



OCCUPATIONAL THERAPY ASSOCIATION OF HAWAII

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

Testimony by: Avis Sakata, OTR

SB 2601sd1, hd1, Athletic Trainers

House CPC Hearing – Wednesday, March 17, 2010

Room 325 – 2:00 pm

Position: Support Intent, With Amendments

Chair Herkes, and Members of the House CPC Committee:

I am Avis Sakata, OTR and president of the Occupational Therapy Association of Hawaii (OTAH). OTAH represents 507 occupational therapists (OTs) licensed in Hawaii. OT's work in many settings throughout the State, including hospitals, schools, prisons, skilled nursing to private facilities and community-based programs.

Occupational Therapy is a science driven, evidenced-based profession that enables people of all ages, from infants to the elderly, to live life to its fullest by helping them promote health and prevent or live better with illness, injury or disability. Occupational Therapists are recognized members of the Healthcare Rehabilitation team which is comprised also of physicians, nurses, physical therapists, speech therapists, social workers and others. As a healthcare provider, OTs provide, but are not limited to: 1) assessment and evaluation of our patients/clients needs and development of an appropriate treatment plan, 2) interventions focused on daily living skills (including self-care), work readiness, play or educational performance skills, 3) and interventions that include sensorimotor, neuromuscular functioning, cognitive or psychosocial components.

OTAH supports the intent of SB 2601sd1,hd1 that requires the auditor to perform a sunrise analysis of the licensure of athletic trainers. Such an analysis will ascertain the need of consumer protection from unqualified practitioners and protects qualified practitioners' rights to provide services. We agree that there is the potential for athletic trainers who have been censored in other states to practice in Hawaii and in the worst case scenario, an individual could set up his/her own practice and state that they provide athletic trainer services when in fact he/she may not have the professional qualifications which would definitely lead to consumer harm.

We urge that the auditor also define the terms “athlete” and “athletic injuries”, which is critical to assuring that consumers receive care from athletic trainers that are appropriate to the existing education and training requirements of certified and registered athletic trainers. We believe that certified and registered athletic trainers meet the education and training requirements to treat and prepare bonafide athletes in competition, generally healthy individuals. The current education and training requirements do not extend to treatment of individuals with chronic or systemic health problems. It is important to note that on a national level, the National Athletic Trainers' Association is pursuing federal legislation, HR 1137, for Medicare reimbursement, a population that requires more than the existing athletic trainers' education and clinical training requirements.

We suggest the following amendment: page 2, Section 2. lines 8-9 to read: “The auditor shall submit its findings and recommendations; that include recommended definitions of “athlete” and “athletic injuries”, including any proposed legislation; to the legislature no later than twenty days prior to the convening of the regular session of 2011. I can be reached at 522-4602 if further information is needed. Thank you for the opportunity to submit testimony.

Testimony by: Ann Frost, PT
SB 2601sd1,hd1, Relating to Athletic Trainers
House CPC, Wednesday, March 17, 2010
Room 325, 2:00 pm



Position: Support Intent: Concerns, With Proposed Amendments

Chair Herkes and Members of the Hse CPC Committee:

I am Ann Frost, P.T., President of the Hawaii Chapter – American Physical Therapy Association (HAPTA) and member of HAPTA’s Legislative Committee. HAPTA represents 250-300 physical therapists and physical therapist assistants employed in hospitals, nursing homes, the Armed Forces, the Department of Education and Department of Health (DOH) systems, and private clinics throughout our community. Physical therapists work with everyone, from infants to the elderly, to restore and improve function and quality of life. We are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum function from neuromusculoskeletal injuries and impairments.

HAPTA supports the intent of SB 2601hd1, which makes a policy statement that requires the auditor to perform a sunrise analysis of the licensure of athletic trainers. We support the concept of regulatory oversight to protect the public from practioners who may not meet minimum standards or face disciplinary action elsewhere.

We understand that the Hawaii Athletic Trainers Association believes that the word, “athlete” does not need to be defined since no other profession defines whom they can or cannot treat. However, athletic trainers’ education, unlike other professions, prepares them to work with a very specific type of population. The baseline educational background and clinical exposure required to sit for the national exam for certification as an athletic trainer prepare them to treat a very specific population of healthy athletes.

It is our understanding that the Legislative Auditor’s sunrise analysis will look at the education and training of athletic trainers and the corresponding treatment interface with consumers and other variables to determine if there is risk of harm to the consumer, and thus a need for regulatory oversight. The auditor would also recommend the level of regulatory oversight needed: licensure, registration or certification. As such, it seems appropriate for the Legislature to include as part of the framework for the auditor’s analysis, the definition of “athlete”.

As written, SB 2601sd1,hd1 has several items that require clarification:

- 1) **Page 1. Section 1 lines 1-4:** “The legislature finds that athletic trainers routinely work with children as young as twelve but are one of the few types of medical professionals not regulated in Hawaii....”

Recommended Language: “The legislature finds that athletic trainers routinely work with children as young as twelve but are one of the few types of ~~medical~~ health professionals not regulated in Hawaii...”

