



GOV. MSG. NO. 1301

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

July 03, 2012

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

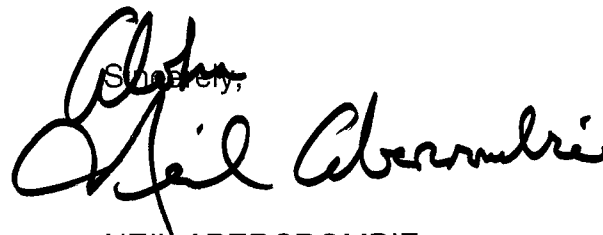
The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 03, 2012, the following bill was signed into law:

SB155 SD2 HD1 CD1

RELATING TO ATHLETIC TRAINERS.  
**Act 198 (12)**

  
Sincerely,  
Neil Abercrombie

NEIL ABERCROMBIE  
Governor, State of Hawaii

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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 legislature finds that Hawaii is one of  
2 only three states that does not currently regulate the practice  
3 of athletic training. The legislature further finds that the  
4 continued lack of regulation creates the risk that individuals  
5 who have lost or are unable to obtain licensure in another state  
6 will move to Hawaii to practice, thereby putting the public in  
7 danger and degrading the standards of the profession.

8           The legislature finds that there is a pressing and  
9 immediate need to regulate the profession of athletic training  
10 to protect the public health, safety, and welfare. This need is  
11 particularly important since athletic trainers often work with  
12 elementary and secondary school-aged children. Regulation of  
13 athletic trainers will ensure that participants in athletic  
14 activities receive prompt, specialized emergency care as well as  
15 appropriate follow-up treatment and rehabilitation and meet  
16 appropriate criteria before being returned to play. Regulation  
17 will require that athletic trainers demonstrate minimum  
18 competency in the field, as is required for other health care



1 professionals. Finally, regulation will provide a means for  
2 members of the public, other members of the profession, and the  
3 Board of Certification, Inc., to assist in maintaining quality  
4 standards by reporting ethics violations or disciplinary action  
5 to the State's regulatory agency.

6 The legislature finds that the requirements of section  
7 26H-6, Hawaii Revised Statutes, were met by the passage of Act  
8 108, Session Laws of Hawaii 2010, requesting that the auditor  
9 perform a sunrise analysis of the regulatory measures contained  
10 in this Act. Therefore, the legislature finds that there is no  
11 procedural impediment to regulating the currently unregulated  
12 industry of athletic trainers through passage of this Act.

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

16 "CHAPTER

17 ATHLETIC TRAINERS

18 § -1 Title. This chapter shall be known as the Athletic  
19 Trainer Registration Act.

20 § -2 Definitions. As used in this chapter:

21 "Athlete" means a person who prepares for or participates  
22 in organized sports or sports-related activities, amateur or



1 recreational sports involving athletic competition, including  
2 interscholastic, intercollegiate, intramural, semiprofessional,  
3 or professional sports activities.

4 "Athletic injury" means an injury that affects the  
5 preparation for or participation in organized sports or sports-  
6 related activities, or amateur or recreational sports involving  
7 athletic competition, including interscholastic,  
8 intercollegiate, intramural, semiprofessional, or professional  
9 sports activities.

10 "Athletic trainer" means an individual, whether or not  
11 registered under this chapter, who engages in the practice of  
12 athletic training or represents oneself to be an athletic  
13 trainer.

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

16 "Director" means the director of commerce and consumer  
17 affairs.

18 "Practice of athletic training" refers to the application  
19 by an athletic trainer, whether or not registered under this  
20 chapter and without regard to certification by any certifying  
21 body, of principles and methods to:

22 (1) Prevent athletic injuries;



- 1           (2) Recognize, evaluate, and assess athletic injuries and
  - 2                   conditions;
  - 3           (3) Provide immediate care of athletic injuries, including
  - 4                   common emergency medical care;
  - 5           (4) Treat, rehabilitate, and recondition athletic
  - 6                   injuries;
  - 7           (5) Administer athletic training services and
  - 8                   organization; and
  - 9           (6) Educate athletes;
- 10 provided that the practice of athletic training does not include
- 11 provision of medical services as defined in section 453-1,
- 12 occupational therapy services as defined in section 457G-1, or
- 13 physical therapy or physical therapy services as defined in
- 14 section 461J-1.

