

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

RANDY BALDEMOR
DEPUTY DIRECTOR

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

February 3, 2015

**TESTIMONY TO THE
SENATE COMMITTEE ON HEALTH**

For Hearing on Friday, February 6, 2015
2:30 p.m., Conference Room 414

BY

JAMES K. NISHIMOTO
DIRECTOR

Senate Bill No. 1174
Relating to Workers' Compensation

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON JOSH GREEN AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide comments on S.B. 1174.

The purposes of S.B. 1174 are to provide that an independent medical examination and permanent impairment rating examination shall be conducted by a qualified physician selected by the mutual agreement of the parties; and provide a process for appointment in the event that there is no mutual agreement.

The Department of Human Resources Development ("DHRD") has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. In that regard, DHRD respectfully submits these comments on the bill.

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

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

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

Third, this bill would require that any mutually agreed upon physician examine the employee within forty-five calendar days of selection or appointment, or as soon as practicably possible. In our experience, the employer often has to wait ninety days or more for an available appointment. The bill is silent as to what would happen if there is no qualified physician available to perform the evaluation within the forty-five days or “as soon as possible” requirement. These unresolved issues may lengthen the process and make it more burdensome.

Finally, the bill would make the claimant's attending physician the sole arbiter as to when an injured worker attains medical stability. This would have the unintended consequence of potentially lengthening certain claims because employers would lose the ability to challenge ongoing disability and medical treatment when the medical evidence indicates the claimant has reached medical stability and could possibly return to work.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU
850 SOUTH KING STREET, 10TH FLOOR • HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

February 6, 2015

The Honorable Josh Green, Chair
and Members of the Committee
on Health
The Senate
State Capitol, Room 414
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Green and Members of the Committee:

SUBJECT: Senate Bill No. 1174
Relating to Workers' Compensation

The City and County of Honolulu opposes SB 1174, which would require independent medical examinations and permanent impairment rating examinations to be performed by physicians mutually agreed upon by employers and employees; and allow for the use of out-of-state physicians under certain conditions. Although the vast majority of workers' compensation claims proceed without controversy or disagreement, there are certain workers' compensation claims where an independent medical examination is necessary.

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. SB 1174 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, mutually creating a list of five physicians before alternately striking names to arrive at a final physician. This alternative process will most certainly delay the final disposition of the claim with respect to compensability or future medical treatment.

The Honorable Josh Green, Chair
and Members of the Committee
on Health
The Senate
Page 2
February 6, 2015

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 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.

Based on the foregoing, we respectfully urge your committee to file SB 1174.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolee C. Kubo", with a stylized flourish at the end.

Carolee C. Kubo
Director



Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison H. Ueoka
Executive Director

TESTIMONY OF ALISON UEOKA

COMMITTEE ON HEALTH
Senator Josh Green, Chair
Senator Glenn Wakai, Vice Chair

Friday, February 6, 2015
2:30 p.m.

SB 1174

Chair Green, Vice Chair Wakai, and members of the Committee, my name is Alison Ueoka, Executive Director of the 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 thirty-six percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council opposes SB 1174, which amends Section 386-79, Medical Examination by Employer's Physician.

Our members believe this bill will substantially increase workers' compensation costs, which will translate into a higher cost of doing business, limiting business' ability to compete, adversely affect employees by limiting job availability, pay, and benefits and ultimately find its way into the costs of goods and services in Hawaii.

The current system regarding Independent Medical Examinations (IMEs) has been in place for some time and we believe it is working. It appears that this legislation is prompted by claims that IME physicians are biased toward the employer. We do not believe this is true. Employers seek access to clinical expertise to help return the injured worker to the job. Currently, there are numerous safeguards in place to ensure the IME is objective and unbiased. Injured workers are able to obtain opinions or comments from their treating physician or other doctors regarding the IME opinion if

they disagree. Injured workers are also able to obtain their own rating and if the hearings officer relies on it, the employer has to pay for it. Finally, there is an appeals process that provides further due process to both sides if an agreement cannot be reached.

The current system provides an approach for the employer and injured worker to resolve medical treatment disputes in an efficient manner. The proposal to mandate mutual agreement will increase workers' compensation costs and delay the delivery of medical treatment in certain cases. This is detrimental to the injured worker and does not benefit the employer.

