

JAN 17 2025

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

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

3 "~~§386-79 Medical examination [by employer's physician.]~~
4 under mutual agreement between employer and employee. (a)

5 After an injury [~~and during the period of disability, the~~
6 ~~employee, whenever ordered by the director of labor and~~
7 ~~industrial relations, shall submit to examination, at reasonable~~
8 ~~times and places, by a duly qualified physician or surgeon~~
9 ~~designated and paid by the employer. The employee shall have~~
10 ~~the right to have a physician, surgeon, or chaperone designated~~
11 ~~and paid by the employee present at the examination, which~~
12 ~~right, however, shall not be construed to deny to the employer's~~
13 ~~physician the right to visit the injured employee at all~~
14 ~~reasonable times and under all reasonable conditions during~~
15 ~~total disability. The employee shall also have the right to~~
16 ~~record such examination by a recording device designated and~~



1 ~~paid for by the employee; provided that the examining physician~~
2 ~~or surgeon approves of the 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.] of an~~
9 ~~employee, the employer may appoint a qualified physician who~~
10 ~~shall be selected by mutual agreement of the parties and paid~~
11 ~~for by the employer, to conduct an independent medical~~
12 ~~examination or a permanent impairment rating examination of the~~
13 ~~injured employee and submit a report to the employer.~~

14 (b) ~~[In cases where the employer is dissatisfied with the~~
15 ~~progress of the case or where major and elective surgery, or~~
16 ~~either, is contemplated, the employer may appoint a physician or~~
17 ~~surgeon of the employer's choice who shall examine the injured~~
18 ~~employee and make a report to the employer. If the employer~~
19 ~~remains dissatisfied, this report may be forwarded to the~~
20 ~~director.~~



1 ~~Employer requested examinations under this section shall~~
2 ~~not exceed more than one per case unless good and valid reasons~~
3 ~~exist with regard to the medical progress of the employee's~~
4 ~~treatment.]~~ The employer shall send written notice to the
5 physician selected pursuant to subsection (a), stating that the
6 physician has been mutually selected by the parties to conduct
7 an independent medical examination or a permanent impairment
8 rating examination of the injured employee. The written notice
9 shall be transmitted to the injured employee no later than five
10 working days before the appointment. Upon the issuance of the
11 report of the independent medical examination or permanent
12 impairment rating examination, the employee or employee's
13 representative shall be promptly provided with a copy of the
14 report.

15 (c) A physician selected pursuant to this section to
16 conduct an independent medical examination or a permanent
17 impairment rating examination shall be a physician who is
18 willing to undertake the examination and currently licensed in
19 the State; except that upon approval by the director, a
20 physician practicing in the specialty area of the employee's
21 injury who resides outside of the State and is licensed in



1 another state, may be selected if no physician licensed in the
2 state practicing in that specialty area is available to conduct
3 the examination.

4 If the injured employee does not reside in the State, a
5 physician who is licensed and resides in the state of the
6 injured employee's residence may be selected.

7 (d) If the parties are unable to reach a mutual agreement
8 on the selection of a physician to conduct the independent
9 medical examination or permanent impairment rating examination,
10 the director shall appoint a duly qualified impartial physician,
11 to be paid for by the employer, to examine the injured employee
12 and submit a report to the employer. The director shall send
13 written notice to the appointed physician, employer, and
14 employee stating that the physician has been appointed by the
15 director to conduct an independent medical examination or a
16 permanent impairment rating examination of the injured employee.
17 The written notice shall be transmitted to the appointed
18 physician, employer, and employee no later than five working
19 days before the appointment.

20 (e) Any physician mutually selected or otherwise appointed
21 to conduct an examination of an injured employee pursuant to



1 this section shall conduct the examination within forty-five
2 days of receiving written notice of the selection or
3 appointment, or as soon as possible.

4 (f) In no event shall an independent medical examination
5 and a permanent impairment rating examination be combined into a
6 single examination unless the employee consents in writing to
7 the single examination conducted by the selected or otherwise
8 appointed physician.

9 In no event shall the director, appellate board, or a court
10 order more than one independent medical examination and one
11 permanent impairment rating examination requested by the
12 employer per case, unless valid reason exists with regard to the
13 medical progress of the employee's medical treatment or when
14 major surgery or elective surgery is contemplated. In the event
15 of multiple examinations, the process of mutually selecting or
16 otherwise appointing a physician set forth in this section shall
17 apply.

18 (g) If an employee refuses to submit to, or unreasonably
19 interferes with an examination conducted pursuant to this
20 section, the employee's right to claim compensation for the work
21 injury shall be suspended until the refusal or interference



1 ceases. No compensation shall be payable to the employee for
2 the period of suspension.

3 (h) The cost of conducting the [ordered] independent
4 medical examination or permanent impairment rating examination
5 pursuant to this section shall be limited to the [complex
6 consultation] charges governed by the medical fee schedule
7 established pursuant to section 386-21(c).

8 (i) When an injured employee has attained medical
9 stability as determined by the employee's attending physician, a
10 physician may be appointed to conduct a permanent impairment
11 rating examination. The physician shall be mutually selected by
12 the parties or otherwise appointed pursuant to this section.

13 For the purposes of this subsection, "medical stability"
14 means that no further improvement in the injured employee's
15 work-related condition can reasonably be expected from curative
16 health care or the passage of time. "Medical stability" is also
17 deemed to have occurred when the injured employee refuses to
18 undergo further diagnostic tests or treatment that the health
19 care provider believes will greatly aid in the employee's
20 recovery."



S.B. NO. 720

1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

6 SECTION 4. This Act shall take effect on July 1, 2025.

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INTRODUCED BY:

Karl Rhoad



S.B. NO. 720

Report Title:

DLIR; Workers' Compensation; Independent Medical Examination; Permanent Impairment Rating Examination; Physician; Mutual Agreement

Description:

Requires the independent medical examination and permanent impairment rating examination of an injured employee under the Workers' Compensation Law to be conducted by a qualified physician selected by the mutual agreement of the parties and paid for by the employer. In absence of a mutual agreement, requires the Director of Labor and Industrial Relations to appoint a duly qualified impartial physician to be paid by the employer.

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

