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## A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION MEDICAL TREATMENT.

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

1 SECTION 1. The legislature finds that Hawaii employers pay  
2 among the highest workers' compensation premiums in the nation,  
3 due in part to unnecessary medical treatments prescribed for  
4 injured employees, including treatments not based on sound  
5 medical practices.

6 The legislature believes that adopting evidence-based  
7 treatment guidelines applicable to all worker's compensation  
8 cases will help to reduce insurer costs and insurance premiums.

9 The purpose of this Act is to establish standardized  
10 medical treatments for the purposes of preventing unnecessary  
11 procedures and ensuring consistent, high-quality care for  
12 injured employees.

13 SECTION 2. Chapter 386, Hawaii Revised Statutes, is  
14 amended by adding four new sections to subpart A of part II to  
15 be appropriately designated and to read as follows:

16 "S386-A Medical treatment utilization schedule;  
17 established. (a) The department shall adopt rules under



1 chapter 91 establishing a medical treatment utilization  
2 schedule. Except as provided in sections 386-C and D, each  
3 attending physician shall use the medical treatment utilization  
4 schedule to determine the proper medical treatment for an  
5 injured employee.

6 (b) The medical treatment utilization schedule shall:  
7 (1) Include medical treatment guidelines based on the  
8 principles of evidence-based medicine;  
9 (2) Incorporate by reference the American College of  
10 Occupational and Environmental Medicine's Occupational  
11 Medicine Practice Guidelines; and  
12 (3) Specify any treatments that do not require  
13 preauthorization by the employer.

14 **§386-B Medical treatment utilization schedule;**  
15 presumption. The medical treatments in the medical treatment  
16 utilization schedule established under section 386-A shall be  
17 considered presumptively correct on the issue of the extent and  
18 scope of any necessary medical treatment shall constitute the  
19 standard for the provision of medical care in accordance with  
20 this chapter for all injured employees.



1        **§386-C    Medical evidence search sequence.**    (a)    Each  
2        attending physician shall conduct the search sequence specified  
3        in this section to evaluate and determine the appropriate  
4        medical treatment for each injured employee.

5        (b)    Subject to this section and section 386-D, each  
6        attending physician shall search the following sources, in the  
7        order specified below, for the recommended medical treatment:

- 8        (1)    The medical treatment utilization schedule;
- 9        (2)    The most current version of the American College of  
10        Occupational and Environmental Medicine's Occupational  
11        Medicine Practice Guidelines;
- 12        (3)    The most current version of the Official Disability  
13        Guidelines published by the Work-Loss Data Institute;
- 14        (4)    The most current version of other evidence-based  
15        medical treatment guidelines that are nationally  
16        recognized by the medical community; and
- 17        (5)    Current studies that are evidence-based,  
18        peer-reviewed, and published in journals that are  
19        nationally recognized by the medical community.

20        (c)    If the recommended medical treatment for the injured  
21        employee's medical condition or injury is addressed by the



1    medical treatment utilization schedule under subsection (b) (1),  
2    the attending physician shall:  
3        (1) Follow the recommendation specified in the medical  
4            treatment utilization schedule; or  
5        (2) Challenge the medical treatment utilization schedule's  
6            presumption of correctness. The challenge shall  
7            follow the procedures established under section 386-D.  
8        (d) If the recommended medical treatment for the injured  
9    employee's medical condition or injury is not addressed by the  
10 medical treatment utilization schedule under subsection (b) (1),  
11 the attending physician shall review the sources in subsection  
12 (b) (2) to (5) in the order listed and select the first  
13 applicable recommended treatment found; provided that any  
14 treatment found in the sources under subsections (b) (4) or (5)  
15 may be the consensus of the sources in that paragraph.  
16        (e) Employers, at their discretion, may approve medical  
17 treatment additional to or different than the treatment  
18 recommended in the medical treatment utilization schedule or  
19 other listed sources to account for medical circumstances  
20 warranting an exception. The attending physician shall provide  
21 to the employer clear documentation of the clinical rationale



1 for the variance focused on the expected objective functional  
2 gains afforded by the requested treatment and its impact on the  
3 injured employee's prognosis.

4 **S386-D Challenge to medical treatment utilization**

5 **schedule.** (a) A challenge made under section 386-C(c) (2) shall  
6 follow the procedures established by this section.

7 (b) If a medical condition or injury is addressed by the  
8 medical treatment utilization schedule and the attending  
9 physician determines that a different treatment should be  
10 prescribed, the attending physician shall review the sources in  
11 section 386-C(b) (2) to (5) in the order listed and select the  
12 first applicable recommended treatment found; provided that any  
13 treatment found in the sources under section 386-C(b) (4) or (5)  
14 may be the consensus of the sources in that paragraph.

15 (c) The attending physician shall then inform the employer  
16 of the recommended treatment in a form provided by the  
17 department. The form shall include appropriate citations and  
18 shall explain the intended variance from the medical treatment  
19 utilization schedule. The attending physician shall bear the  
20 burden of proving, by a preponderance of scientific medical  
21 evidence, that a variance from the medical treatment utilization



1 schedule is reasonably required to cure the injured employee or  
2 provide relief from the effects of the injury or condition.

3       (d) If a dispute arises between the attending physician  
4 and the employer regarding the appropriate treatment, the  
5 employee shall continue to receive essential medical services as  
6 required under section 386-21(c) and the director shall resolve  
7 any disputes in the manner specified under section 386-21(c)."

8       SECTION 3. Section 386-21.2, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10       "(a) A physician may transmit a treatment plan to an  
11 employer by mail or facsimile; provided that the physician shall  
12 send the treatment plan to an address or facsimile number  
13 provided by the employer. The treatment plan shall be  
14 consistent with sections 386-A to D."

15       SECTION 4. Section 386-26, Hawaii Revised Statutes, is  
16 amended to read as follows:

17       "~~§386-26 [Guidelines on frequency of treatment and~~  
18 ~~reasonable utilization of health care and services.] Medical fee~~  
19 schedules. The ~~[director shall issue guidelines for the~~  
20 ~~frequency of treatment and for reasonable utilization of medical~~  
21 ~~care and services by health care providers that are considered~~



1 necessary and appropriate under this chapter. The guidelines  
2 shall not be considered as an authoritative prescription for  
3 health care, nor shall they preclude any health care provider  
4 from drawing upon the health care provider's medical judgment  
5 and expertise in determining the most appropriate care.

6 The guidelines shall be adopted pursuant to chapter 91 and  
7 shall not interfere with the injured employee's rights to  
8 exercise free choice of physicians under section 386-21.

9 In addition, the] director shall adopt updated medical fee  
10 schedules referred to in section 386-21, and where deemed  
11 appropriate, shall establish separate fee schedules for services  
12 of health care providers as defined in section 386-1 [to become  
13 effective no later than June 30, 1986,] in accordance with  
14 chapter 91."

15 SECTION 5. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval.

18

INTRODUCED BY: 



**Report Title:**

Worker's Compensation; DLIR; Evidence-Based Treatment; Medical Treatment Utilization Schedule

**Description:**

Requires the Department of Labor and Industrial Relations to establish a medical treatment utilization schedule to standardize treatment for injured employees involved in workers' compensation claims.

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