15           "Treating physician" means a physician or osteopathic

16 physician licensed under chapter 453 who, within the licensee's

17 scope of practice and individual competency, is responsible for

18 the athletic training services provided by an athletic trainer

19 and oversees the practice of athletic training by an athletic

20 trainer.



1           §   -3 **Athletic trainer program.** There is established an  
2 athletic trainer program within the department to be  
3 administered by the director.

4           §   -4 **Registration required.** No person shall engage in  
5 the practice of athletic training or represent, advertise, or  
6 announce oneself, either publicly or privately, as an athletic  
7 trainer, nor use in connection with the person's name or place  
8 of business the words "registered athletic trainer", "athletic  
9 trainer", "ATC", or any other words, letters, abbreviations, or  
10 insignia indicating or implying that the person is an athletic  
11 trainer unless the person meets the qualifications established  
12 by this chapter and has registered with the department.

13          §   -5 **Exemptions.** This chapter is not intended to  
14 restrict the practice of other licensed healthcare providers  
15 practicing within their own recognized scopes of practice and  
16 shall not apply to:

17           (1) An individual who possesses a valid license issued  
18               under chapter 453, 457G, or 461J who, when acting  
19               within the scope of practice allowable under the  
20               individual's license, performs the same or similar  
21               functions as an individual registered pursuant to this  
22               chapter;



- 1           (2) Students in an educational program for athletic  
2           trainers who participate in activities conducted as  
3           part of the educational program under the supervision  
4           and guidance of a registered athletic trainer  
5           registered under this chapter;
- 6           (3) An individual serving in the armed forces of the  
7           United States, the United States Public Health  
8           Service, the Department of Veterans Affairs, or any  
9           other federal agency who engages in activities  
10          regulated under this chapter as a part of the  
11          individual's employment;
- 12          (4) An individual who is invited to conduct a lecture,  
13          clinic, or demonstration regarding the practice of  
14          athletic training by a school, professional  
15          association, professional society, or other similar  
16          entity approved by the department by rule pursuant to  
17          chapter 91; provided that the individual does not  
18          establish a place of business or regularly engage in  
19          the practice of athletic training within the State;
- 20          (5) An individual who possesses a valid license,  
21          registration, or certification from another  
22          jurisdiction who accompanies an athlete or team of



1 athletes into this State for a temporary period;  
2 provided that the individual shall only attend to the  
3 needs of that athlete or team of athletes and those  
4 persons who travel with that athletic group or team in  
5 a capacity other than as a spectator;

6 (6) An individual who possesses a valid license,  
7 registration, or certification from another  
8 jurisdiction who is invited to engage in the practice  
9 of athletic training under the supervision and control  
10 of a sponsoring entity for a limited time and solely  
11 for a special event; or

12 (7) An individual who is an athletic trainer and a patient  
13 to himself or herself or gratuitous athletic training  
14 by a friend or family member who does not represent  
15 himself or herself to be an athletic trainer.

16 Nothing in this chapter shall be construed to limit or prohibit  
17 the administration of routine assistance or first aid by a  
18 person who is not a registered athletic trainer for injuries or  
19 illnesses sustained at an athletic event or program.

20 § -6 Registration requirements. (a) Commencing

21 January 1, 2013, athletic trainers shall:





- 1           (1) Register with the department by providing the athletic  
2           trainer's name, business address, a current, active,  
3           and unencumbered certification from the Board of  
4           Certification, Inc., including the certification  
5           number, and information on any complaints filed  
6           against the athletic trainer with the Board of  
7           Certification, Inc., or with any state agency that  
8           regulates athletic trainers, including the status and  
9           disposition of all complaints;
- 10          (2) Have completed the educational and certification  
11          requirements of the Board of Certification, Inc.;
- 12          (3) Renew the athletic trainer's registration every three  
13          years by providing the information required by  
14          paragraph (1); and
- 15          (4) Notify the department of any changes in registration  
16          information within thirty days of the change.
- 17          (b) The department shall maintain a current list of the  
18          names and business addresses of athletic trainers registered  
19          under subsection (a).
- 20          (c) Records of a registrant's certification from the Board  
21          of Certification, Inc., shall be public records.



1           §   -7   Duties of Treating physician.  A treating physician  
2 shall provide direction to an athletic trainer by verbal order  
3 when in the presence of the athletic trainer or by written order  
4 or written athletic training service plans or protocols when a  
5 treating physician is not present with the athletic trainer.