Rationale: The term “medical” professionals refer to the practice of medicine, which is the unique province of physicians. The term “health” professionals is more appropriate in this situation.

- 2) **Page 1. Section 1. (1) lines 5-8:** “Ensure that Hawaii’s athletes receive specialized emergency care and appropriate treatment and rehabilitation and meet appropriate criteria before being returned to play;”

Recommended Language: “Ensure that Hawaii’s athletes receive specialized emergency care and appropriate treatment and rehabilitation and meet appropriate criteria before being returned to play; an athlete means a person who prepares for or participates in organized sports or sports-related activities, amateur or recreational sports involving athletic competition, or performance arts including interscholastic, intercollegiate, intramural, semiprofessional, or professional sports activities. Athletic injury means an injury that affects the preparation for or participation in organized sports or sports-related activities, amateur or recreational sports involving athletic competition, or performance arts including interscholastic, intercollegiate, intramural, semiprofessional, or professional sports activities.”

Rationale: The definition of “athlete” and “athletic injuries” clearly states the population that athletic trainers are educated and trained to work with, and correspond to their educational curriculum and national board certification examination. The baseline educational background and clinical exposure required to sit for the national exam for certification as an athletic trainer prepare them to treat a very specific population of healthy athletes. Until this training changes, ATC's (Athletic Trainers Certified) are not prepared to treat non-athletes. Further, the ATC ‘bible’ “Arnheim’s Principles of Athletic Training” does not include training for a broader range of services beyond preventing and treating sports injuries.

- 3) **Page 1. Section 1. (1) Lines 5-8:** “Ensure that Hawaii’s athletes receive specialized emergency care and appropriate treatment and rehabilitation and meet appropriate criteria before being returned to play;”

Recommended Language: “Ensure that Hawaii’s athletes receive specialized emergency care and appropriate treatment and athletic rehabilitation and meet appropriate criteria before being returned to play;”

Rationale: The term rehabilitation is applicable to the general population. Since athletic trainers treat athletes, to say athletic rehabilitation makes clear the population they treat.

We appreciate the opportunity to express our concerns and to provide recommended language for consideration. I am available to respond to questions and can be reached at 382-2655.

TESTIMONY TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION,
ON
SB2601 SD1 HD1 REQUESTING A SUNRISE REVIEW OF ATHLETIC TRAINERS

The Hawaii Athletic Trainers Association supports SB2601 Requesting a Sunrise Review of Athletic Trainers. Certified Athletic Trainers are healthcare professionals who specialize in injury prevention, assessment, immediate care, treatment, referral and rehabilitation particularly in the orthopedic and musculoskeletal disciplines. Athletic Training has been recognized by the American Medical Association as an allied healthcare profession since 1990, an independent national credentialing agency, the Board of Certification Inc. 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 over 165 certified athletic trainers in the state of Hawaii. The University of Hawaii-Manoa has an accredited Masters degree entry level 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 and we firmly support that requirement. Our association has found legislators to be sympathetic to the need for regulation of our profession but while well intentioned, attempts have been made to bypass a Sunrise review and enact legislation; these attempts have ultimately delayed the process. HRS are clear that for a profession to become regulated a concurrent resolution be passed asking for a Sunrise Analysis and the resolution reference a specific bill to be analyzed. SB2601 started as a bill for registration and has become a bill asking for a Sunrise Analysis. We believe that this bill is now flawed. We are concerned that if passed in this form it will not meet the requirements for the State Auditor to conduct the analysis. We suggest that SB2601 be amended to restore language asking for registration or licensure and we ask that your committee schedule a hearing for HCR269 the concurrent resolution asking for a Sunrise Analysis of SB2601.

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. Regulation in the form of Registration 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. Regulation would require and verify, as is now required of other health care professions demonstration of minimum competency in the profession by verifying the educational and certification requirements of the Board of Certification Inc..
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 will 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. Because a nationally accredited Board of Certification already exists, Hawaii would not need to administer a separate examination. . Currently 46 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 and sometimes 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. Another individual was a full time athletic trainer at a public high school who was arrested for shoplifting at a department store. His employment was terminated and when school staff assumed control of the high school's athletic training room they found bottles of alcohol inside water coolers. A massage therapist was hired at a private high school to provide athletic training services, when one of our certified athletic trainer members questioned the athletic director he told her "he thought it was alright because she was taking athletic training classes". She was not enrolled in the University of Hawaii-Manoa Athletic Training Curriculum which is the only accredited athletic training education program in Hawaii.

Our association is well aware that there is only one purpose in regulating and licensing professions and vocations, that purpose is public or consumer protection. We are concerned that there have been incidents that place the public at risk and hope that the legislature will require the State Auditor's office to analyze SB2601 SD1 to make a recommendation for regulating our profession. We hope this will happen before someone is seriously harmed.

The Hawaii Athletic Trainers' Association thanks you for your time in considering this measure and encourages its passage. We would request that the language of the measure references the specific bill to be analyzed which currently is SB2601 SD1

Darryl Funai, A.T.C. President Hawaii Athletic Trainers Association

and

Cindy Clivio, A.T.C. Hawaii Athletic Trainers' Association Governmental Affairs Chair