

JAN 24 2013

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**A BILL FOR AN ACT**

RELATING TO PHYSICAL THERAPY.

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

1           SECTION 1. Chapter 461J, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§461J- Physical therapist assistant license without  
5 necessity of examination. Any applicant who submits proof of  
6 graduation from an accredited physical therapist assistant  
7 program or an accredited physical therapy program recognized by  
8 the United States Department of Education, and five years of  
9 work experience as a physical therapist assistant by December  
10 31, 2014, may be licensed without the necessity of examination.

11           §461J- Physical therapist use of support or auxiliary  
12 personnel. A physical therapist may use support or auxiliary  
13 personnel, including licensed physical therapist assistants, to  
14 assist the physical therapist in the practice of physical  
15 therapy; provided that such personnel shall only perform those  
16 duties prescribed in the rules of the board; and provided  
17 further that such personnel shall perform these duties under the  
18 supervision and direction of a physical therapist. Physical

1 therapists and physical therapist assistants shall provide proof  
2 of compliance with this section upon written request from the  
3 board."

4 SECTION 2. Section 461J-1, Hawaii Revised Statutes, is  
5 amended by adding a new definition to be appropriately inserted  
6 and to read as follows:

7 "Physical therapist assistant" means a person who assists  
8 the physical therapist in selected components of treatment or  
9 intervention."

10 SECTION 3. Section 461J-2, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[+]§461J-2[+] **Practice of physical therapy;**  
13 **qualifications.** (a) No person shall practice physical therapy  
14 gratuitously or for pay, offer to practice physical therapy,  
15 offer physical therapy or physical therapy services, or  
16 represent, advertise, or announce, either publicly or privately,  
17 that the person is a physical therapist or physiotherapist,  
18 unless the person is appropriately licensed under this chapter.

19 (b) No person shall use, in connection with the person's  
20 name or business, the words "licensed physical therapist",  
21 "physical therapist", or "physiotherapist", or the letters  
22 "RPT", "LPT", "DPT", "PT", or any other words, letters,

1 abbreviations, or insignia indicating or implying that the  
2 person is a physical therapist, unless the person is  
3 appropriately licensed as a physical therapist under this  
4 chapter.

5 (c) No person shall use the title "physical therapist  
6 assistant", the letters "PTA", or any other words,  
7 abbreviations, or insignia in connection with that person's name  
8 to indicate or imply, directly or indirectly, that the person is  
9 a physical therapist assistant unless that person is  
10 appropriately licensed as a physical therapist assistant under  
11 this chapter.

12 [~~e~~] (d) No person shall practice as a physical therapist  
13 or as a physical therapist assistant, except as licensed  
14 pursuant to this chapter and under the administrative rules [and  
15 regulations] determined by the board in accordance with chapter  
16 91."

17 SECTION 4. Section 461J-3, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 **"§461J-3 Exemptions.** (a) Nothing in this chapter shall  
20 be construed to prohibit any person from acting within the scope  
21 of a license issued to that person under any other law; provided  
22 that the person shall not claim to be a physical therapist or a

1 physical therapist assistant, or that the person is performing  
2 physical therapy or physical therapy services.

3 (b) Nothing in this chapter shall be construed to prohibit  
4 students in an educational program for physical therapists,  
5 physical therapist assistants, or physical therapist support  
6 personnel from participating in activities that are conducted as  
7 part of the educational program and are under the guidance and  
8 direct supervision of a licensed physical therapist.

9 (c) [A] Nothing in this chapter shall be construed to  
10 prohibit a person licensed [to practice] as a physical [therapy  
11 by any other] therapist or as a physical therapist assistant in  
12 another state or [by a] foreign country [may practice] from  
13 practicing physical therapy in this State if the person is part  
14 of an educational demonstration or instructional program or  
15 seminar sponsored by an educational institution, hospital,  
16 medical care program, the Hawaii Chapter of the American  
17 Physical Therapy Association, or any other similar person or  
18 group, for the duration of the program or seminar and confined  
19 to the purpose of the program or seminar.

