douglas Moore	Individual	Support	No

Comments: Support for mutually agreed IMES & PPD ratings: it's a matter of fairness. PPD ratings already are usually by mutual agreement & the system works fairly. Fair evaluations of injured workers will help them get the medical treatment & rehabilitation they need to return as productive workers which benefits employers. Please vote in support of passage.

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

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