6           §   -8   Requirements to maintain registration.  (a)  An  
7 athletic trainer shall have and maintain current and active  
8 status certification from the Board of Certification, Inc., as a  
9 condition of registration.  Failure, refusal, or neglect of any  
10 registrant to maintain in full force and effect, a current and  
11 active status certification shall cause the automatic forfeiture  
12 of the registration of the athletic trainer, effective as of the  
13 date of the change of the registrant's certification status.

14           (b)  The department shall not restore the forfeited license  
15 until satisfactory proof of the active status of the  
16 certification is submitted to the department.  The department  
17 may assess a fee not to exceed \$1,000 or restrict or place  
18 conditions on the registration as a condition of a restoration  
19 of a forfeited registration.

20           (c)  The registrant may, within sixty days after receipt of  
21 the notification of the forfeiture, request an administrative  
22 hearing to review the forfeiture pursuant to chapter 91.



1        §    -9 Powers and duties of the director. In addition to  
2 any other powers and duties authorized by law, the director  
3 shall have the powers and duties to:

- 4            (1) Adopt, amend, and repeal rules in accordance with  
5                    chapter 91 to carry out the purposes of this chapter;  
6            (2) Issue and renew registrations pursuant to this chapter  
7                    and deny or refuse to renew registrations for failure  
8                    to comply with this chapter;  
9            (3) Suspend or revoke any registration for any violation  
10                    of this chapter, chapter 436B, or for any violation of  
11                    rules adopted by the director pursuant to this  
12                    chapter;  
13            (4) Establish fees; and  
14            (5) Administer, coordinate, and enforce this chapter.

15        §    -10 Fees; disposition. Application fees paid pursuant  
16 to this chapter shall not be refundable. Pursuant to section  
17 26-9(1), the director shall establish registration, renewal,  
18 restoration, and other fees and penalties relating to the  
19 administration of this chapter. Fees and penalties assessed  
20 pursuant to this chapter shall be used to defray costs incurred  
21 by the department in implementing this chapter.



1           §   -11   **Renewal of registration; fees.**   Registrations  
2 shall be renewed, upon the payment of a renewal fee, triennially  
3 not earlier than ninety days before June 30. Failure to renew a  
4 registration shall result in a forfeiture of the registration.  
5 Registrations that have been forfeited may be restored within  
6 one year of the expiration date upon payment of renewal and  
7 restoration fees. Failure to restore a registration within one  
8 year of the date of its expiration shall result in the automatic  
9 termination of the registration and the person may be required  
10 to reapply for registration as a new applicant. All renewal and  
11 restoration fees shall be determined by the director.

12           §   -12   **Grounds for denial of registration; revocation and**  
13 **suspension of registration.** In addition to any other acts or  
14 conditions provided by law, the director may deny or refuse to  
15 renew, revoke, suspend, restrict, fine, reprimand, censure,  
16 condition, or place the registration of any athletic trainer on  
17 probation when the athletic trainer:

- 18           (1) Fails to meet the requirements for registration as  
19               provided in this chapter;
- 20           (2) Has a registration or license or certification as an  
21               athletic trainer conditioned, suspended, revoked, or



- 1 denied, or has been refused renewal of registration or  
2 license or certification as an athletic trainer;
- 3 (3) Makes a materially false, misleading, deceptive, or  
4 fraudulent representation or material omission in the  
5 application for registration, including any renewal  
6 application;
- 7 (4) Fails to satisfy a civil fine or penalty arising out  
8 of any administrative or enforcement action for  
9 violation of any state's athletic trainer laws or  
10 rules;
- 11 (5) Has a license or registration revoked, suspended or  
12 otherwise disciplined by any state or federal agency  
13 for any reason that is provided by the applicable laws  
14 or rules or by this section;
- 15 (6) Engages in the practice of athletic training while  
16 impaired by alcohol or drugs;
- 17 (7) Engages in professional misconduct, incompetence,  
18 gross negligence, or manifest incapacity in the  
19 practice of athletic training;
- 20 (8) Engages in conduct or a practice contrary to the  
21 recognized standards of ethics and professional  
22 responsibility as adopted by the National Athletic



1 Trainers Association or the Board of Certification,  
2 Inc.;

3 (9) Has been convicted or pleaded nolo contendere to a  
4 crime directly related to the qualifications,  
5 functions, or duties of the practice of athletic  
6 training;

7 (10) Fails to report in writing to the director any  
8 disciplinary action taken against the registrant or  
9 applicant in another jurisdiction, including the Board  
10 of Certification, Inc., within thirty days of the  
11 disciplinary action; provided, however, that the  
12 registrant actually knows of the disciplinary action;  
13 and

14 (11) Violates this chapter, chapter 436B, or any rule or  
15 order of the director.

