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



1 qualified physician or duly qualified surgeon approves of the
2 recording.

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

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

16 Employer requested examinations under this section shall
17 not exceed more than one per case unless good and valid reasons
18 exist with regard to the medical progress of the employee's
19 treatment. The cost of conducting the ordered medical
20 examination shall be limited to the complex consultation charges



1 governed by the medical fee schedule established pursuant to
2 section 386-21(c).

3 (c) A physician or surgeon who is selected and paid for by
4 the employer to perform a medical examination on an employee
5 pursuant to this section shall be duly qualified.

6 (d) As used in this section, "duly qualified" means:

7 (1) Appropriately licensed in the State under chapter 453;

8 (2) Possesses medical malpractice insurance; and

9 (3) Owes the same duty and standard of care to the injured
10 employee as would be owed to a traditional patient."

11 SECTION 2. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2055.



Report Title:

Workers' Compensation; Medical Examination; Duly Qualified
Physician; Duly Qualified Surgeon

Description:

Requires a physician or surgeon selected and paid for by an
employer to perform a medical examination on an employee,
relating to a work injury under workers' compensation, to be
duly qualified. Defines "duly qualified". Effective 7/1/2055.
(SD1)

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not legislation or evidence of legislative intent.*

