

UNIVERSITY OF HAWAI‘I SYSTEM

LEGISLATIVE TESTIMONY



HB 2752 – RELATING TO WORKERS' COMPENSATION

Testimony Presented Before the
House Committee on Labor & Public Employment

January 29, 2008 at 8:30am

by

Suzette Leong
Disability Benefits Manager for the Office of Risk Management
University of Hawaii System

Testimony Presented Before the
House Committee on Labor & Public Employment

January 29, 2008 at 8:30am

By

Suzette Leong, Disability Benefits Manager
Office of Risk Management
University of Hawai'i System

HB 2752 - Relating to Workers' Compensation

Chair Sonson, Vice Chair Nakasone, and Members of the Committee:

The University of Hawaii **strongly opposes** HB 2752, which requires that the physician performing an independent medical examination to be licensed in the State for 5 years, be subject to peer review, and be known in the local medical community to have been in the practice of treating injured employees and conducting independent medical examinations for the employers. HB 2752 also repeals authority of the employer to appoint a physician to examine the employee where the employer is dissatisfied with the progress of the case or where surgery is contemplated. Additionally, HB 2752 prohibits more than one independent medical examination per case.

In changing the language of §386-79, HB 2752 violates public policy by allowing an employee and/or his/her treating physicians unconstitutional and unjust enrichment opportunities. HB 2752 allows an employee to refuse to attend and/or obstruct the independent medical examination process and continue to receive workers' compensation benefits such as wage loss replacement benefits until a hearing is held and an order is issued by the director. Employers can only suspend compensation to the employee from the date of the order to the date the employee ceases to refuse or obstruct the independent medical examination process. The Department of Labor's workload will increase significantly as the employer requests for hearings due to the employee's refusal to cooperate. An optimistic analysis of how quickly a director's order can be issued would be at least 90 days from the start of the employee's refusal to cooperate. HB 2752 creates a financial incentive for employees to not cooperate with the independent medical examination process.

HB 2752 limits the ability of the director, the appellate board, or any court to order more than one independent medical examination per case. If there is a reasonable medical basis to justify the need for more than one independent medical examination per case, such as determination of medical compensability, determination if proposed surgery is medically necessary, permanent partial disability rating, etc., limiting independent medical examinations to one per case unconstitutionally interferes with an employer's right to fully investigate a claim. The current workers' compensation system has

procedures in place with the Department of Labor in which the director determines if an employer's request for additional independent medical examinations are reasonable.

The changes identified in HB 2752 will result in gross violations of public policy by allowing unconstitutional and unjust enrichment to employees and/or their treating physicians. The University of Hawaii **strongly opposes** the proposed changes to §386-79.

Thank you for this opportunity to testify.