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**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON  
TOURISM, CULTURE, AND INTERNATIONAL AFFAIRS

TWENTY-FIFTH STATE LEGISLATURE  
REGULAR SESSION of 2010

Monday, March 8, 2010  
9:30 a.m.

**TESTIMONY ON SENATE BILL NO. 2601, S.D. 1, RELATING TO ATHLETIC  
TRAINERS.**

TO THE HONORABLE JOEY MANAHAN, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Acting Licensing Administrator 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. 2601, S.D. 1, Relating to Athletic Trainers.

Senate Bill No. 2601, S.D. 1 creates a new chapter to regulate the registration of athletic trainers. Section 26H-6, Hawaii Revised Statutes ("HRS"), requires that new regulatory measures being considered for enactment be referred to the Auditor for a sunrise analysis. Referral shall be by concurrent resolution that identifies a specific

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legislative bill to be analyzed. 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.

The purpose section of the bill includes language that the Legislature finds that it is within the law-making authority vested in the legislature by Article III, Section 1 of the Hawaii State Constitution to enact legislation regulating the profession of athletic trainers, because of the pressing need to implement regulations to protect the public health, safety, and welfare, without a sunrise study. Article III, Section 1 of the Hawaii State Constitutions reads "The legislative power of the State shall be vested in a legislature, which shall consist of two houses, a senate and a house of representatives. Such power shall extend to all rightful subjects of legislation not inconsistent with this constitution of the Constitution of the United States." We are perplexed as to how this would enable the enactment of legislation without regard to section 26-H, HRS.

Therefore, the Department strongly supports a sunrise study on this measure, as mandated by law, section 26H-6, HRS, before regulating the registration of athletic trainers. Thank you for the opportunity to provide testimony on Senate Bill No. 2601, S.D. 1.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Written Testimony Presented Before the  
Committee on Tourism, Culture, and International Affairs  
March 8, 2010, 9:30 a.m.  
Conference Room 312

by  
Carl R. Clapp  
Associate Director of Athletics  
University of Hawai'i at Mānoa

### SB2601, SD1 RELATING TO ATHLETIC TRAINERS

Chair Manahan, Vice Chair Tokioka, and members of the Committee:

I am Carl Clapp, Associate Director of Athletics for the University of Hawai'i at Mānoa, and I am presenting testimony for the University of Hawai'i regarding SB 2601, SD1 relating to Athletic Trainers. We are aware that the National Athletic Trainers Association (NATA) and the Hawai'i Athletic Trainers Association support the licensing of athletic trainers and that the Hawaii is one of only a few states that does not require athletic trainers to be licensed.

Athletic trainers at the University of Hawai'i are in compliance with the requirements of this bill including the following:

1. Having an unencumbered certification from the National Athletic Training Association (NATA) Board of Certification; and
2. Receiving direction for their work from a physician.

Athletic training is recognized by the American Medical Association (AMA) as an allied healthcare profession, and the AMA recommends athletic trainers in every high school to keep America's youth safe and healthy. Specifically, the Certified Athletic Trainer has demonstrated knowledge and skill in six practice areas or domains:

- Prevention
- Clinical Evaluation and Diagnosis
- Immediate Care
- Treatment, Rehabilitation and Reconditioning
- Organization and Administration
- Professional Responsibility

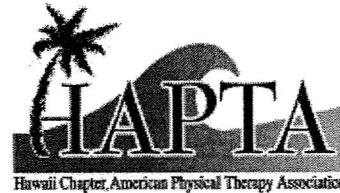
As part of a complete healthcare team, the athletic trainer works under the direction of a physician and in cooperation with other healthcare professionals, athletic administrators,

coaches and parents. The athletic trainer gets to know each patient individually and provides injury prevention, treatment, and rehabilitation.

The University of Hawai'i's practice in the past, and going forward, is to employ individuals that have the credentials required to be eligible for registration in the State of Hawai'i.

Thank you for the opportunity to testify.

Testimony by: Ann Frost, PT  
SB 2601sd1, Relating to Athletic Trainers  
House TCI, Monday, February 8, 2010  
Room 312, 9:30 am Position: Support



Chair Manahan and Members of the Hse TCI 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.