This bill requires mutual agreement between the employer and employee of an IME physician. If there is no agreement, the IME physician is chosen from a joint list of five physicians with the employer choosing the first and alternating with the employee. Then each may strike a physician until only one remains who shall be the IME physician. The proposed process will delay the ability to secure an examination in a timely manner and may hinder the ability to expeditiously resolve conflicts. Furthermore, only one IME is allowed unless another is approved by the Director.

An IME is used as a second opinion when compensability is in question or when medical progress is stagnant. If an injured worker has been treated for some time, there is a point where additional medical treatment will not be curative. The injured worker is either ready to return to work in full capacity, is partially disabled, or is permanently disabled. If the IME process is restricted, it may greatly prolong the period the injured worker continues to get treatment that is not medically curative.

There are very few cases where mutual agreement cannot be reached. However, if the law is changed to *require mutual agreement*, we believe many cases *will not have mutual agreement* because there is no incentive to do so. If there is no mutual

agreement, the physicians who are licensed under Chapter 453 are a very broad pool, however, we believe the result of having inexperienced physicians perform IMEs will not serve the injured worker or the employer and ultimately increase appeals and costs. Subsequently, if an IME is not performed at a high standard, the employer may not be able to get another one if the Director does not approve it. This leaves the injured worker in limbo and the employer must keep paying for medical treatment that may be unnecessary.

The bill also allows *only* the treating physician to say the injured worker has reached medical stability. This definition differs than that of “medical stabilization” in the administrative rules. The difference is the rules definition has an additional part that says if an injured worker refuses to get recommended treatment by the treating physician, he or she has reached medical stabilization. There is no need for a new truncated definition. By allowing only the treating physician to say when the injured worker has reached medical stability or stabilization, the injured worker will continue to be in limbo as long as the treating physician says so. This disallows the IME physician from saying the injured worker has reached medical stability or stabilization. Again, this will leave the injured worker in limbo with continued treatment which may be unnecessary and the employer will have to pay for it.

The provision to require impairment IMEs to be separate from treatment IMEs presents an inconvenience to the injured worker and does not correspond to better outcomes. A comprehensive examination often takes several hours and this requirement will add costs to the system by requiring two separate examinations that could be addressed in one visit. IMEs are performed to address various aspects of an injured worker’s injury and recovery such as primary and secondary diagnosis, appropriate treatment, utilization and measurement of the degree of physical impairment. *In many cases, it is important to obtain a baseline impairment rating to later determine the effectiveness of treatment.* It is beneficial for the injured worker to have one physician review the

medical records and conduct the physical examination in a comprehensive manner. It is also more cost effective if treatment and impairment are addressed by a single IME instead of requiring two. The suggestion that two separate examinations benefits the injured worker is not substantiated by evidence and will only add costs and delay the delivery of benefits. Requiring prior written consent from the injured worker to allow for an Impairment rating during the IME exam will delay the process and add cost.

The bill also limits IMEs to one per case, unless approved by the Director. There is no measurable benefit to the injured worker by limiting IMEs to one per case. In fact, such a restriction may harm the injured worker. Several IMEs may be necessary in some cases to clarify the diagnosis, establish a baseline, determine whether there has been improvement or deterioration, explain a change in the condition, or impairment. A subsequent IME may be necessary if the injured worker develops new symptoms or conditions secondary to the work injury. The bill does not allow for any exceptions for an ordered IME for impairment ratings. In the event that an injured worker is ordered to attend an impairment examination and the physician determines that the injured worker is not at maximum medical improvement, or is a no-show for the appointment, the injured worker is precluded from obtaining a subsequent impairment rating. Neither an employer nor an injured worker should be restricted in securing an IME.

For these reasons, we respectfully request that SB 1174 be held.

Thank you for the opportunity to provide comments.

PSIG**PDCA of Hawaii Workers' Compensation Self-insurance Group**

c/o KING & NEEL, INC.

1164 Bishop Street, Suite 110, Honolulu, Hawaii 96813

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

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

Via Fax (808) 586-9391

February 4, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND
MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B.1174, RELATING TO WORKERS' COMPENSATION.**
Provides that a independent medical examination and permanent impairment rating
examination shall be conducted by a qualified physician selected by the mutual
agreement of the parties. Provides a process for appointment in the event that there is
no mutual agreement.

