

---

---

# A BILL FOR AN ACT

RELATING TO TEMPORARY DISABILITY INSURANCE.

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

1           SECTION 1. Section 392-26, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By amending its title and subsection (a) to read:

4           "**§392-26 Care by physician, advanced practice registered**  
5 **nurse, or equivalent required.** (a) An individual shall be  
6 ineligible to receive temporary disability benefits with respect  
7 to any period during which the individual is not under the care  
8 of a person duly licensed to practice medicine, surgery,  
9 dentistry, chiropractic, osteopathy, or naturopathic medicine,  
10 or of an advanced practice registered nurse, who shall certify,  
11 in the form and manner specified by [~~regulation~~] rule of the  
12 director, the disability of the claimant, the probable duration  
13 [~~thereof,~~] of the disability, and [~~such~~] other medical facts  
14 within the person's knowledge as required by [~~regulation-~~]  
15 rule."

16           2. By amending subsection (c) to read:



1           "(c) The proof of disability duly certified by a person  
2 licensed to practice medicine, surgery, dentistry, chiropractic,  
3 osteopathy, or naturopathic medicine, or by an advanced practice  
4 registered nurse, or an authorized or accredited practitioner of  
5 any group [~~which~~] that depends for healing upon prayer or other  
6 spiritual means shall be submitted by [~~such~~] the certifying  
7 person to the disabled employee within seven working days after  
8 the date on which the employee was examined and found disabled.  
9 If the certifying person fails to submit the required proof  
10 within seven working days, the director, upon notification by  
11 the insurer, may levy a penalty of \$25 for each delinquent  
12 certification where the certifying person fails to show good  
13 cause for the person's failure to file on time."

14           SECTION 2. Section 392-51, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "~~[+]~~**\$392-51**~~[+]~~ **Failure to submit timely wage and**  
17 **employment information.** An employer to whom an insurer has sent  
18 a request for information on wages, hours, and duration of  
19 employment regarding an employee claiming disability benefits  
20 shall complete and submit such information within seven days  
21 from the date the request was received. If the employer fails



1 to submit [~~such~~] the information within seven days, the director  
2 upon notification by the insurer shall levy a penalty of [~~\$10~~  
3 \$250 for each delinquent request where the employer fails to  
4 show good cause for failure to file on time."

5 SECTION 3. Section 392-72, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§392-72 Appeals, filing, and hearing.** (a) If a person  
8 disputes the amount of benefits, paid under part III or part IV,  
9 or the denial of benefits, the claimant may file an appeal, in  
10 the form and manner prescribed by [~~regulation~~] rule of the  
11 director, at the office of the department [~~in the county in~~  
12 ~~which the claimant resides or in the county in which the~~  
13 ~~claimant was employed prior to the claimant's disability~~],  
14 within twenty days after the date of payment of such disputed  
15 benefits or the denial thereof. Notice of the appeal shall be  
16 served upon the employer or insurer or the trust fund for  
17 disability benefits in the form and manner prescribed by  
18 [~~regulation~~] rule of the director. Notice of a hearing of an  
19 appeal shall be sent by electronic service or by first-class  
20 mail to the claimant and insurer or employer or trust fund for  
21 disability benefits at least fifteen calendar days prior to the



1 hearing. If notice sent by electronic service or by first-class  
2 mail is attempted but unsuccessful, and the department has been  
3 unable to ascertain the address of the party after reasonable  
4 and diligent inquiry, the notice requirement may be satisfied by  
5 online posting on the department's webpage. The online posting  
6 shall appear at least fifteen calendar days prior to the date of  
7 the hearing. The online posting shall be removed from the  
8 webpage no less than five business days after the date of the  
9 hearing.

10 (b) The appeal [~~shall~~] may be heard in [the] any county  
11 [in which the appeal is filed; provided that the director may by  
12 regulation provide for good cause for the holding of a hearing  
13 in another county] and the parties may appear at the hearing in  
14 person, by telephone, or by other communication devices approved  
15 by the department, or by a combination of the preceding methods.  
16 The parties shall be provided with notice of the hearing and  
17 shall be provided with the opportunity to object to the hearing  
18 being held in a county other than the county in which the  
19 claimant resides or in which the claimant was employed prior to  
20 the claimant's disability. Upon an objection, the hearing shall  
21 be heard in the county in which the claimant resides or in which



1 the claimant was employed prior to the claimant's disability.  
2 Failure of a party to object to the location of the hearing  
3 within the time specified in the notice shall be deemed consent  
4 by the party to the location of the hearing. The department may  
5 provide for the taking of depositions. Unless the appeal is  
6 withdrawn with the permission of the referee, the referee after  
7 affording the parties reasonable opportunity for a fair hearing  
8 shall make findings and conclusions and on the basis thereof  
9 affirm, modify, or deny the disputed benefits. In the event any  
10 party fails to appear at the hearing, the referee shall issue a  
11 decision based on the available information. All parties shall  
12 be promptly notified of the decision of the referee and shall be  
13 furnished with a copy of the decision and the findings and  
14 conclusions in support [~~thereof and the~~] of the decision. The  
15 decision shall be final and shall be binding unless a proceeding  
16 for judicial review is initiated pursuant to section 392-75;  
17 provided that within the time provided for taking an appeal and  
18 prior to the filing of a notice of appeal, the referee may  
19 reopen the matter, upon application of the director or any  
20 party, or upon the referee's own motion, and thereupon may take  
21 further evidence or may modify the referee's decision, findings,



1 or conclusions. In the event the matter is reopened, the  
2 referee shall render a further decision in the matter, either  
3 reaffirming or modifying the referee's original decision, and  
4 notice shall be given thereof in the manner hereinbefore  
5 provided. The time to initiate judicial review shall run from  
6 the notice of such further decision if the matter has been  
7 reopened."

8 SECTION 4. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on January 1, 2050.



**Report Title:**

Temporary Disability Insurance; Disability Certification;  
Submission of Wage and Employment Information; Hearings; Notice

**Description:**

Permits advanced practice registered nurses to certify an employee's disability. Increases the penalty for employers who fail to submit timely wage and employment information. Permits filing of an appeal of a decision on temporary disability insurance at the various statewide offices of the Department of Labor and Industrial Relations. Requires the Department to send notices of hearings electronically or via first-class mail but permits the notice to be posted on the Department's webpage in certain circumstances. Allows parties to an appeal to appear in person, by telephone, or by other communication device. Effective 1/1/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

