

---

---

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



1        If an employee refuses to submit to, or in any way  
2 obstructs such examination, the employee's right to claim  
3 compensation for the work injury shall be suspended until the  
4 refusal or obstruction ceases and no compensation shall be  
5 payable for the period during which the refusal or obstruction  
6 continues.

7        (b) In cases where the employer is dissatisfied with the  
8 progress of the case or where major and elective surgery, or  
9 either, is contemplated, the employer may appoint a physician or  
10 surgeon of the employer's choice who shall examine the injured  
11 employee and make a report to the employer. If the employer  
12 remains dissatisfied, this report may be forwarded to the  
13 director.

14        Employer requested examinations under this section shall  
15 not exceed more than one per case unless good and valid reasons  
16 exist with regard to the medical progress of the employee's  
17 treatment. The cost of conducting the ordered medical  
18 examination shall be limited to the complex consultation charges  
19 governed by the medical fee schedule established pursuant to  
20 section 386-21(c).



# H.B. NO. 978

1        (c) For purposes of this section, "duly qualified  
 2 physician" or "duly qualified surgeon" means a person who:  
 3        (1) Is qualified to treat the injury being examined;  
 4        (2) Possesses medical malpractice insurance; and  
 5        (3) Owes the same duty of care to the injured employee  
 6        while performing the medical examination as would be  
 7        owed to a traditional patient."

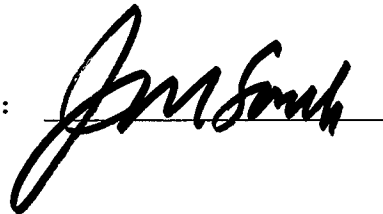
8        SECTION 2. This Act does not affect rights and duties that  
 9 matured, penalties that were incurred, and proceedings that were  
 10 begun before its effective date.

11        SECTION 3. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13        SECTION 4. This Act shall take effect on July 1, 2017.

14

INTRODUCED BY: \_\_\_\_\_



By Request

JAN 23 2017



# H.B. NO. 978

**Report Title:**

Workers' Compensation; Medical Examination; Duly Qualified Physician; Duly Qualified Surgeon; Chaperone; Recording Devices

**Description:**

Allows an employee to have a chaperone present and use a recording device during the medical examination relating to a work injury under workers' compensation. Clarifies that the employee's right to have a physician or surgeon present at the medical examination applies to the right to have a duly qualified physician or duly qualified surgeon present and defines "duly qualified physician" and "duly qualified surgeon".

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

