
A BILL FOR AN ACT

RELATING TO OCCUPATIONAL THERAPY PRACTICE.

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

1 SECTION 1. The legislature finds that occupational
2 therapists treat patients with injuries, illnesses, or
3 disabilities through the therapeutic use of everyday life
4 activities. Occupational therapy assistants assist occupational
5 therapists in providing occupational therapy.

6 Although the regulation of occupational therapy practice is
7 codified in chapter 457G, Hawaii Revised Statutes, the language
8 in this chapter is incomplete in relation to certain aspects of
9 the profession, and does not require licensure of occupational
10 therapists or occupational therapy assistants. The legislature
11 notes that Hawaii is the last state in the country to license
12 occupational therapists and one of the last three states to
13 license occupational therapy assistants.

14 The legislature further finds that occupational therapists
15 and occupational therapy assistants should be licensed in Hawaii
16 in order to protect public health, safety, and the welfare of
17 the patients served by occupational therapists and occupational
18 therapy assistants. Licensing of occupational therapists and



1 occupational therapy assistants will ensure that occupational
2 therapy in Hawaii is provided by only qualified occupational
3 therapists and occupational therapy assistants and will help
4 meet insurer payer requirements, as some insurers require
5 occupational therapy to be provided by licensed individuals.

6 The purpose of this Act is to improve the regulation of
7 occupational therapists and occupational therapy assistants by
8 establishing an occupational therapy program and licensing
9 requirements for occupational therapists and occupational
10 therapy assistants, including provisions relating to the
11 qualifications, licensure practice of occupational therapy,
12 supervision of occupational therapy assistants, exemptions,
13 powers and duties of the director of commerce and consumer
14 affairs, licensure renewal, restoration, penalty, and revocation
15 or suspension of licenses.

16 Accordingly, this Act provides that, effective with the
17 December 31, 2014, renewal, the occupational therapist
18 registration will be converted to an occupational therapist
19 license. To effectuate a seamless conversion, current
20 occupational therapist registrants will be grandfathered and
21 issued an occupational therapist license upon renewal.



1 In addition, the Act provides that, effective January 1,
2 2017, except as otherwise provided in this chapter, no person
3 shall practice as an occupational therapy assistant or represent
4 the person's self as being able to practice as an occupational
5 therapy assistant in the State without possessing a valid
6 license issued by the director of commerce and consumer affairs
7 in accordance with this Act.

8 SECTION 2. Chapter 457G, Hawaii Revised Statutes, is
9 amended by adding eight new sections to be appropriately
10 designated and to read as follows:

11 "§457G-A Occupational therapy program. There is
12 established an occupational therapy program within the
13 department to be administered by the director.

14 §457G-B Powers and duties of the director. In addition to
15 any other powers and duties authorized by law, the director
16 shall have the powers and duties to:

- 17 (1) Grant, deny, renew, refuse to renew, restore,
18 terminate, reinstate, condition, restrict, suspend, or
19 revoke a license issued pursuant to this chapter;
20 (2) Grant permission to a person to practice occupational
21 therapy and to use the title of "licensed occupational



- 1 therapist" or a description indicating that the person
2 is a licensed occupational therapist in this State;
- 3 (3) Grant permission to a person to practice as an
4 occupational therapy assistant and to use the title of
5 "licensed occupational therapy assistant" or a
6 description indicating that the person is a licensed
7 occupational therapy assistant in this State;
- 8 (4) Adopt, amend, or repeal rules pursuant to chapter 91
9 as the director finds necessary to carry out the
10 purpose of this chapter;
- 11 (5) Administer, coordinate, and enforce this chapter;
- 12 (6) Discipline a licensed occupational therapist or
13 licensed occupational therapy assistant on grounds
14 specified by this chapter or chapter 436B or for any
15 violation of rules adopted by the director pursuant to
16 this chapter;
- 17 (7) Refuse to license a person for failure to meet the
18 licensing requirements in this chapter or for any
19 reason specified by this chapter as grounds to
20 discipline an occupational therapist or occupational
21 therapy assistant; and



1 (8) Appoint an advisory committee composed of practicing
2 occupational therapists and occupational therapy
3 assistants to assist with the implementation of this
4 chapter.

5 §457G-C Qualifications of occupational therapy assistants.

6 (a) Effective January 1, 2017, there shall be licensing for
7 occupational therapy assistants.

8 (b) Occupational therapy assistants shall have completed
9 the educational requirements and supervised field work required
10 for certification by the National Board for Certification in
11 Occupational Therapy, and shall have passed a national
12 certification examination administered by the National Board for
13 Certification in Occupational Therapy.

