

SB 2601

JAN 22 2010

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 Registration Act".

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

10 "Athletic trainer" means an individual who is registered
11 under this chapter and carries out the practice of athletic
12 training.

13 "Department" means the department of commerce and consumer
14 affairs.

15 "Directing physician" means a physician or surgeon or an
16 osteopathic physician or surgeon licensed under chapter 453,
17 who, within the licensee's scope of practice and individual



1 competency, is responsible for the athletic training services
2 provided by the athletic trainer and oversees the practice of
3 athletic training by the athletic trainer, as established by
4 rule.

5 "Director" means the director of commerce and consumer
6 affairs.

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

- 10 (1) Prevent athletic injuries;
- 11 (2) Recognize, evaluate, and assess athletic injuries and
12 conditions;
- 13 (3) Provide immediate care of athletic injuries, including
14 common emergency medical situations;
- 15 (4) Rehabilitate and recondition athletic injuries;
- 16 (5) Administer athletic training services and
17 organization; and
- 18 (6) Educate athletes.

19 **§ -3 Registration required.** No person shall represent,
20 advertise, or announce oneself, either publicly or privately, as
21 an athletic trainer, nor use in connection with the person's
22 name or place of business the words "registered athletic



1 trainer", "athletic trainer", or any other words, letters,
2 abbreviations, or insignia indicating or implying that the
3 person is an athletic trainer unless the person has registered
4 with the department of commerce and consumer affairs.

5 **§ -4 Registration requirements.** (a) Athletic trainers
6 shall:

7 (1) Register with the department by providing the athletic
8 trainer's name, business address, and a current and
9 unencumbered certification from the National Athletic
10 Trainers Association Board of Certification;

11 (2) Renew the athletic trainer's registration every three
12 years by providing the information required by
13 paragraph (1); and

14 (3) Notify the department of any changes in registration
15 information within thirty days of the change.

16 (b) The department shall maintain a current list of the
17 names and business addresses of athletic trainers registered
18 under subsection (a).

19 (c) Records of the registrant's certification from the
20 National Athletic Trainers Association Board of Certification
21 shall be public records.



1 § -5 **Duties of directing physician.** A directing
2 physician shall provide supervision to an athletic trainer by
3 verbal order when in the presence of the athletic trainer or by
4 written order or written athletic training service plans or
5 protocols when a supervising physician is not present with the
6 athletic trainer.

7 § -6 **Registration indicates permission to engage in the**
8 **practice of athletic training.** A registration granted under
9 this chapter shall mean that the registered person has met
10 requirements that include minimum practice standards to provide
11 protection to the public and is permitted to use the title of
12 athletic trainer and to engage in the practice of athletic
13 training. In the granting of permission to engage in the
14 profession of athletic training, and consistent with section
15 436B-2, the definition of "license" is inclusive of a
16 registration issued under this chapter and, therefore, an
17 athletic trainer who is registered under this chapter shall be
18 regarded as an athletic trainer who holds a license to practice
19 the profession of athletic training."

20



S.B. NO. 2601

1 SECTION 2. This Act shall take effect on July 1, 2010.

2

INTRODUCED BY:

Rosely H. Baker

Arnold Y. Lee

D. D. Doyle

Paul D. Hargrove

Will E. Evers

Jim



Report Title:

Athletic Trainers; Registration

Description:

Requires athletic trainers to register with the department of commerce and consumer affairs.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





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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 2010

Thursday, February 4, 2010
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 2601, RELATING TO ATHLETIC TRAINERS.

TO THE HONORABLE ROSALYN H. BAKER, 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, Relating to Athletic Trainers.

Senate Bill No. 2601 creates a new chapter to regulate the registration of 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. Referral shall be by concurrent resolution that identifies a specific 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

Testimony on S.B. No. 2601
Thursday, February 4, 2010
Page 2

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

The Department strongly supports a sunrise study on this measure, as mandated by law, before regulating the registration of athletic trainers. Thank you for the opportunity to provide testimony on Senate Bill No. 2601.

