

JAN 26 2009

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# A BILL FOR AN ACT

RELATING TO ATHLETIC TRAINERS.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 ATHLETIC TRAINERS

6 § -1 **Title.** This chapter is known as the "Athletic  
7 Trainer Licensing Act".

8 § -2 **Definitions.** As used in this chapter, unless the  
9 context indicates otherwise:

10 "Adequate records" means legible records that contain, at a  
11 minimum:

- 12 (1) The athletic training service plan or protocol;
- 13 (2) An evaluation of objective findings;
- 14 (3) The plan of care and the treatment records; or
- 15 (4) Written orders.

16 "Athlete" means an individual, referee, coach, or athletic  
17 staff member who participates in exercises, sports, or games



1 requiring physical strength, agility, flexibility, range of  
2 motion, speed, or stamina, and the exercises, sports, or games  
3 are of a type generally conducted in association with an  
4 educational institution or professional, amateur, or  
5 recreational sports club or organization.

6 "Athletic injury" means:

- 7 (1) An injury sustained by an athlete that affects the  
8 individual's participation or performance in sports,  
9 games, recreation, or exercise; or  
10 (2) A condition that is within the scope of practice of an  
11 athletic trainer identified by a directing physician  
12 or physical therapist as benefiting from athletic  
13 training services.

14 "Athletic trainer" means an individual who is licensed  
15 under this chapter and carries out the practice of athletic  
16 training.

17 "Directing physician" means a physician and surgeon or an  
18 osteopathic physician and surgeon licensed under chapter 453,  
19 who, within the licensee's scope of practice and individual  
20 competency, is responsible for the athletic training services  
21 provided by the athletic trainer and oversees the practice of



1 athletic training by the athletic trainer, as established by  
2 rule.

3 "Director" means the director of commerce and consumer  
4 affairs.

5 "Practice of athletic training" means the application by a  
6 licensed and certified athletic trainer of principles and  
7 methods of:

- 8 (1) Prevention of athletic injuries;
- 9 (2) Recognition, evaluation, and assessment of athletic  
10 injuries and conditions;
- 11 (3) Immediate care of athletic injuries, including common  
12 emergency medical situations;
- 13 (4) Rehabilitation and reconditioning of athletic  
14 injuries;
- 15 (5) Athletic training services administration and  
16 organization; and
- 17 (6) Education of athletes.

18 § -3 **Duties of supervising physician.** A directing  
19 physician shall provide supervision to an athletic trainer by a  
20 verbal order when in the presence of the athletic trainer and by  
21 written order or by athletic training service plans or protocols  
22 when a supervising physician is not present.



1           §   -4   **Licensure required.**   (a)   A license is required to  
2 engage in the practice of athletic training, except as  
3 specifically provided in section       -8.

4           (b)   The director shall issue to an individual who  
5 qualifies under this chapter a license in the classification of  
6 athletic trainer.

7           (c)   An individual may not use the title "licensed athletic  
8 trainer", or "athletic trainer", or abbreviations or insignias  
9 to imply that the individual is an athletic trainer unless the  
10 individual is licensed under this chapter.

11          §   -5   **Qualifications for licensure.**   The director shall  
12 issue a license to practice as an athletic trainer to an  
13 applicant who:

14           (1)   Has obtained a bachelor's or advanced degree from an  
15                accredited four-year college or university and meets  
16                the minimum athletic training curriculum requirement  
17                established by rule;

18           (2)   Has successfully completed an examination approved or  
19                recognized by the director;

20           (3)   Is in good standing with and provides documentation of  
21                current certification by a nationally recognized  
22                credentialing agency approved by the director;



- 1           (4) Submits an application on a form prescribed by the
- 2           director; and
- 3           (5) Pays the required licensing fee as determined by the
- 4           director.