HEARING

DATE: Friday, February 6, 2015

TIME: 2:30 p.m.

PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

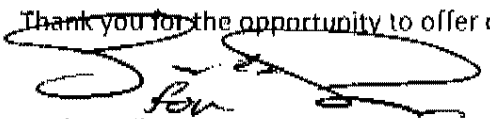
Mechanical Contractors Workers' Compensation Self-Insurance Group is opposed to S.B. 1174 Relating to Workers' Compensation, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. 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 our members. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

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

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

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



Herbert Hirota
Chairman



87-2020 Farrington Highway • Waianae, Hawaii 96792 • Tel: 808 668-4561 • FAX: 808 668-1368 • Website: www.pvtland.com

February 6, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND
MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS' COMPENSATION.** Provides that a independent medical examination and permanent impairment rating examination shall be conducted by a qualified physician selected by the mutual agreement of the parties. Provides a process for appointment in the event that there is no mutual agreement.

HEARING

DATE: Friday, February 6, 2015
TIME: 2:30 p.m.
PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

PVT Land Company Ltd. is the only permitted C&D landfill on Oahu employing 60 employees.

PVT Land Company Ltd. is opposed to S.B. 1174, 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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

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

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

Mahalo,
Ben Yamamoto
Vice President

A handwritten signature in black ink, appearing to read 'Ben Yamamoto', is written over the typed name and title.

SB1178

February 4, 2015

Dear State of Hawaii Senate and House Members:

My name is Connie Moore and I am a licensed acupuncturist in the state of Hawaii. I currently accept no fault insurance patients. When doing insurance patients, more paper work is required and there is a delay in receiving payment. The current limit of \$75 is inadequate to cover the treatment, the paper work and the time delayed payment. I would suggest raising the limit to \$100 under SB 1178

Sincerely,

A handwritten signature in black ink that reads "Connie Moore". The script is cursive and fluid, with the first name and last name clearly distinguishable.

Connie Moore, L.Ac., Dipl. O.M.
735-7107
3959 Koko Dr.
Honolulu, Hawaii 96816
connie.Moore.Clinic@gmail.com



Governor, District 7 (HI, CA & NV, Guam, American Samoa & Commonwealth of Northern Mariana Islands)

Joseph G. Morelli, Jr., D.C., F.I.C.C.

94-050 Farrington Hwy., Ste. E1-1B

Waipahu, HI 96787-1841

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e: crunch@aloha.net

To: Sen. Josh Green, Chair
Sen. Glenn Wakai, Vice Chair
COMMITTEE ON HEALTH

From: Joseph G. Morelli, Jr., D.C., F.I.C.C.
District VII Governor,
American Chiropractic Association

President,
Hawaii State Chiropractic Association

Date: Friday, February 06, 2015

Time: 2:30 pm

Place: Conference Room 414

Subject: **Testimony in SUPPORT of SB 1174** "Relating to Workers' Compensation"

My name is Dr. Joseph G. Morelli, Jr., and I am a Doctor of Chiropractic in Hawaii, practicing Waipahu, on Oahu for the past 37 years. I currently hold the elected office as the District 7 Governor on the Board of Governors of the American Chiropractic Association. Nationally, I represent the local Hawaii Doctors of Chiropractic and also all the Doctors of Chiropractic in California, Nevada, Guam, American Samoa and the Mariana Islands. Additionally, In the State of Hawaii, I hold the elected office of President of the Hawaii State Chiropractic Association.

The American Chiropractic Association is the largest Chiropractic professional representative organization in the world. The Hawaii State Chiropractic is the only state wide representative organization for the Chiropractic profession in Hawaii. I give this as testimony to voice support to the intent of **SB 1174**.

The Workers' Compensation system in Hawaii provides opportunities for the employer to evaluate the medical condition of the injured employee worker through the ordering of an "independent medical evaluation" (IME). Unfortunately, over the years, the interests of the employer vs. the health interests of the injured employee have often times become weighted in favor of the employer considering the process and outcomes of these IMEs.

There is a similar perception in the medical provider community regarding Permanent Impairment Ratings possibly not being as fair and impartial as the original Workers' Compensation Statutes were designed to ensure. Again, like the in the IME process, there can be opportunities for ratings outcomes to be skewed toward the interests of an employer rather than being as fair and factual regarding the current and future medical/functional status of an injured employee.