14 (c) In the case of foreign-trained persons, the applicant
15 shall have completed the National Board for Certification in
16 Occupational Therapy eligibility determination process for
17 occupational therapy assistants and shall have passed a national
18 certification examination administered by the National Board for
19 Certification in Occupational Therapy.

20 §457G-D Supervision of occupational therapy assistants.

21 (a) An occupational therapy assistant may practice occupational
22 therapy only under the supervision of an occupational therapist



1 who is licensed to practice occupational therapy in the State.
2 The occupational therapist shall be responsible for occupational
3 therapy evaluation, appropriate reassessment, treatment
4 planning, interventions, and discharge from occupational therapy
5 based on standard professional guidelines. The supervising
6 occupational therapist and the supervised occupational therapy
7 assistant shall have legal and ethical responsibility for
8 ongoing management of supervision, including providing,
9 requesting, giving, or obtaining supervision.

10 (b) The supervising occupational therapist shall:

11 (1) Determine the frequency, level, and nature of
12 supervision with input from the occupational therapy
13 assistant; and

14 (2) Base the supervision determination on a variety of
15 factors, including the clients' required level of
16 care, treatment plan, and experience and pertinent
17 skills of the occupational therapy assistant.

18 (c) The supervising occupational therapist shall supervise
19 the occupational therapy assistant to ensure that the
20 occupational therapy assistant:



- 1 (1) Does not initiate or alter a treatment program without
2 prior evaluation by and approval of the supervising
3 occupational therapist;
- 4 (2) Obtains prior approval of the supervising occupational
5 therapist before making adjustments to a specific
6 treatment procedure; and
- 7 (3) Does not interpret data beyond the scope of the
8 occupational therapy assistant's education and
9 training.

10 §457G-E Exemptions. (a) Nothing in this chapter shall be
11 construed to prohibit any person from acting within the scope of
12 a license issued to that person under any other law; provided
13 that the person shall not claim to be an occupational therapist
14 or occupational therapy assistant, or that the person is
15 performing occupational therapy, unless the person is also
16 licensed under this chapter.

17 (b) Nothing in this chapter shall be construed to prohibit
18 students in an educational program for occupational therapists
19 or occupational therapy assistants from participating in
20 activities that are conducted as part of the educational program
21 and are under the guidance and supervision of a licensed
22 occupational therapist.



1 (c) Nothing in this chapter shall be construed to prohibit
2 a person licensed as an occupational therapist in another state
3 or foreign country from practicing occupational therapy in this
4 State if the person is part of an educational demonstration or
5 instructional program or seminar sponsored by an educational
6 institution, hospital, medical care program, the Occupational
7 Therapy Association of Hawaii, or any other similar person or
8 group, for the duration of the program or seminar and confined
9 to the purpose of the program or seminar.

10 (d) Nothing in this chapter shall be construed to prohibit
11 an occupational therapist who is practicing in the United States
12 Armed Services, United States Public Health Service, or
13 Department of Veterans Affairs pursuant to federal regulations
14 for state licensure of health care providers from practicing as
15 an occupational therapist; provided that if the person, while
16 federally employed as an occupational therapist, engages in the
17 practice of occupational therapy outside the course and scope of
18 the person's federal employment, the person shall be required to
19 obtain a license in accordance with this chapter.

20 §457G-F Biennial renewal; failure to renew; restoration,
21 inactive license; conversion from registration. (a) The
22 biennial renewal fee shall be paid to the department on or



1 before December 31 of each even-numbered year. Failure,
2 neglect, or refusal of any licensee to pay the biennial renewal
3 fee on or before this date shall constitute a forfeiture of the
4 license. A forfeited license may be restored upon written
5 application within one year from the date of forfeiture and the
6 payment of the delinquent fee plus an amount equal to fifty per
7 cent of the delinquent fee.

8 (b) Upon written application, the director may place the
9 licensee's active license on an inactive status. During the
10 inactive period, a licensee shall not engage in the practice of
11 occupational therapy. The license may be reactivated at any
12 time by submitting a written application to the director and by
13 payment of the renewal and any other applicable fees. A
14 licensee's inactive status shall not deprive the director of the
15 director's authority to institute or continue any disciplinary
16 or enforcement action against the licensee.

17 (c) Effective with the December 31, 2014, renewal, each
18 active occupational therapist registration shall become an
19 active occupational therapist license by operation of law. The
20 conversion from registration to licensure shall not:



1 (1) Affect any prior discipline, limitation, or condition
2 imposed by the director on an occupational therapist's
3 registration;

4 (2) Limit the director's authority over any registrant; or

5 (3) Affect any pending investigation or administrative
6 proceeding.