5           §   -6 **Scope of practice.** An athletic trainer may:

- 6           (1) Prevent injuries by:
  - 7           (A) Designing and implementing physical conditioning
  - 8           programs, which may include:
    - 9           (i) Strength and range of motion testing;
    - 10           (ii) Nutritional advisement; and
    - 11           (iii) Psychosocial intervention and referral;
  - 12           (B) Performing preparticipation screening;
  - 13           (C) Fitting protective equipment;
  - 14           (D) Designing and constructing protective products;
  - 15           and
  - 16           (E) Continuously monitoring changes in the
  - 17           environment;
- 18           (2) Recognize and evaluate injuries by:
  - 19           (A) Obtaining a history of the injury;
  - 20           (B) Inspecting an injured body part and associated
  - 21           structures;



- 1 (C) Palpating bony landmarks and soft tissue
- 2 structures; and
- 3 (D) Performing clinical tests to determine the extent
- 4 of an injury;
- 5 (3) Provide immediate care of injuries by:
- 6 (A) Initiating cardiopulmonary resuscitation;
- 7 (B) Administering basic or advanced first aid;
- 8 (C) Removing athletic equipment; and
- 9 (D) Immobilizing and transporting an injured athlete;
- 10 (4) Determine whether an athlete may return to
- 11 participation or, if the injury requires further
- 12 definitive care, refer the athlete to the appropriate
- 13 directing physician;
- 14 (5) Rehabilitate and recondition an injury by
- 15 administering therapeutic exercise and therapeutic and
- 16 physical modalities, including cryotherapy,
- 17 thermotherapy, and intermittent compression,
- 18 electrical stimulation, ultrasound, traction devices,
- 19 and mechanical devices as directed by established,
- 20 written athletic training service plans or protocols
- 21 or upon the order of a directing physician;



1 (6) Provide athletic training services administration,  
2 including:

3 (A) Implementing athletic training service plans or  
4 protocols;

5 (B) Writing organizational policies and procedures;

6 (C) Complying with governmental and institutional  
7 standards; and

8 (D) Maintaining records to document services  
9 rendered; and

10 (7) Educate athletes to facilitate physical conditioning  
11 and reconditioning by designing and implementing  
12 appropriate programs to minimize the risk of injury.

13 § -7 **Term of license; expiration; renewal.** (a) The  
14 director shall issue each license for an athletic trainer in  
15 accordance with a two-year renewal cycle established by rule.  
16 The director, by rule, may extend or shorten a renewal period by  
17 as much as one year to stagger the renewal cycles it  
18 administers.

19 (b) Each license automatically expires on the expiration  
20 date shown on the license unless renewed in accordance with  
21 rules adopted by the director.



1           §   -8   **Exemptions from licensure.** This chapter does not  
2 require the licensure of an individual who assists in an  
3 emergency or who provides services for which no fee is  
4 contemplated, charged, or received, provided the individual does  
5 not profess to be an athletic trainer.

6           §   -9   **Grounds for denial of license.** The director may  
7 refuse to issue a license to an applicant, refuse to renew the  
8 license of a licensee, revoke, suspend, restrict, or place on  
9 probation the license of a licensee, issue a public or private  
10 reprimand to a licensee, and issue cease and desist orders in  
11 accordance with chapter 91 for unprofessional conduct or other  
12 violations of this chapter.

13          §   -10   **Unprofessional conduct.** "Unprofessional conduct"  
14 includes:

- 15           (1) Failing to report to the director an act or omission  
16           of a licensee, applicant, or any other individual that  
17           violates a provision of this chapter;
- 18           (2) Interfering with an investigation of a disciplinary  
19           proceeding by wilful misrepresentation of facts or by  
20           use of threats or harassment against a client or  
21           witness to prevent that individual from providing





1 evidence in a disciplinary proceeding, investigation,  
2 or other legal action;

3 (3) Failing to maintain client confidentiality unless  
4 otherwise required by law;

5 (4) Promoting an unnecessary device, treatment,  
6 intervention, or service for financial gain by the  
7 athletic trainer or third party; and

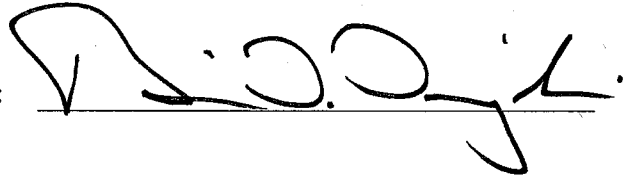
8 (5) Failing to maintain adequate records.

