
HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO
REPORT TO THE LEGISLATURE ON ITS EFFORTS TO ADDRESS ISSUES
RELATED TO THE VOCATIONAL REHABILITATION UNIT IN ITS
DISABILITY COMPENSATION DIVISION.

1 WHEREAS, vocational rehabilitation is a critical aspect of
2 Hawaii's workers' compensation system and vital to the system's
3 overriding objectives of adequately compensating the injured
4 worker and restoring the worker as fully as possible to that
5 level of economic earnings, and as quickly as possible to
6 gainful employment if the worker becomes disabled; and
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8 WHEREAS, vocational rehabilitation has historically been a
9 successful and valued part of the State's commitment to the
10 restoration process, which assists the individual worker, the
11 employer, and the community as a whole; and
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13 WHEREAS, statistical evidence gathered by vocational
14 rehabilitation professionals attests to the continuing success
15 of vocational rehabilitation as a means of returning injured
16 workers to the workforce; and
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18 WHEREAS, statistical evidence demonstrates that in 2015, an
19 average of 59.6 percent of injured workers returned to work
20 through a vocational rehabilitation plan while in 2016, the
21 average rose to 65.4 percent; and
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23 WHEREAS, many responsible individuals and stakeholders in
24 the existing workers' compensation system have voiced legitimate
25 concerns that the program is currently administered in a
26 different manner than in the previous three and a half decades,
27 and that is contrary to the original intent of the system as
28 expressed in section 386-25(a), Hawaii Revised Statutes; and
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1 WHEREAS, criticism has been voiced that, in one case, the
2 mutual agreement between the parties to send an injured worker
3 to San Bernardino, California, for heavy equipment training was
4 prudent and economical because no such training was offered in
5 Hawaii and doing so would return the injured worker to gainful
6 employment in an expeditious manner; however, the Vocational
7 Rehabilitation Unit rejected the agreement as well as the
8 supportive decision of the Department of Labor and Industrial
9 Relations' hearing officer and chief hearings officer;
10 accordingly, the worker found it necessary to appeal her case to
11 the Labor and Industrial Relations Appeals Board, which then
12 approved a settlement that reinstated the mutually agreed upon
13 training; and
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15 WHEREAS, the Vocational Rehabilitation Unit's recent
16 denials of initial evaluation reports that are not submitted
17 within the normal forty-five day period have led to the
18 arbitrary closures of otherwise viable vocational rehabilitation
19 cases, with the option of further referral to other counselors,
20 even though failures to comply with the forty-five day limit are
21 due to factors beyond the counselors' control, such as the need
22 to secure medical information from physicians about the injured
23 workers' physical or psychological limitations and requests by
24 physicians to conduct functional capacity testing before
25 providing the medical information on physical limitations; and
26

27 WHEREAS, such further referral is duplicative and costly
28 and undertaken without rational basis, unnecessarily expensive
29 for employers and insurance carriers, and disruptive to sound
30 relationships that claimants have formed with their original
31 vocational counselors; and
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33 WHEREAS, criticism has also been voiced that the Vocational
34 Rehabilitation Unit is currently administered in a manner that
35 is punitive and retaliatory toward counselors who are advised of
36 the department's authority to revoke their certification or
37 registration under section 12-14-19, Hawaii Administrative
38 Rules; and
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40 WHEREAS, the references to section 12-14-19, Hawaii
41 Administrative Rules, are intimidating, hostile, and contrary to
42 the cooperative relationships that should be fostered within the
43 Vocational Rehabilitation Unit and the professionals that it
44 regulates, and may even represent, in some cases, retaliation



1 against the vocational counselors' exercise of their First
2 Amendment constitutional rights to participate in the
3 legislative and regulatory process by petitioning their
4 government and the Department of Labor and Industrial Relations
5 for statutory and regulatory changes, as well as their exercise
6 of independent professional judgment as licensed professionals,
7 and their advocacy for appropriate vocational rehabilitation
8 plans on the part of clients they represent; now, therefore,
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10 BE IT RESOLVED by the House of Representatives of the
11 Twenty-ninth Legislature of the State of Hawaii, Regular Session
12 of 2017, the Senate concurring, that the Department of Labor and
13 Industrial Relations is requested to submit a report on its
14 efforts to keep its commitment to work with vocational
15 rehabilitation stakeholders and address the issues raised and
16 recommendations made to improve the performance of the
17 Vocational Rehabilitation Unit in its Disability Compensation
18 Division to the Legislature no later than twenty days prior to
19 the convening of the Regular Session of 2018; and
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21 BE IT FURTHER RESOLVED that the report include any findings
22 and recommendations relating to the Vocational Rehabilitation
23 Unit made by the Workers' Compensation Working Group convened
24 pursuant to H.C.R. No. 168, H.D. 2, S.D. 1, Regular Session of
25 2015; and
26

27 BE IT FURTHER RESOLVED that a certified copy of this
28 Concurrent Resolution be transmitted to the Director of Labor
29 and Industrial Relations.