7 (d) Effective January 1, 2015, the director shall treat
8 any application pending for an occupational therapist
9 registration as an application for licensure, and the
10 application shall be subject to the requirements established by
11 the director in accordance with this chapter.

12 §457G-G License revocation or suspension; reinstatement;
13 probation. (a) In addition to any other actions authorized by
14 law, any license issued under this chapter may be revoked or
15 suspended by the director at any time for any cause authorized
16 by law, including but not limited to the following:

17 (1) Obtaining a fee on the assurance that a manifestly
18 incurable disease can be permanently cured;

19 (2) Wilfully betraying patient confidentiality;

20 (3) Making an untruthful and improbable statement in
21 advertising one's practice or business;

22 (4) False, fraudulent, or deceptive advertising;



- 1 (5) Being habituated to the excessive use of drugs or
2 alcohol or being or having been addicted to, dependent
3 on, or a habitual user of, a narcotic, barbiturate,
4 amphetamine, hallucinogen, or other drug having
5 similar effects;
- 6 (6) Practicing occupational therapy while the ability to
7 practice is impaired by alcohol, drugs, or mental
8 instability;
- 9 (7) Procuring a license through fraud, misrepresentation,
10 or deceit, or knowingly permitting an unlicensed
11 person to practice occupational therapy;
- 12 (8) Professional misconduct, gross negligence, or manifest
13 incapacity in the practice of occupational therapy;
- 14 (9) Conduct or practice contrary to recognized standards
15 of ethics for the practice of occupational therapy in
16 the United States; or
- 17 (10) Violation of this chapter, chapter 436B, or any rule
18 or order of the director.
- 19 (b) To reinstate a suspended license, or to grant
20 licensure to an applicant whose license was previously revoked,
21 the director may require further education or training or
22 require proof of competence in performance.



1 (c) In lieu of revoking or suspending a license, the
2 director may place the licensee on probation, the terms of which
3 may require observation of the licensee by a licensed
4 occupational therapist.

5 (d) Any licensee or applicant who violates this section
6 may also be fined not more than \$1,000 per violation.

7 §457G-H License required. (a) Except as specifically
8 provided in this chapter, no person shall engage in the practice
9 of occupational therapy or use the title "licensed occupational
10 therapist" or "occupational therapist" without a valid license
11 issued pursuant to this chapter.

12 (b) Except as specifically provided in this chapter, no
13 person shall engage in the practice of occupational therapy
14 under the supervision of and in partnership with or use the
15 title "licensed occupational therapist assistant" or
16 "occupational therapist assistant" without a valid license
17 issued pursuant to this chapter.

18 (c) Any person who violates this section shall be subject
19 to a fine of not more than \$1,000 per violation."

20 SECTION 3. Section 457G-1, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By adding three new definitions to be appropriately
2 inserted and to read:

3 "Foreign-trained person" means a person who has completed
4 an educational program or course of study in occupational
5 therapy in an institution located outside the United States.

6 "Occupational therapist" means a person who engages in the
7 practice of occupational therapy in this State.

8 "Occupational therapy assistant" means a person who engages
9 in the practice of occupational therapy under the supervision of
10 and in partnership with an occupational therapist."

11 2. By repealing the definition of "occupational therapy
12 services".

13 ~~["Occupational therapy services" include:~~

14 ~~(1) The assessment of needs and provision of treatment in~~
15 ~~consultation with the individual, family, or other~~
16 ~~appropriate persons;~~

17 ~~(2) Interventions directed toward developing, improving,~~
18 ~~ascertaining, enhancing, or restoring:~~

19 ~~(A) Daily living skills, including self care skills~~
20 ~~and activities that involve interactions with~~
21 ~~others and the environment, work readiness or~~



- 1 ~~work performance, play skills or leisure~~
2 ~~capacities, or educational performance skills; or~~
3 ~~(B) Sensorimotor, oral motor, perceptual, or~~
4 ~~neuromuscular functioning; or emotional,~~
5 ~~motivational, cognitive, or psychosocial~~
6 ~~components of performance;~~
- 7 ~~(3) The education of the individual, family, or other~~
8 ~~appropriate persons in carrying out appropriate~~
9 ~~interventions;~~
- 10 ~~(4) Design, development, adaptation, application, or~~
11 ~~training in the use of:~~
- 12 ~~(A) Assistive technology devices; and~~
13 ~~(B) Rehabilitative technology such as orthotic or~~
14 ~~prosthetic devices;~~
- 15 ~~(5) The application of physical agent modalities as an~~
16 ~~adjunct to, or in preparation for, purposeful~~
17 ~~activity;~~
- 18 ~~(6) The application of ergonomic principles, and the~~
19 ~~adaptation of environments and processes to enhance~~
20 ~~functional performance; and~~
- 21 ~~(7) The promotion of health and wellness."]~~