9 § -11 Rules. The director may adopt rules under chapter  
10 91 to implement this chapter."

11 SECTION 2. This Act shall take effect upon its approval.

12

INTRODUCED BY:



**Report Title:**

Athletic Trainers; Licensing

**Description:**

Requires licensing of athletic trainers.





LINDA LINGLE  
GOVERNOR  
JAMES R. AIONA, JR.  
LT. GOVERNOR

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LAWRENCE M. REIFURTH  
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**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH STATE LEGISLATURE  
REGULAR SESSION of 2009

Wednesday, February 25, 2009  
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 1129, RELATING TO ATHLETIC TRAINERS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Program Specialist of the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to testify on Senate Bill No. 1129, Relating to Athletic Trainers.

Senate Bill No. 1129 creates a new chapter to regulate athletic trainers. Section 26H-6, Hawaii Revised Statutes, requires that new regulatory measures being considered for enactment be referred to the Auditor for a sunrise analysis before any measure is enacted. The statute further requires that the analysis shall set forth the probable effects of regulation, assess whether its enactment is consistent with the

legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation.

Therefore, the Department strongly supports a sunrise study on this measure, as mandated by law, before regulating athletic trainers. Thank you for the opportunity to testify on Senate Bill No. 1129.

**Date:** 02/25/2009

**Committee:** Senate Commerce and  
Consumer Protection

**Department:** Education

**Person Testifying:** Patricia Hamamoto, Superintendent of Education

**Title of Bill:** SB 1129 RELATING TO ATHLETIC TRAINERS.

**Purpose of Bill:** Requires licensing of athletic trainers

**Department's Position:** The Board of Education and the Department of Education support S.B. 1129. The Department has 75 athletic health care trainer positions established and assigned to high school athletic programs throughout the state. All trainers hold national certification by the National Athletic Trainers Association Board of Certification (NATABOC) as a minimum requirement to be employed. The possibility of a statutory requirement by the State Auditor to perform a sunrise review for licensing of athletic trainers will help to ensure the provision of quality care services, including the prevention, immediate care, rehabilitation and reconditioning of athletic injuries and reintegration into athletic competition.

The licensing requirement may impact the time it takes to recruit and fill athletic trainer positions, especially for applicants from outside Hawaii. Mainland applicants will likely need to apply for licensing on-line or by mail and be subject to the Department of Commerce and Consumer Affairs' (DCCA) examination and approval schedule before they can be found eligible for employment.

Athletic trainer positions are considered hard to fill at present. The trend in recent years has been for more vacancies to be filled by mainland educated candidates rather than local candidates. The University of Hawaii has a graduate program but no undergraduate program offering an athletic training curriculum.

The Board of Education and the Department recommend that this bill moves forward to consider recommending a temporary license process for applicants. This practice is used in other states to allow athletic trainers to be employed in the interim while waiting for the formal examination and licensing process to be completed.



## OCCUPATIONAL THERAPY ASSOCIATION OF HAWAII

1360 S. Beretania St., Suite 301, Honolulu, Hawaii 96814

Testimony by:

Virginia Tully, OTR, MBA

SB 1129, Athletic Trainers

Sen. CPN Hearing – Weds. Feb. 25, 2009

Room 229 – 8:30 am

### Position: Oppose

Chair Baker, and Members of the Senate CPN Committee:

I am Virginia Tully, OTR, and past-president of the Occupational Therapy Association of Hawaii, (OTAH), which represents 507 occupational therapists (OTs) licensed in Hawaii. OT's work in many settings throughout the State, including hospitals, schools, and prisons, to private facilities and community programs. We work with very young children, ages 0-3, as well as school aged children, adults, and the elderly, seeking to restore or develop social-emotional, physical, cognitive, communication and adaptive behavior challenges.

