
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

SECTION 1. Section 386-79, Hawaii Revised Statutes, is amended to read as follows:

"§386-79 Medical examination by employer's duly qualified physician[-] or duly qualified surgeon. (a) After an injury and during the period of disability, the employee, whenever ordered by the director of labor and industrial relations, shall submit to examination, at reasonable times and places, by a duly qualified physician or duly qualified surgeon designated and paid by the employer. The employee shall have the right to have a duly qualified physician, duly qualified surgeon, or chaperone designated and paid by the employee present at the examination, which right, however, shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. The employee shall also have the right to record such examination by a recording device designated and paid for by the employee; provided that the examining duly



1 qualified physician or duly qualified surgeon approves of the
2 recording.

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

9 (b) In cases where the employer is dissatisfied with the
10 progress of the case or where major and elective surgery, or
11 either, is contemplated, the employer may appoint a duly
12 qualified physician or duly qualified surgeon of the employer's
13 choice who shall examine the injured employee and make a report
14 to the employer. If the employer remains dissatisfied, this
15 report may be forwarded to the director.

16 Employer requested examinations under this section shall
17 not exceed more than one per case unless good and valid reasons
18 exist with regard to the medical progress of the employee's
19 treatment. The cost of conducting the ordered medical
20 examination shall be limited to the complex consultation charges



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

3 (c) A duly qualified physician or duly qualified surgeon
4 who is selected and paid for by the employer to perform a
5 medical examination on an employee pursuant to this section
6 shall:

7 (1) Be duly qualified to treat the injury being examined;

8 (2) Possess medical malpractice insurance; and

9 (3) Owe the same duty of care to the injured employee

10 while performing such a medical examination as would

11 be owed to a traditional patient.

12 (d) As used in this section, "duly qualified" means a
13 doctor whose specialty is appropriate for the injury to be
14 examined."

15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

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

20 SECTION 4. This Act shall take effect on July 1, 2018.



Report Title:

Workers' Compensation; Medical Examination; Duly Qualified Physician; Duly Qualified Surgeon

Description:

Provides that a duly qualified physician or duly qualified surgeon selected and paid for by an employer to perform a medical examination on an employee relating to a work injury under workers' compensation shall be duly qualified to treat the injury being examined, possess medical malpractice insurance, and owe the same duty of care to the injured employee as to a traditional patient. (HB2202 HD1)

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