16 § -13 Registration indicates permission to engage in the  
17 practice of athletic training. A current registration granted  
18 under this chapter shall mean that the registered person has met  
19 requirements that include minimum practice standards to provide  
20 protection to the public and is permitted to use the title of  
21 athletic trainer and to engage in the practice of athletic  
22 training, subject to any applicable registration restrictions or



1 conditions. In the granting of permission to engage in the  
2 practice of athletic training, and consistent with the intent of  
3 chapter 436B, the definition of "license" under section 436B-2  
4 is inclusive of a registration issued under this chapter;  
5 therefore, an athletic trainer who is registered under this  
6 chapter shall be regarded as an athletic trainer who holds a  
7 license to practice the profession of athletic training.

8 § -14 Civil penalties. Any person who violates any  
9 provision of this chapter or the rules of the department adopted  
10 pursuant to this chapter shall be fined not more than \$1,000 and  
11 each day's violation or failure to comply shall be deemed a  
12 separate offense.

13 Unless otherwise expressly provided, the remedies or  
14 penalties provided in this chapter are cumulative to each other  
15 and to the remedies or penalties available under all other laws  
16 of this State.

17 § -15 Rules. The director may adopt rules pursuant to  
18 chapter 91, including rules to establish fees or fines as may be  
19 necessary, to effectuate the purpose and to enforce the  
20 requirements of this chapter."

21 SECTION 3. Section 26H-4, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§26H-4 Repeal dates for newly enacted professional and  
2 vocational regulatory programs. (a) Any professional or  
3 vocational regulatory program enacted after January 1, 1994, and  
4 listed in this section shall be repealed as specified in this  
5 section. The auditor shall perform an evaluation of the  
6 program, pursuant to section 26H-5, prior to its repeal date.

7           (b) Chapter 466D (respiratory therapists) shall be  
8 repealed on June 30, 2016.

9           (c) Chapter           (athletic trainers) shall be repealed on  
10 June 30, 2018."

11           SECTION 4. The department of commerce and consumer affairs  
12 may employ necessary personnel without regard to chapter 76,  
13 Hawaii Revised Statutes, to assist with and prepare for the  
14 implementation and continuing functions of chapter           , Hawaii  
15 Revised Statutes, established pursuant to section 2 of this Act.

16           SECTION 5. Upon the issuance of a new registration and at  
17 each registration renewal period, each athletic trainer shall  
18 pay, in addition to the fee established pursuant to section

19           -11, Hawaii Revised Statutes, a surcharge of \$100, which  
20 shall be maintained in a separate account within the compliance  
21 resolution fund established pursuant to section 26-9(o), Hawaii  
22 Revised Statutes. At the end of each quarter, the moneys





1 contained in the separate account established pursuant to this  
2 section shall be transferred to the compliance resolution fund  
3 until the total transferred amounts equals the amount  
4 appropriated in section 6 of this Act. Thereafter, no surcharge  
5 shall be assessed, and any funds in excess of the amount  
6 appropriated in section 6 of this Act shall be deposited in the  
7 compliance resolution fund.

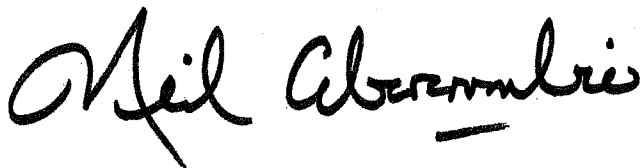
8 SECTION 6. There is appropriated out of the compliance  
9 resolution fund established pursuant to section 26-9(o), Hawaii  
10 Revised Statutes, the sum of \$40,000 or so much thereof as may  
11 be necessary for fiscal year 2012-2013 to implement the  
12 registration of athletic trainers as required by this Act.

13 The sum appropriated shall be expended by the department of  
14 commerce and consumer affairs for the purposes of this Act.

15 SECTION 7. New statutory material is underscored.

16 SECTION 8. This Act shall take effect on July 1, 2012;  
17 provided that section 2 shall take effect on January 1, 2013.

APPROVED this 3 day of JUL, 2012



GOVERNOR OF THE STATE OF HAWAII