1 SECTION 4. Section 457G-1.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§457G-1.5 Practice of occupational therapy [~~r~~
4 ~~qualifications; registration]~~. (a) [~~No person shall represent,~~
5 ~~advertise, or announce oneself, either publicly or privately, as~~
6 ~~an occupational therapist, nor use, in connection with the~~
7 ~~person's name or place of business, the words "occupational~~
8 ~~therapist", "certified occupational therapist", "occupational~~
9 ~~therapist registered", or the letters "OT", "COT", or "OTR", or~~
10 ~~any other words, letters, abbreviations, or insignia indicating~~
11 ~~or implying that such person is an occupational therapist unless~~
12 ~~such person registers the person's name and business address~~
13 ~~biennially with the department of commerce and consumer affairs~~
14 ~~in a manner established by rules adopted pursuant to chapter 91,~~
15 ~~and meets the qualifications of section 457G-2.~~

16 ~~(b) The department shall maintain and biennially update a~~
17 ~~list of the names and business addresses of the occupational~~
18 ~~therapists who are registered under subsection (a).~~

19 ~~(c) Nothing in this chapter shall be construed to prohibit~~
20 ~~a registered occupational therapist from utilizing occupational~~
21 ~~therapy support personnel to assist in the practice of~~
22 ~~occupational therapy; provided that the occupational therapy~~



1 ~~support personnel shall work under the supervision of or in~~
2 ~~consultation with the registered occupational therapist.~~

3 ~~"Occupational therapy support personnel" includes a person~~
4 ~~certified by the National Board for Certification in~~
5 ~~Occupational Therapy, and who uses the title "occupational~~
6 ~~therapy assistant" or "certified occupational therapy~~
7 ~~assistant", the letters "COTA" or "OTA", or any other titles,~~
8 ~~letters, abbreviations, or insignia indicating or implying that~~
9 ~~the person is an occupational therapy assistant.~~

10 ~~(d) A registration granted under this chapter shall mean~~
11 ~~that the person has met requirements that include minimum~~
12 ~~practice standards to provide protection to the public and is~~
13 ~~permitted to use the title and engage in the practice as an~~
14 ~~occupational therapist. In the granting of permission to engage~~
15 ~~in this profession, and consistent with section 436B-2, the~~
16 ~~definition for "license" is inclusive of a registration issued~~
17 ~~under this chapter and, as such, an occupational therapist that~~
18 ~~holds a registration shall be similarly regarded as an~~
19 ~~occupational therapist that holds a license.] The practice of~~
20 ~~occupational therapy is the therapeutic use of everyday life~~
21 ~~activities with individuals or groups for the purpose of~~



1 participation in roles and situations in home, school,
2 workplace, community, and other settings. It includes:

3 (1) Evaluation of factors affecting activities of daily
4 living, instrumental activities of daily living, rest
5 and sleep, education, work, play, leisure, and social
6 participation, including:

7 (A) Client factors, including body functions, such as
8 neuromusculoskeletal, sensory-perceptual, visual,
9 mental, cognitive, and pain factors; body
10 structures, such as cardiovascular, digestive,
11 nervous, integumentary, genitourinary systems,
12 and structures related to movement; values;
13 beliefs; and spirituality;

14 (B) Habits, routines, roles, rituals, and behavior
15 patterns;

16 (C) Occupational and social environments, cultural,
17 personal, temporal, and virtual contexts and
18 activity demands that affect performance; and

19 (D) Performance skills, including motor and praxis,
20 sensory-perceptual, emotional regulation,
21 cognitive, communication, and social skills;



- 1 (2) Methods or approaches selected to direct the process
2 of interventions, including:
- 3 (A) Establishment, remediation, or restoration of a
4 skill or ability that has not yet developed, is
5 impaired, or is in decline;
- 6 (B) Compensation, modification, or adaptation of
7 activity or environment to enhance performance or
8 prevent injuries, disorders, or other conditions;
- 9 (C) Retention and enhancement of skills or abilities
10 without which performance in everyday life
11 activities would decline;
- 12 (D) Promotion of health and wellness, including the
13 use of self-management strategies, to enable or
14 enhance performance in everyday life activities;
15 and
- 16 (E) Prevention of barriers to performance and
17 participation, including injury and disability
18 prevention; and
- 19 (3) Interventions and procedures to promote or enhance
20 safety and performance in activities of daily living,
21 instrumental activities of daily living, rest and