The language of **SB 1174** helps to lay out a process of greater equity into the system with a method of mutual agreement in the selection of the independent medical and permanent impairment evaluators.

Please pass **SB 1174** from your committee as an improvement in the Workers' Compensation System, to the benefit of both the employer and the injured employee in Hawaii.



S & M SAKAMOTO, INC.

GENERAL CONTRACTORS

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

Via Fax (808) 586-9391

February 6, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS'**

COMPENSATION. Provides that a independent medical examination and permanent impairment rating examination shall be conducted by a qualified physician selected by the mutual agreement of the parties. Provides a process for appointment in the event that there is no mutual agreement.

HEARING

DATE: Friday, February 6, 2015

TIME: 2:30 p.m.

PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

S & M Sakamoto, Inc. is **opposed to S.B. 1174, 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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

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

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

Very truly yours,
S & M Sakamoto, Inc.

Gerard Sakamoto
President



13975 Connecticut Ave. #301
Silver Spring, MD 20906
Phone: 240-364-8111
Fax: 240-364-8112

PMB 167, 590 Farrington Hwy. #210
Kapolei, HI 96707
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Via Fax (808) 586-9391

February 6, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND
MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS'**

COMPENSATION. Provides that a independent medical examination and
permanent impairment rating examination shall be conducted by a qualified
physician selected by the mutual agreement of the parties. Provides a process for
appointment in the event that there is no mutual agreement. **HEARING**

DATE: Friday, February 6, 2015
TIME: 2:30 p.m.
PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

JS International Inc. is opposed to **S.B. 1174, 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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

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The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

Sincerely,

Greg Ewart
General Manager
JS International Inc.
PMB 167 590 Farrington Highway #210
Kapolei, HI 96707
(808)682-7316



Via E-mail: HTHTestimony@capitol.hawaii.gov
Via Fax (808) 586-9391

February 5, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND
MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS'
COMPENSATION.** Provides that a independent medical examination and
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Provides a process for appointment in the event that there is no mutual
agreement.

HEARING

DATE: Friday, February 6, 2015
TIME: 2:30 p.m.
PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

LYZ, Inc. is opposed to S.B. 1174, **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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

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The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

James N. Kurita
Vice President/ Chief Operating Officer



Economy Plumbing & Sheet Metal, Inc.
dba ECONOMY PLUMBING & AIR CONDITIONING
1029 Ulupono Street Honolulu, Hawaii 96819-4334
Phone: (808) 842-5100 Fax: (808) 848-2703 License #ABC-318

Via E-mail: HTHtestimony@capitol.hawaii.gov
Via Fax (808) 586-9391

February 4, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND
MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS' COMPENSATION.**

HEARING

DATE: Friday, February 6, 2015

TIME: 2:30 p.m.

PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

My name is Kent Matsuzaki and I am the President of Economy Plumbing & Air Conditioning, a small business mechanical contracting firm.

We are **opposed to S.B. 1174, 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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan of action is the employer requested examination. The provision in the bill, allowing the creation of a list if unable to reach an agreement, is also unfair as it would allow employee to have three choices, and the employer to have only two.

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.

It is already tough for small businesses to make a go in Hawaii. We don't need another regulation in the Worker's Comp system that could create additional delays in getting the injured worker back to work and additional costs.

Thank You,

Kent Matsuzaki
President



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

February 5, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS' COMPENSATION.** Provides that a independent medical examination and permanent impairment rating examination shall be conducted by a qualified physician selected by the mutual agreement of the parties. Provides a process for appointment in the event that there is no mutual agreement.

HEARING

DATE: Friday, February 6, 2015
TIME: 2:30 p.m.
PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

Rons Construction Corporation is **opposed** to **S.B. 1174, 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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

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

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

Very truly yours,
Rons Construction Corporation

Kevin M. Oshiro, VP
2045 Kamehameha IV Road
Honolulu, HI 96819
(808) 841-6151

From: [Lucia Indelicato](#)
To: [HTHTestimony](#)
Subject: S.B. 1174 Relating to Workers' Compensation STRONGLY OPPOSE
Date: Thursday, February 05, 2015 9:57:57 AM
Importance: High

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

Via Fax (808) 586-9391

February 6, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE
CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS' COMPENSATION.** Provides that an independent medical examination and permanent impairment rating examination shall be conducted by a qualified physician selected by the mutual agreement of the parties. Provides a process for appointment in the event that there is no mutual agreement.

