
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 fair treatment
4 under the workers' compensation system. Functional capacity
5 examinations 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 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 Therefore, the purpose of this Act is to streamline the
16 approval process for functional capacity examinations, ensuring
17 automatic approval of the examinations when requested by the



1 attending physician under certain conditions, thereby reducing
2 unnecessary 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 the employee's
9 capacity to work is in question, the attending physician may
10 request a functional capacity examination to be performed by a
11 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 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 injured employee for a functional capacity
20 examination.



1 (b) The name, business address, discipline, and specialty
2 of the qualified health care provider and reasons for the
3 functional capacity examination shall be submitted in writing to
4 the employer at least seven calendar days before the referral.

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

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

13 (e) As used in this section:

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

18 "Functional capacity examination report" means a report
19 issued by a qualified health care provider that provides
20 recommendations regarding an injured employee's ability to
21 return to work with or without restrictions or the need for



1 accommodations to safely return to work based on a functional
2 capacity examination performed on the injured employee.

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

6 SECTION 3. Section 386-1, Hawaii Revised Statutes, is
7 amended by amending the definition of "health care provider" to
8 read as follows:

9 ""Health care provider" means a person qualified by the
10 director to render health care and service and who has a license
11 for the practice of:

- 12 (1) Medicine or [~~osteopathy~~] osteopathic medicine under
13 chapter 453;
- 14 (2) Dentistry under chapter 448;
- 15 (3) Chiropractic under chapter 442;
- 16 (4) Naturopathic medicine under chapter 455;
- 17 (5) Optometry under chapter 459;
- 18 (6) Podiatry under chapter 463E;
- 19 (7) Psychology under chapter 465; [~~and~~]
- 20 (8) Advanced practice registered nurse under chapter
21 457[-]; and



1 (9) Occupational therapy under chapter 457G or physical
 2 therapy under chapter 461J; provided that occupational
 3 therapists and physical therapists qualified under
 4 section 386-27 shall be qualified for the limited
 5 purpose of performing functional capacity examinations
 6 pursuant to section 386- ."

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

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

- 14 (1) Medicine or [~~osteopathy~~] osteopathic medicine under
- 15 chapter 453;
- 16 (2) Dentistry under chapter 448;
- 17 (3) Chiropractic under chapter 442;
- 18 (4) Naturopathic medicine under chapter 455;
- 19 (5) Optometry under chapter 459;
- 20 (6) Podiatry under chapter 463E;
- 21 (7) Psychology under chapter 465; [~~and~~]



- 1 (8) Advanced practice registered [~~nurses~~] nurse under
2 chapter 457[~~+~~]; and
3 (9) Occupational therapy under chapter 457G or physical
4 therapy under chapter 461J; provided that occupational
5 therapists and physical therapists qualified under
6 this section shall be qualified for the limited
7 purpose of performing functional capacity examinations
8 pursuant to section 386- ."

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on January 1, 2077.



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 in order to assess the employee's ability to return to work. Allows licensed occupational and physical therapists to be deemed qualified to perform functional capacity examinations. Effective 1/1/2077. (SD1)

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

