A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

SECTION 1. Section 386-79, Hawaii Revised Statutes, is amended to read as follows:

"§386-79 Medical examination by employer's duly qualified physician[−] or duly qualified surgeon. (a) After an injury and during the period of disability, the employee, whenever ordered by the director of labor and industrial relations, shall submit to examination, at reasonable times and places, by a duly qualified physician or duly qualified surgeon designated and paid by the employer. The employee shall have the right to have a duly qualified physician, duly qualified surgeon, or chaperone designated and paid by the employee present at the examination, which right, however, shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. The employee shall also have the right to record such examination by a recording device designated and paid for by the employee; provided that the examining duly
qualified physician or duly qualified surgeon approves of the recording.

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

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

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

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

(d) As used in this section, "duly qualified" means the
physician or surgeon:

(1) Is appropriately licensed in the State under chapter
453;

(2) Possesses medical malpractice insurance; and

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

SECTION 2. Act 172, Session Laws of Hawaii 2017, is
amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect upon its approval[+] provided that on June 30, 2019, this Act shall be repealed and
section 386-79, Hawaii Revised Statutes, shall be reenacted in
the form in which it read on the day before the effective date
of this Act]."
SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on June 29, 2019.

INTRODUCED BY: __________________________

JAN 22 2019
Report Title:
Workers' Compensation; Medical Examination; Duly Qualified

Description:
Requires a physician or surgeon who performs a medical exam on an employee for workers' compensation purposes to be licensed in the State, possess medical malpractice insurance, and owe the same duty and standard of care to the injured employee as owed to a traditional patient. Makes permanent an employee's right to record medical examinations.

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