Through understanding of the effect of the consumer's disability, illness and impairment, the occupational therapist develops a program that will promote development and establish needed skills to be independent in daily living activities. Daily living skills include self-care such as bathing, dressing, and skills required for learning, work or social interaction. Often times, OTs must design/fabricate special devices or suggest modification to the home environment.

OTAH opposes this measure because it is premature to move to licensure of Athletic Trainers, which is based on a profession's probability of causing harm to the consumer. Instead, we suggest that the Legislative Auditor conduct a study to assess the need for licensure.

In addition, OTAH opposes specific portions of this measure, which follow:

- 1) Page 2, lines 10-13: "Athletic Injury: (2) A condition that is within the scope of practice of an athletic trainer identified by a directing physician or physical therapist as benefiting from athletic training services"

**Recommendation:** Delete in its entirety. It is not appropriate for the scope of practice to be determined by the opinion of the physician or physical therapist.

The Journal of Athletic Training, (March-April 2008 issue) in an article written by Kenneth L. Knight, PhD, ATC, FACSM defines athletic injury as an injury affecting an individual's participation or performance in sports, games or exercise and must be:

- 1) an acute injury occurring within 0 to 4 days of the athletic injury;
  - 2) a subacute injury; or
  - 3) a chronic condition affecting athletic activities. (Caution is advised on these criteria because any condition can become a chronic condition)
- 2) Page 3, lines 13 –14: "Practice of Athletic Training: (4) Rehabilitation and reconditioning of athletic injuries;"  
Page 6, lines 14 – 21. "Scope of Practice: (5) Rehabilitate and recondition an injury by administering therapeutic exercise and therapeutic and physical modalities, including cryotherapy, thermotherapy, and intermittent compression, electrical stimulation, ultrasound,

traction devices, and mechanical devices as directed by established, written athletic training service plans or protocols or upon the order of a directing physician;”

**Recommendations:** Delete these two sections. The language in the above mentioned sections are too broad. Item (4) of the Practice of Athletic Training, the rehabilitation and reconditioning of athletic injuries are also done by physical or occupational therapists. Further, Item (5) of the Scope of Practice may include a variety of neurological conditions as well as other orthopedic related conditions, and the spectrum of age groups - from newborns to the elder population.

Athletic training addresses some of the injuries sustained during an athletic event. However, the athletic trainer’s education and training program does not address spinal cord injuries, brain injuries, complicated fractures, and psychological aspects accompanying these conditions.

Thank you for the opportunity to submit testimony. I can be reached at 544-3336 if further information is needed.



TESTIMONY TO THE SENATE COMMITTEE ON CONSUMER PROTECTION,  
ON  
SB1129, RELATING TO LICENSING OF ATHLETIC TRAINERS

The Hawaii Athletic Trainers Association strongly supports Senate Bill 1129, Relating to Licensing Athletic Trainers . Certified Athletic Trainers are healthcare professionals who specialize in the prevention, assessment, immediate care, treatment, referral and rehabilitation of injuries and illnesses to athletes and others engaged in physical activity. An independent credentialing agency, the Board of Certification certifies athletic trainers. The Hawaii State Legislature has affirmed the value, importance, and qualifications of certified athletic trainers in the past by appropriating funds to place certified athletic trainers in each of Hawaii's public secondary schools. In addition to the public secondary schools, Certified Athletic Trainers are employed in private secondary schools, Colleges and Universities, physician offices, hospitals, sports medicine clinics, the military, and fitness centers. There are currently 165 certified athletic trainers in the state of Hawaii. The University of Hawaii-Manoa has an accredited athletic training curriculum.

A concurrent resolution was first passed in 2005 asking the State Auditor's Office to perform a "Sunrise Analysis" of regulating the profession of athletic training. That analysis has not yet been done. Our association understands that an analysis must be completed prior to enacting this legislation.