Appreciation and support is expressed for SB 2601sd1, in which the Hawaii Athletic Trainer’s Association (HATA), the Occupational Therapy Association of Hawaii (OTAH) and HAPTA mutually agreed upon the definition of “athletic injury”. Such a definition provides some assurance for consumer protection and safety. However, HAPTA strongly believes that there must be a definition of “athlete” within legislation that may serve as a foundation for the eventual Athletic Trainers’ Practice Act for the following reasons:

1. Despite the common public perception that everyone knows what an athlete is, the National Athletic Trainers Association (NATA) is seeking a broader definition, and therein lies the compelling reason for defining terms such as “athlete”, and “athletic injury” and the need for consumer protection to guard against practitioners over-reaching their education and training. The intent of this broad definition is substantiated by NATA’s seeking reimbursement by Medicare (HR 1137), which implies intent to treat Medicare recipients.... not really the population that normally includes a large percentage of athletes.
2. The NATA Board of Directors approved the following definitions (2000) to be used to define physical activity and the physically active as these terms relate to the athletic training profession: "Physical Activity: Physical activity consists of athletic, recreational or occupational activities that require physical skills and utilize strength, power, endurance, speed, flexibility, range of motion or agility." This definition--however one might try to interpret it as to only applying to a certain, specific population--in fact refers to anyone who moves. Thus, tutu after her osteoporotic hip fracture, uncle after his stroke, cousin with diabetes, auntie recovering from breast cancer who has just developed a frozen shoulder---all would fall under this broadly written NATA definition.
3. 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.

**We raise concern and ask for clarification about page 6, lines 2-8, which states “...In the granting of permission to engage in the profession of athletic training, and consistent with section 436B-2, the definition of “license” is inclusive of a registration issued under this chapter and therefore, an athletic trainer who is registered under this chapter shall be regarded as an athletic trainer who holds a license to practice the profession of athletic trainer. We ask for clarification since we understand that statutory oversight and practice requirements are deemed by 1) licensure, the highest form of regulatory oversight, 2) registration and 3) certification. Registration is not the equivalent of licensure. We also request that the following amendment be added to Page 6, line 9: “The practice of athletic training does not include the practice of physical therapy.”**

Ultimately, the physical therapy community is committed to health care provided by health care practitioners within their scope of education and training. We support registration and/or licensure of allied health professionals, and an appropriately defined scope of practice based on a national, standardized training curriculum to ensure that the consumers are receiving appropriate and safe care. I can be reached at [REDACTED] if you have any questions. Thank you for the opportunity to testify.



**OCCUPATIONAL THERAPY ASSOCIATION OF HAWAII**

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

Testimony by:

Avis Sakata, OTR

SB 2601sd1, Athletic Trainers

House TCI Hearing – Monday, March 8, 2010

Room 312 – 9:30 am

Position: Support

Chair Manahan, and Members of the House TCI Committee:

I am Avis Sakata, OTR and president of the Occupational Therapy Association of Hawaii (OTAH). I apologize and regret that I am not able to be present for this important measure due to outpatient scheduling conflicts. 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 this bill as written** that would provide 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.

**It is critical to preserve the definitions of "athlete" and "athletic injuries"** as it clearly states the specific population that benefits from 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.

I can be reached at ~~313-1002~~ if further information is needed. Thank you for the opportunity to submit testimony.

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TESTIMONY TO THE HOUSE COMMITTEE ON TOURSIM CULTURE AND INTERNATIONAL  
AFFAIRS,  
ON  
SB 2601 SD1, RELATING TO ATHLETIC TRAINERS

The Hawaii Athletic Trainers Association supports Senate Bill 2601 SD1, Relating to Athletic Trainers with one amendment. 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 170 certified athletic trainers in the state of Hawaii. The University of Hawaii-Manoa has an accredited entry level and post professional athletic training curriculum.

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 in the form of Registration would require and verify, as is now required of other healthcare 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 only 4 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. Adopting the process which is already in place would decrease the cost of creating a Board of Athletic Trainers. 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 originally was supporting licensure of athletic trainers for public protection. 46 states currently have licensure and it is the form of regulation with which we are most familiar. With the inclusion of the language on page 4 section 6 lines 13-19 we feel that this SB2601 SD1 can meet the needs of public protection.

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 the Hawaii Revised Statutes currently requires that a Sunrise Analysis be completed prior to enacting this legislation. We would request that a concurrent resolution be introduced requiring an analysis of this measure in this session.



We urge you to pass this bill with amendments. We request changing the term "directing physician" to "treating physician" throughout the measure to better reflect that athletic trainers work under the direction and guidance of a number of physicians especially at the secondary school level. We request to update the language under section 2 "practice of athletic training" to reflect the most recent definition used by our national independent credentialing agency the Board of Certification Inc.

The suggested amendments are listed below.

#### SUGGESTED AMMENDMENTS:

##### **Revise section 2 "Practice of athletic training"**

Practice of athletic training" means the application by a registered and certified athletic trainer of principles and methods to:

- (1) Prevent athletic injuries;
- (2) Recognize, Clinical Evaluation and diagnosis ~~evaluate~~, and assess athletic injuries and conditions;
- (3) Provide immediate care of athletic injuries, including common emergency medical situations;
- (4) Treat, Rehabilitate and recondition athletic injuries;
- (5) Administer athletic training services and organization; and Educate athletes.

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