Date: 02/04/2010

Committee: Senate Commerce and
Consumer Protection

Department: Education

Person Testifying: Kathryn S. Matayoshi, Interim Superintendent of Education

Title of Bill: SB 2601 Relating to Athletic Trainers

Purpose of Bill: Requires athletic trainers to register with the department of commerce and consumer affairs.

Department's Position: The Department of Education (Department) is in strong support of S.B. 2601. Currently, the Department has 76 positions for athletic trainers in 43 high schools and the Office of Curriculum, Instruction and Student Support. The Department currently employs 48% of the athletic trainers in the State of Hawaii. Thus, it would be of significant benefit for these employees to be registered to practice the art and science of athletic training. Currently, the Department's Office of Human Resources only verifies that an employee has met the minimum qualifications; it doesn't monitor if an athletic trainer has lost or has had his/her certification revoked. The health and safety of our student athletes are of utmost importance; therefore, the Department supports the creation of a new chapter in the Hawaii Revised Statutes to register athletic trainers.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Testimony Presented Before the
Committee on Commerce and Consumer Protection
February 4, 2010, 9:00 a.m.
Conference Room 229

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

SB2601 RELATING TO ATHLETIC TRAINERS

Chair Baker, Vice Chair Ige, 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 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 approximately 33 states currently require licensing with several more considering requiring licensing of athletic trainers.

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 ATs 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 AT works under the direction of a physician and in cooperation with other healthcare professionals, athletic administrators, coaches and parents. The AT 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 TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION,
ON
SB 2601, RELATING TO ATHLETIC TRAINERS

The Hawaii Athletic Trainers Association supports Senate Bill 2601, Relating to Athletic Trainers with amendments. 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 165 certified athletic trainers in the state of Hawaii. The University of Hawaii-Manoa has an accredited 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 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 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 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 Senate 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. We would request exemptions so as to not prohibit students from performing activities that are within their educational program, and to not prohibit certified athletic trainers in good standing in other states from practicing here temporarily while attending to their own teams or athletic events. 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.

Add the following exemptions:

Nothing in this chapter shall be construed to prohibit

(a) Students in an educational program for athletic trainers from participating in activities that are conducted as part of the educational program and are under the supervision and guidance of a licensed athletic trainer.

(b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(c) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(d) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(e) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event.

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

Testimony by:

Ann Frost, PT

SB 2601, Relating to Athletic Trainers

Sen CPN, Thurs. February 4, 2010

Room 229, 9:00 am

Position: Oppose



Chair Baker and Members of the Sen CPN 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 is expressed for the specific reference to “athlete” and “athletic injury” in definition of “Practice of athletic training”, pg 2, lines 7-18. It recognizes the specific population that certified and registered athletic trainers are educated and trained to work with. However, without the definition of those terms, consumer protection is extremely limited. HAPTA strongly recommends definitions for both the term “athlete” and “athletic injury” be added under Section 2 to ensure consumer safety.

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 against practioners over reaching education and training credentials:

- 1) 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. Until this bill correctly defines "athlete", the public is at risk of being treated by a practitioner who is not prepared by their education to do so.

- 2) Despite Hawaii Athletic Trainers Association’s insistence that they're pretty much just working in the schools, NATA is actively seeking to reimbursement by Medicare (HR1137). This implies intent to treat Medicare recipients.... not exactly the population that normally includes a large percentage of athletes.

An athletic trainer’s educational background and clinical exposure prepare them to care for a very specific population of healthy athletes. Until this training changes, ATC’s (Athletic Trainers Certified) are not prepared to treat non-athletes. A review of the http://www.hawaii.edu/cls/atcm/PP_AATP_Program_description.pdf and the <http://www.catalog.hawaii.edu/courses/departments/cls.htm> (2008- 2009 UH Manoa Curriculum catalog) does not describe specialized training for geriatric rehabilitation or neurologic rehabilitation for people who have suffered spinal cord injuries, strokes, ALS, or people with diseases such as Parkinson’s. Further the Athletic Trainer Certification exam or 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.