We feel that our profession should be regulated to safeguard the public.

1. There is risk that Hawaii's athletic population could suffer consequences such as chronic pain, disability, or loss of life if health care is received from unqualified practitioners. Licensure would ensure that Hawaii's athletic population receives specialized emergency care and appropriate treatment and rehabilitation, and meet appropriate criteria before being returned to play.
2. Licensure would require and verify, as is now required of other health care professions demonstration of minimum competency in the profession.
3. It would provide a mechanism to report any malpractice or ethical violations. At present that does not exist placing the public at risk.
4. Currently there is no agency that monitors whether the certification of athletic trainers remains in good standing. A person could conceivably become certified and fail to maintain his/her certification. This can happen by failing to meet continuing education requirements or certification can be suspended or revoked by the National Athletic Trainers Association Board of Certification for ethical or legal violations. Again at present there is no one to whom the national organization can report disciplinary actions.
5. As one of the few states nationwide without licensure, Hawaii could become a dumping ground for those who have had disciplinary restrictions from other states.

6. There is title confusion. The public has trouble discerning the differences between certified athletic trainers, personal trainers, boxing trainers, special education skills trainers etc. There is risk that unqualified, non-credentialed people can represent themselves as “trainers” and the public be misled into thinking they are receiving care from health care professionals.

7. The standard of appropriate care has risen. Because all of Hawaii’s public high schools and many private high schools have certified athletic trainers on staff, parents of secondary school age athletes expect their children will be cared for by qualified and competent healthcare professionals. Nearly all colleges and universities nationwide employ certified athletic trainers. When college and university athletes travel to Hawaii they expect to be treated by Certified Athletic Trainers.

8. Licensing of Certified Athletic Trainers would better define the scope of practice. Currently the only regulation of athletic trainers falls within a very vague exemption to the physical therapy practice act. (HRS 461-J) This exemption simply states that Certified Athletic Trainers may perform within the scope of such certification. While in some ways it benefits our profession in other way it does not. While we can perform our job responsibilities legally, our own membership has questions as to what is and is not acceptable practice. For example, certified athletic trainer’s work under guidance of physicians but the degree of supervision required is unclear. Regulation would help define these types of issues. There is also confusion by our members as to acceptable practices in differing work settings, for example high school versus college versus clinical practice.

9. Because a nationally accredited Board of Certification already exists, Hawaii would not need to administer a separate examination. Adopting the process which is already in place would decrease the cost of creating a Board of Athletic Trainers. Currently 43 states recognize BOC requirements as the standard for eligibility and regulation of the practice of athletic trainers.

The potential for risk of harm exists. Athletic Trainers have extended intimate contact with the athletic population. Athletic trainers routinely work with children as young as 12. It is one of the few medical professions that is unregulated in Hawaii.

There is evidence of risk of harm to the public. In recent years there have been incidents where unqualified individuals have claimed to be athletic trainers or certified athletic trainers when they were not. There is evidence of harm to students. No investigations have ever been done due to the lack of an agency for which to file a complaint.

There is a case in which an individual was under a federal and state criminal investigation in another state and was hired by a Hawaii state institution. Although the employer completed a background check the investigation was not complete therefore not reportable. Had there been a state regulatory agency there would have been a report of an ongoing investigation. The individual later had his certification suspended for “risk of public harm”.

Recently there was an individual working in a private high school who claimed to be a certified athletic trainer when he in fact had never met the requirements for

certification. His co worker and supervisor believed that he was an NATABOC certified athletic trainer but never verified it.

The Hawaii Athletic Trainers' Association thanks you for your time in considering this measure and encourages its passage with amendments.

Darryl Funai, A.T.C.  
President Hawaii Athletic Trainers Association  
and  
Cindy Clivio, A.T.C.  
Hawaii Athletic Trainers' Association Governmental Affairs Chair

Hawaii Athletic Trainers' Association, PO Box 23181, Honolulu, HI 96823