
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. The legislature finds that timely and accurate
2 determination of an injured worker's physical abilities and
3 functional restrictions is essential to ensure their fair
4 treatment under the workers' compensation system. Functional
5 capacity exams play a critical role in assessing whether an
6 injured worker can return to work, with or without
7 accommodations, or proceed with vocational rehabilitation when
8 returning to full duty is not possible. However, the current
9 system often delays functional capacity exams due to denials or
10 pending approvals from insurers or adjusters, which prolongs the
11 injured worker's path to recovery and return to work. These
12 delays can exacerbate financial and emotional strain on workers,
13 increase administrative inefficiencies, and impede the progress
14 of vocational rehabilitation programs.

15 The purpose of this Act is to streamline the approval
16 process for functional capacity exams, ensuring automatic
17 approval of such exams when requested by the attending physician



1 under certain conditions, thereby reducing unnecessary delays
2 and improving outcomes for injured workers.

3 SECTION 2. Chapter 386, Hawaii Revised Statutes, is
4 amended by adding a new section to part II to be appropriately
5 designated and to read as follows:

6 "§386- Functional capacity exam. (a) When an injured
7 employee's attending physician has determined that the employee
8 has reached medical stabilization and is permanently unable to
9 return to the employee's usual and customary employment, the
10 physician may request a functional capacity exam to be performed
11 by a qualified health care provider whose opinion or advice is
12 necessary in the evaluation and treatment of the injured
13 employee's injury; provided that:

14 (1) The qualified health care provider shall be trained to
15 perform a functional capacity exam; and

16 (2) The attending physician shall not be required to
17 obtain permission from the employer before requesting
18 a functional capacity exam or referring the employee
19 for a functional capacity exam.

20 (b) The name, business address, discipline, and specialty
21 of the qualified health care provider and reasons for the



1 functional capacity exam shall be submitted in writing to the
2 employer at least seven calendar days prior to the referral.

3 (c) The qualified health care provider performing the
4 functional capacity exam shall provide a copy of the exam report
5 to the attending physician and employer within fourteen calendar
6 days of the date of the exam.

7 (d) Fees for functional capacity exams requested by the
8 attending physician pursuant to this section shall be paid by
9 the employer.

10 (e) For the purposes of this section:

11 "Functional capacity exam" means a set of tests that are
12 used to identify an injured employee's physical skills,
13 functional capabilities, activity endurance, and work tolerances
14 after reaching medical stabilization and provide recommendations
15 regarding the employee's ability to return to work or return to
16 work with restrictions or the need for accommodations to safely
17 return to work.

18 "Qualified health care provider" means a health care
19 provider who meets the qualifications under section 386-27 to
20 render health care and services under this chapter."



1 SECTION 3. Section 386-27, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) All health care providers rendering health care and
4 services under this chapter shall be qualified by the director
5 and shall remain qualified by satisfying the requirements
6 established in this section. The director shall qualify any
7 person initially who has a license for the practice of:

- 8 (1) Medicine or osteopathy under chapter 453;
- 9 (2) Dentistry under chapter 448;
- 10 (3) Chiropractic under chapter 442;
- 11 (4) Naturopathic medicine under chapter 455;
- 12 (5) Optometry under chapter 459;
- 13 (6) Podiatry under chapter 463E;
- 14 (7) Psychology under chapter 465; [~~and~~]
- 15 (8) Advanced practice registered nurses under chapter
16 457[~~-~~]; and
- 17 (9) Occupational therapy under chapter 457G or physical
18 therapy under chapter 461J; provided that occupational
19 therapists and physical therapists qualified under
20 this section shall be qualified for the limited



1 purpose of performing functional capacity exams
2 pursuant to section 386-_____."

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

5 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Workers' Compensation; Functional Capacity Exam; Occupational Therapy; Physical Therapy

Description:

Authorizes an attending physician to request a functional capacity exam and refer an injured employee for the exam without first obtaining permission from the employee's employer. Allows licensed occupational and physical therapists to be deemed qualified to perform functional capacity exams. Effective 7/1/3000. (HD1)

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