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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 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)

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