HEARING

DATE: Friday, February 6, 2015
TIME: 2:30 p.m.
PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

Over the past 12 years working in occupational health and safety I have seen injured worker's unfortunately provided inadequate medical advice which has been detrimental to their health and well-being. In this medical age, not all doctors can be expected to know all facets of medicine. Occupational Health physicians are specialized in occupational medicine and those are the physicians recommended by employers.

Sincere effort by companies/organizations is executed in vetting physicians and/or clinics for the best care in regards to an occupational health care for their workers.

This proposed legislation is not necessary and will only create hurdles for an injured worker in receiving the care deserved. As stated below the law already in place allows injured workers ability to obtain a second medical opinion if desired.

I am **opposed to S.B. 1174, 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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

physician with regards to questionable workers compensation claims.

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

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, I respectfully request that that the proposed bill be held by this Committee.

Lucia Indelicato, CSP

HSE Supervisor

Nordic PCL Construction, Inc

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lindelicato@nordicpcl.com

www.nordicpcl.com

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To: The Honorable Josh Green, Chair
The Honorable Glenn Wakai, Vice Chair
Senate Committee on Health

From: Mark Sektnan, Vice President

Re: **SB 1174 – Relating to Workers’ Compensation**
PCI Position: OPPOSE

Date: Friday, February 6, 2015
2:30 pm, Conference Room 414

Aloha Chair Green, Vice Chair Wakai and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is opposed to SB 1174, which is unnecessary and unfair, and would result in significant administrative delays. PCI is a national trade association that represents over 1,000 property and casualty insurance companies. In Hawaii, PCI member companies write approximately 42.2 percent of all property casualty insurance written in Hawaii. PCI member companies write 43.2 percent of all personal automobile insurance, 65.2 percent of all commercial automobile insurance and 75 percent of the workers’ compensation insurance in Hawaii.

SB 1174 would replace the existing employer requested examinations in workers compensation claims with a new, complicated system for obtaining “independent medical examinations”. Instead of the existing system that allows an employer to obtain an examination of a claimant to evaluate the merits of a claim, SB 1174 would require first that the employer and employee reach a mutual agreement on the physician who conducts the examination.

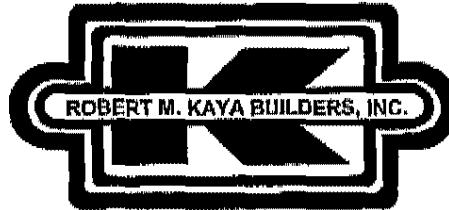
The term “independent medical examination” is typically used to describe the examinations contemplated by Hawaii Revised Statutes § 386-79, but its use in this bill ignores the important function of the employer requested examination and strips out the employer’s right to discovery of facts in workers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

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

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

Finally, the selection process set forth in SB 1174 would be stalled by built-in delays. The employer would have to first try to reach a mutual agreement. If the parties are unable to reach an agreement, the bill requires the employer and employee to develop a list of five physicians and then cross off names much as a jury is selected. This could be a very cumbersome and time consuming process. Once a physician is appointed to take the case, the examination is supposed to take place within 45 days. No doubt, that is an optimistic estimate as currently delays in finding willing and able physicians are already widespread. This means that examinations would be additionally burdened by these new administrative delays.

PCI respectfully requests that the Committee vote to hold SB 1174 for the remainder of the session.



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February 5, 2015

FAX No. 1 (808) 586-9391

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS' COMPENSATION.**
Provides that an independent medical examination and permanent impairment rating examination shall be conducted by a qualified physician selected by the mutual agreement of the parties. Provides a process for appointment in the event that there is no mutual agreement.

HEARING

DATE: Friday, February 6, 2015
TIME: 2:30p.m.
PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

Robert M. Kaya Builders, Inc. is opposed to **S.B. 1174, 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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

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

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

S.B. 1174 Opposition
February 5, 2015
Page Two

Yours truly,

ROBERT M. KAYA BUILDERS, Inc.