Ultimately, the physical therapy community is committed to health care provided by health care practitioners within their scope of education and training. We support licensure of allied health professionals’ 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 382-2655 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 2601, Athletic Trainers

Senate CPN Hearing – Thurs. Feb. 4, 2010

Room 229 – 9:00 am

Position: Support Intent

Chair Baker, and Members of the Senate CPN Committee:

I am Avis Sakata, OTR and 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, 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 this bill 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.

We recognize and appreciate the language changes in this bill that more clearly defines that the registered and certified athletic trainer may provide certain services to athletes. However, the bill does not address the definition of "athlete" or "athletic injury", which is critical to assuring consumers that they are seeking treatment from practitioners who are appropriately educated and trained for specific populations and care. We have reviewed other state's regulatory definitions of "athlete" and offer them for consideration:

- Definition of athlete: An individual who participates in organized sport or sports related exercises including interscholastic, intercollegiate, intramural, semiprofessional and/or professional sports activities.
- Definition of athletic injuries: Injuries sustained by an individual as a result of participation in an organized sport or sports related exercises including interscholastic, intercollegiate, intramural, semiprofessional and/or professional sports activities.

The insertion of these definitions will clearly state that the specific population that benefits from the existing education and training requirements of certified and registered athletic trainers will be assured of appropriate treatment.

I can be reached at 522-4602 if further information is needed. Thank you for the opportunity to submit testimony.

Date of Hearing: February 4, 2010

Time/ Location: Feb. 4 at 9:00 a.m. - Conference Room 229, State Capital

TO: Senator Roz Baker, Chair
Senator David Ige, Vice Chair

REGARDING: SUPPORT SB 2601 with reservation, Relating to Athletic Trainers

Dear Senator Roz Baker,

I am writing to **SUPPORT SB 2601 with reservation**. In reviewing the bill, it is simplified versus the vague and broad scope of service that was included in SB 1129 and HB 944 in the 2009 Legislative session.

My reservation stems from the lack of a clear definition of "athlete" in the bill. There appears to be an assumption on the definition of an "athlete". The Merriam Webster definition is "a person who is trained or skilled in exercises, sports, or games requiring physical strength, agility, or stamina". If leaving "athlete" to the National Athletic Trainer Association (NATA), their definition is very broad based. In the bill's current form and due to the lack of definition of "athlete", their scope of practice is open to 'scope creep', which can lead services beyond their level of skill and knowledge. I strongly feel "athlete" must also be clearly defined in this bill.

I am a resident of Maui and have had direct experiences with athletic trainers through my daughter's injury during a Maui Interscholastic championship game and I am fully aware of the skill differences that each allied health professional brings to rehabilitation of an injury and disability. I am an Occupational Therapist by training and their current education and training does NOT equip athletic trainers the depth of knowledge and skill to address the gamut of diseases and injuries which may include strokes, heart conditions, congenital abnormalities, etc. in the rehabilitation process as the NATA definition suggests due to their broad base definition.

Their skills and training *cannot* be likened to or be interchanged with a personal trainer. Nonetheless, they do not have the same expertise and skill level of a physical or occupational therapist. Athletic trainers deal with the emergency aid of acute injuries and reconditioning of musculoskeletal injuries in athletes in returning them to a game or 'play' and to physical fitness as related to sports. Their education and training is specific to these types of clients.

Athletic trainers that are employed with the public schools must meet certification as a requirement in their minimum qualifications however, in a private setting it may be left to the discretion of an employer to ensure that athletic trainers are qualified. I feel athletic trainers have a role as an allied health provider and the pursuit of 'registration' would assist in protecting the by Hawaii consumers from the misrepresentation that can go beyond the knowledge base and skill level of athletic trainers.

I SUPPORT SB 2601 with reservation. From the perspective of a parent of children that have participated in interscholastic sports through the public schools, and as another allied health professional (Occupational Therapist), this bill can safeguard the public if clean definition of "athlete" further clarifies their service and target population to ensure their skill and training best serves the safety the consumer. Thank you for this opportunity to provide testimony.

Gail Miyahira 02/01/10
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