

# H.B. NO. 1381

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## A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION MEDICAL CARE.

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

1           SECTION 1. The purpose of this Act is to expedite access  
2 to medical services for workers' compensation claimants by  
3 allowing employers the opportunity to provide their employees  
4 with an employer-designated health care provider network to  
5 provide medical services for the initial 120 days of medical  
6 treatment. After the initial 120 days of treatment, the injured  
7 employee would then be allowed to "opt out" of the plan and  
8 select a physician that is not on the list. If the injured  
9 employee prefers not to go to the employer-designated health  
10 care provider network for initial treatment, the injured  
11 employee shall provide the employer with the name of the injured  
12 employee's family physician, who is authorized to treat  
13 industrial injuries and illnesses under this chapter, who will  
14 treat the injured employee in the event of an industrial injury.

15           This Act will allow both employers and employees greater  
16 input into the decision making process on the treatment of a

1 workplace injury, as well as to help control the costs of the  
2 workers' compensation claim.

3 SECTION 2. Section 386-21, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) Whenever medical care is needed, the injured employee  
6 may select from an employer-designated health care provider  
7 network, to provide medical services for the first one hundred  
8 and twenty days of medical treatment, unless the employee  
9 provides the employer or its insurance carrier, upon employment  
10 or twelve months prior to the date of injury, with the name and  
11 address of the employee's family physician, who must be  
12 qualified as an attending physician authorized to treat injuries  
13 covered by this chapter, from whom the employee will receive  
14 healthcare treatment in the event of a workers' compensation  
15 injury. Further:

16 (1) In the absence of any employer-designated health care  
17 provider network or employee-designated qualified  
18 family physician, which shall be furnished upon date  
19 of employment or twelve months prior to the date of  
20 injury, the injured employee may select any attending  
21 physician [~~or surgeon~~] who is practicing on the island  
22 where the injury was incurred to render medical care.

1 If the services of a specialist are indicated, the  
2 employee may select any such attending physician [~~or~~  
3 ~~surgeon~~] practicing in the State. The director may  
4 authorize the selection of a specialist practicing  
5 outside the State where no comparable medical  
6 attendance within the State is available. Upon  
7 procuring the services of such attending physician [~~or~~  
8 ~~surgeon~~], the injured employee shall give proper  
9 notice of the employee's selection to the employer  
10 within a reasonable time after the beginning of the  
11 treatment. If for any reason during the period when  
12 medical care is needed, the employee wishes to change  
13 to another attending physician [~~or surgeon~~], the  
14 employee may do so in accordance with rules prescribed  
15 by the director. If the employee is unable to select  
16 [a] an attending physician [or surgeon] and the  
17 emergency nature of the injury requires immediate  
18 medical attendance, or if the employee does not desire  
19 to select [a] an attending physician [~~or surgeon~~] and  
20 so advises the employer, the employer shall select the  
21 attending physician [~~or surgeon~~]. Such selection,  
22 however, shall not deprive the employee of the

1 employee's right of subsequently selecting [a] an  
2 attending physician [or surgeon] for continuance of  
3 needed medical care.

4 (2) Only after one hundred twenty days of treatment for a  
5 work injury, may an employee utilizing an employer-  
6 designated health care network opt to change attending  
7 physicians for any reason.

8 (3) Fifty per cent of the employer-designated health care  
9 provider network must be qualified healthcare  
10 providers who reside on the island where the injured  
11 employee resides.

12 (4) The network shall contain qualified health care  
13 providers who are primarily engaged in the treatment  
14 of occupational injuries and health care providers  
15 primarily engaged in the treatment of nonoccupational  
16 injuries. At least twenty-five per cent of the  
17 employer-designated health care provider network must  
18 be physicians primarily engaged in the treatment of  
19 nonoccupational injuries. The director shall  
20 encourage the integration of occupational and  
21 nonoccupational providers. The number of physicians  
22 in the healthcare provider network shall be sufficient

1 to provide treatment for injuries or conditions in a  
2 timely manner. The health care provider network shall  
3 include an adequate number and type of physicians, or  
4 other providers, to treat common injuries experienced  
5 by injured employees based on the type of occupation  
6 or industry in which the employee is engaged, and the  
7 geographic area where the employees are employed.

8 (5) Medical treatment for injuries shall be readily  
9 available at reasonable times to all employees. To  
10 the extent feasible, all medical treatment for  
11 injuries shall be readily accessible to all employees.  
12 With respect to availability and accessibility of  
13 treatment, the director shall consider the needs of  
14 rural areas, specifically those in which health  
15 facilities are located at least thirty miles apart.

16 (6) The employer, or its insurance carrier, shall submit a  
17 plan for the health care provider network to the  
18 director for approval. The director shall approve the  
19 plan if the director determines that the plan meets  
20 the requirements of this section."

21 SECTION 3. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. Ay

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BY REQUEST

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JAN 22 2007

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JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION MEDICAL CARE.

PURPOSE: The purpose of this bill is to allow employers the opportunity to provide their employees with an employer-designated healthcare provider list of attending physicians and/or physician networks. The injured employee would be allowed to "opt out" of the plan after 120 days and see a physician that is not on the list. This would allow employers greater success in entering into contracts with physician networks and/or managed care organizations for workers' compensation in order to control costs.

MEANS: Amend section 386-21, Hawaii Revised Statutes.

JUSTIFICATION: There is a growing concern over the availability, quality, and cost of providing medical care for workplace injuries. This bill will allow employers to designate physician networks or directed care organizations to provide care for workers' compensation claimants giving employees faster access to medical care for workplace injuries. At the same time, it provides the employee greater input into the decision making process on the treatment of workplace injuries through the "opt out" provision.

Impact on the public: None.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION:

LBR-183.

OTHER AFFECTED  
AGENCIES:

Judiciary, University of Hawaii, Department  
of Education, Department of Human Resources.

EFFECTIVE DATE:

Upon approval.