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# 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 examinations play a critical role in assessing whether  
6 an 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 examinations due to  
10 denials or pending approvals from insurers or adjusters, thereby  
11 prolonging the injured worker's path to recovery and return to  
12 work. These delays exacerbate financial and emotional strain on  
13 workers, increase administrative inefficiencies, and impede the  
14 progress of vocational rehabilitation programs.

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



1 physician under certain conditions, thereby reducing unnecessary  
2 delays 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 examination. (a) When an  
7 injured employee's attending physician has determined that the  
8 employee has reached medical stabilization and is permanently  
9 unable to return to the employee's usual and customary  
10 employment, the physician may request a functional capacity  
11 examination to be performed by a qualified health care provider  
12 whose opinion or advice is necessary in the evaluation and  
13 treatment of the injured employee's injury; provided that:

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

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

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



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

3 (c) The qualified health care provider performing the  
4 functional capacity examination shall provide a copy of the  
5 functional capacity examination report to the attending  
6 physician and employer no later than fourteen calendar days  
7 after the date of the examination.

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

11 (e) For the purposes of this section:

12 "Functional capacity examination" means a set of tests that  
13 are used to identify an injured employee's physical skills,  
14 functional capabilities, activity endurance, and work tolerances  
15 after reaching medical stabilization.

16 "Functional capacity examination report" means a report  
17 issued by a qualified health care provider that provides  
18 recommendations regarding an injured employee's ability to  
19 return to work or return to work with restrictions or the need  
20 for accommodations to safely return to work based on a  
21 functional capacity examination performed on the employee.



1       "Qualified health care provider" means a health care  
2 provider who meets the qualifications under section 386-27 to  
3 render health care and services under this chapter."

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

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

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



1           therapists and physical therapists qualified under  
2           this section shall be qualified for the limited  
3           purpose of performing functional capacity examinations  
4           pursuant to section 386- ."

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

7           SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

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

**Description:**

Authorizes an attending physician to request a functional capacity examination and refer an injured employee for the examination without first obtaining permission from the employee's employer. Allows licensed occupational and physical therapists to be deemed qualified to perform functional capacity examinations. Effective 7/1/2050. (SD1)

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