Scott I. Higa
President

MSIG**Mechanical Contractors Workers' Compensation Self-insurance Group***c/o KING & NEEL, INC.**164 Bishop Street, Suite 1710, Honolulu, Hawaii 96813**Telephone: (808) 521-8311 • FAX: (808) 526-3893*Via E-mail: HTHtestimony@capitol.hawaii.gov

Via Fax (808) 586-9391

February 4, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND
MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B.1174, RELATING TO WORKERS' COMPENSATION.**
Provides that a independent medical examination and permanent impairment rating
examination shall be conducted by a qualified physician selected by the mutual
agreement of the parties. Provides a process for appointment in the event that there is
no mutual agreement.

HEARING

DATE: Friday, February 6, 2015

TIME: 2:30 p.m.

PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

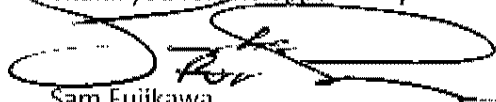
Mechanical Contractors Workers' Compensation Self-Insurance Group is opposed to S.B. 1174 Relating to Workers' Compensation, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. 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 our members. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

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

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

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



Sam Fujikawa
Chairman



Maui 202 Lalo Street • Kahului, HI. 96732-2924
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Service Dept: (808) 877-4040 • Fax: (808) 873-6199
Oahu 2265 Hoonee Place • Honolulu, HI. 96819
Phone: (808) 841-2112 • Fax: (808) 847-1991

February 5, 2015

Via E-mail: HTHTestimony@capitol.hawaii.gov
Via Fax (808) 586-9391

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE
CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS' COMPENSATION.** Provides that an independent medical examination and permanent impairment rating examination shall be conducted by a qualified physician selected by the mutual agreement of the parties. Provides a process for appointment in the event that there is no mutual agreement.

HEARING

DATE: Friday, February 6, 2015
TIME: 2:30 p.m.
PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

Dorvin D. Leis Co., Inc. is **opposed to S.B. 1174, 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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

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



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The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

Sincerely,

Stephen T. Leis,
President

**JAYAR CONSTRUCTION, INC.**

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

February 5, 2015

**To: Honorable Josh Green, Chair, Honorable Glenn Wakai, Vice Chair and
Members of the Senate Committee on Health**

Subject: Strong opposition to S.B. 1174, Relating to Workers' Compensation.

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

Jayar Construction, Inc. is a locally owned General Contractor that has been in business for over 25 years. We are a union shop and currently have approximately 120 employees.


Jayar Construction, Inc. is strongly opposed to S.B. 1174, 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 employer and employee. We believe there is nothing wrong with the current procedure 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 there is an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

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

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that the proposed bill be held by this Committee.

Sincerely,



Stephen Yoshida,
CFO & Human Resource Manager



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

Via Fax (808) 586-9391

February 6, 2015

TO: HONORABLE JOSH GREEN, CHAIR, HONORABLE GLENN WAKAI, VICE CHAIR AND
MEMBERS OF THE SENATE COMMITTEE ON HEALTH

SUBJECT: **STRONG OPPOSITION TO S.B. 1174, RELATING TO WORKERS'
COMPENSATION.** Provides that a independent medical examination and
permanent impairment rating examination shall be conducted by a
qualified physician selected by the mutual agreement of the parties.
Provides a process for appointment in the event that there is no mutual
agreement.

HEARING

DATE: Friday, February 6, 2015

TIME: 2:30 p.m.

PLACE: Conference Room 414

Dear Chair Green, Vice Chair Wakai and Members of the Committee,

Swinerton Builders is **opposed** to S.B. 1174, 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. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.

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

Overall, the bill is fundamentally unfair. If the employer has reason to question the treating physicians proposed course of action, the employer's only tool to objectively evaluate the treating physician's plan

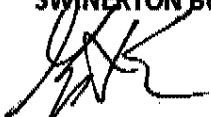
Swinerton Builders License No. ABC-3753
Pauahi Tower, 1003 Bishop Street, Suite 1340, Honolulu, HI 96813-6401
Tel: 808.521.8408 Fax: 808.521.8438 www.swinerton.com

of action is the employer requested examination. Also, the bill will likely create more delays and costs in the workers' compensation system and place upward pressure on premium rates.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that the proposed bill be held by this Committee.

Sincerely,

SWINERTON BUILDERS



George Ehara
VP and Division Manager

Cc: File