20 (d) Nothing in this chapter shall be construed to prohibit  
21 [~~a certified~~] an individual from acting as an athletic trainer  
22 [~~as recognized by the National Athletic Trainers Association~~

1 ~~from performing within the scope of such certification, nor~~  
2 ~~shall it be construed to prohibit any person employed as an~~  
3 ~~athletic trainer in any public or private educational~~  
4 ~~institution from administering hot packs, whirlpool, and cold~~  
5 ~~packs, protective taping, and basic first aid intervention, or~~  
6 ~~from acting under the direct supervision of a certified athletic~~  
7 ~~trainer or team physician; provided that the services are~~  
8 ~~performed on regularly enrolled students, that the students are~~  
9 ~~engaged in or are eligible to engage in institutionally~~  
10 ~~sponsored athletic events, and that in no case shall the person~~  
11 ~~claim to be a physical therapist or claim to be performing~~  
12 ~~physical therapy.] under chapter 436H.~~

13 (e) ~~[Nothing in this chapter shall be construed to~~  
14 ~~prohibit a duly licensed physical therapist from using support~~  
15 ~~or auxiliary personnel to assist the physical therapist in the~~  
16 ~~practice of physical therapy; provided that such support or~~  
17 ~~auxiliary personnel shall perform only those duties that they~~  
18 ~~are qualified to perform as allowed by the rules defining scope~~  
19 ~~of practice adopted by the board; and provided further that such~~  
20 ~~support or auxiliary personnel shall perform these duties under~~  
21 ~~the supervision and direction of a physical therapist.] Nothing~~  
22 ~~in this chapter shall be construed to prohibit a physical~~

1 therapist or physical therapist assistant who is practicing in  
2 the United States Armed Services, United States Public Health  
3 Service, or Veterans Administration pursuant to federal  
4 regulations for state licensure of healthcare providers from  
5 practicing as a physical therapist or physical therapist  
6 assistant; provided that if the person, while federally employed  
7 as a physical therapist or a physical therapist assistant,  
8 engages in the practice of physical therapy outside the course  
9 and scope of the person's federal employment, the person shall  
10 be required to obtain a license in accordance with this chapter.

11 (f) Nothing in this chapter shall be construed to prohibit  
12 a physical therapist who is licensed in a jurisdiction of the  
13 United States or another country from engaging in the practice  
14 of physical therapy, if that person by contract or employment is  
15 providing physical therapy to individuals affiliated with or  
16 employed by established athletic teams, athletic organizations,  
17 or performing arts companies that temporarily practice, compete,  
18 or perform in the State for no more than sixty days in a  
19 calendar year."

20 SECTION 5. Section 461J-4, Hawaii Revised Statutes, is  
21 amended to read as follows:

1           "§461J-4 Board of physical therapy; establishment,  
2 appointment, membership. (a) There is established within the  
3 department of commerce and consumer affairs for administrative  
4 purposes the board of physical therapy. The board shall consist  
5 of seven members. Four members shall be physical therapists,  
6 one member shall be a [~~physician, osteopathic physician, or~~  
7 ~~surgeon with a permanent license under chapter 453, or a dentist~~  
8 ~~with a permanent license under chapter 448,~~] physical therapist  
9 assistant, and two members shall be consumers. All members  
10 shall be at least eighteen years of age and residents of the  
11 State.

12           (b) Each physical therapist member of the board shall  
13 possess a valid permanent license as a physical therapist and  
14 shall have, after graduation from a school of physical therapy,  
15 at least three years of full-time experience or the equivalent  
16 in any of the following areas or in any combination of the  
17 following: clinical physical therapy services, administration  
18 in physical therapy or related health fields, or teaching in an  
19 educational program to prepare practitioners of physical  
20 therapy.

21           (c) The physical therapist assistant member of the board  
22 shall possess a valid permanent license as a physical therapist

1 assistant and shall have, after graduation from an accredited  
2 physical therapist assistant program or an accredited physical  
3 therapy program, at least three years of full-time experience.

4 [~~e~~] (d) The governor may appoint and fill each vacancy  
5 on the board pursuant to section 26-34."

6 SECTION 6. Section 461J-6, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) An applicant for a permanent license to practice as a  
9 physical [~~therapy~~] therapist or physical therapist assistant  
10 shall submit proof of educational qualifications and any other  
11 information required by the board on an application form  
12 prescribed by the board. The board shall maintain a current  
13 list of schools of physical therapy [~~which~~] that are approved by  
14 an agency recognized by the United States Department of  
15 Education or Council on Postsecondary Accreditation.

16 In the case of foreign-trained persons, the board shall  
17 establish procedures for assessing the education and training to  
18 determine in each case whether it is equivalent to that of  
19 applicants trained in the United States."

20 SECTION 7. Upon the issuance of a new license and at each  
21 license renewal period, each physical therapist assistant shall  
22 pay, in addition to the license fee or renewal fee, a surcharge



1 of \$100, which shall be maintained in a separate account within  
2 the compliance resolution fund established pursuant to section  
3 26-9(o), Hawaii Revised Statutes. At the end of each quarter,  
4 the moneys contained in the separate account established  
5 pursuant to this section shall be transferred to the compliance  
6 resolution fund until the total transferred amounts equals the  
7 amount appropriated in section 8 of this Act. Thereafter, no  
8 surcharge shall be assessed, and any funds in excess of the  
9 amount appropriated in section 8 of this Act shall be deposited  
10 into the compliance resolution fund.

11 SECTION 8. There is appropriated out of the compliance  
12 resolution fund established pursuant to section 26-9(o), Hawaii  
13 Revised Statutes, the sum of \$40,000, or so much thereof as may  
14 be necessary, for fiscal year 2014-2015 to implement the  
15 licensure of physical therapist assistants as required by this  
16 Act.


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

19 SECTION 9. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 10. This Act, upon its approval, shall take effect  
22 on December 31, 2014.

S.B. NO. 1074

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INTRODUCED BY: 

BY REQUEST

S.B. NO. 1074

**Report Title:**

Physical Therapy; Physical Therapist Assistants; Required Licensure; Addition of Physical Therapist Assistant to the Board of Physical Therapy

**Description:**

Amends chapter 461J, Hawaii Revised Statutes, to regulate physical therapist assistants by limiting the use of certain titles, ensuring that the regulated physical therapist assistants will have the appropriate education and training background, requiring physical therapist assistants to obtain a license to work in the State, and adds a physical therapist assistant to the composition of the Board of Physical Therapy of 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.*

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO PHYSICAL THERAPY.

PURPOSE: The purpose of the bill is to regulate physical therapist assistants (PTAs) and to limit the use of certain titles. The bill also requires that the regulated PTAs obtain the appropriate education and training background and obtain a license to work in the State.

MEANS: Add two new sections to chapter 461J, Hawaii Revised Statutes (HRS), and amend sections 461J-1, 461J-2, 461J-3, 461J-4, and 461J-6(a), HRS.

JUSTIFICATION: The Board of Physical Therapy (Board) is in full support of this bill. The Board feels that licensure is appropriate for PTAs because it is the highest form of regulation that guarantees public protection for consumers.

Hawaii is currently the only state in the country that does not regulate PTAs. 41 states currently license PTAs, and eight states certify PTAs. Licensure will ensure that physical therapist (PT) and PTA regulations are consistent with other states. PTAs are already recognized in the existing PT rules and supervision and scope of practice is addressed in the current rules. The specific licensure of PTAs will ensure that the practice of PTAs is subject to regulatory oversight to ensure compliance with existing laws and rules.

The department estimates that there are approximately 1,400 PTs and 200 PTAs working in Hawaii.

# SB. NO. 1074

A sunrise review on a proposal to regulate PTAs was conducted in 1995 by the Auditor's Office, as mandated by section 26H-6, HRS. In 1995, 41 other states regulated physical therapist assistants. The analysis concluded that regulation of PTAs was not warranted because they found no documented evidence of harm to the public caused by PTAs in Hawaii. However, since the time of the sunrise study, PTA involvement in patient care has grown and is likely to continue to grow. Because PTAs are being used more to provide health care services, the Board believes that licensure is appropriate at this time.

In order to implement the licensure of approximately 200 physical therapist assistants, an appropriation of \$40,000 from the compliance resolution fund is being requested. Upon the issuance of a new license and at each license renewal period, each licensee will be assessed a \$100 surcharge in addition to the normal licensing fees. Once the collection of \$40,000 is received, the assessment of the surcharge shall cease.

Impact on the public: The bill protects the public by requiring a license to practice as a PTA in the State of Hawaii. Consumers will benefit from the increased accountability of PTAs.

Impact on the department and other agencies: There will be additional workload demands on staff in addition to additional operating expenditures.

GENERAL FUND: None.

OTHER FUNDS: Compliance resolution fund - \$40,000.

PPBS PROGRAM DESIGNATION: CCA 105.

**SB. NO. 1074**

OTHER AFFECTED  
AGENCIES:

None.

EFFECTIVE DATE:

Upon its approval, the Act shall take effect  
on December 31, 2014.