1 sleep, education, work, play, leisure, and social
2 participation, including:

3 (A) Therapeutic use of occupations, exercises, and
4 activities;

5 (B) Training in self-care, self-management, health
6 management and maintenance, home management,
7 community reintegration, work reintegration,
8 school activities, and work performance;

9 (C) Development, remediation, or compensation of
10 neuromusculoskeletal, sensory-perceptual, visual,
11 mental, and cognitive functions; pain tolerance
12 and management; and behavioral skills;

13 (D) Therapeutic use of self, including one's
14 personality, insights, perceptions, and
15 judgments, as part of the therapeutic process;

16 (E) Education and training of individuals, including
17 family members, caregivers, groups, populations,
18 and others;

19 (F) Care coordination, case management, and
20 transition services;

21 (G) Consultative services to groups, programs,
22 organizations, or communities;



- 1 (H) Modification of environments, such as home, work,
2 school, or community, and adaptation of
3 processes, including the application of ergonomic
4 principles;
- 5 (I) Assessment, design, fabrication, application,
6 fitting, and training in seating and positioning;
7 assistive technology; adaptive devices; orthotic
8 devices; and training in the use of prosthetic
9 devices;
- 10 (J) Assessment, recommendation, and training in
11 techniques to enhance functional mobility,
12 including management of wheelchairs and other
13 mobility devices;
- 14 (K) Low vision rehabilitation;
- 15 (L) Driver rehabilitation and community mobility;
- 16 (M) Management of feeding, eating, and swallowing to
17 enable eating and feeding performance;
- 18 (N) Application of physical agent modalities and use
19 of a range of specific therapeutic procedures,
20 such as wound care management, interventions to
21 enhance sensory-perceptual and cognitive



1 processing, and manual therapy, to enhance
2 performance skills; and

3 (O) Facilitating the occupational performance of
4 groups, populations, or organizations through the
5 modification of environments and the adaptation
6 of processes.

7 (b) No person shall engage in the practice of occupational
8 therapy gratuitously or for pay, offer to practice occupational
9 therapy, offer occupational therapy, or represent, advertise, or
10 announce, either publicly or privately, that the person is an
11 occupational therapist, unless the person is appropriately
12 licensed under this chapter.

13 (c) No person shall use, in connection with the person's
14 name or business, the words "occupational therapist licensed",
15 "registered occupational therapist", "licensed occupational
16 therapist", "occupational therapist", or "doctor of occupational
17 therapy", or the letters "OT", "OTR", "OTD", "OT/L", "OTR/L", or
18 "OTD/L", or any other words, letters, abbreviations, or insignia
19 indicating or implying that the person is an occupational
20 therapist unless the person is appropriately licensed as an
21 occupational therapist under this chapter.



1 (d) Effective January 1, 2017, except as otherwise
2 provided in this chapter, no person shall engage in the practice
3 of occupational therapy under the supervision of and in
4 partnership with an occupational therapist or represent the
5 person's self as able to practice as an occupational therapy
6 assistant in the State without possessing a valid license issued
7 by the director in accordance with this chapter.

8 (e) No person shall use the title "occupational therapy
9 assistant licensed", "licensed occupational therapy assistant",
10 the letters "OTA/L" or "COTA/L", or any other words, letters,
11 abbreviations, or insignia indicating or implying that the
12 person is an occupational therapy assistant unless that person
13 is appropriately licensed as an occupational therapy assistant
14 under this chapter."

15 SECTION 5. Section 457G-2, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§457G-2 Qualifications of occupational therapists.** (a)
18 Occupational therapists shall have completed the educational
19 requirements and supervised field work experience required for
20 certification by the National Board for Certification in
21 Occupational Therapy, and shall have passed a national
22 certification examination administered by that association.



1 (b) In the case of foreign-trained persons, the applicant
2 shall have completed the National Board for Certification in
3 Occupational Therapy eligibility determination process for
4 occupational therapists and shall have passed a national
5 certification examination administered by the National Board for
6 Certification in Occupational Therapy."

7 SECTION 6. Section 457G-3, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§457G-3] Injunction. The attorney general or the~~
10 ~~director of the office of consumer protection may bring~~
11 ~~proceedings to enjoin any violation of this chapter."]~~

12 SECTION 7. Section 457G-4, Hawaii Revised Statutes, is
13 repealed.

14 ~~["§457G-4] Civil penalty. Any person violating any~~
15 ~~provisions of this chapter shall be fined a sum of not less than~~
16 ~~\$500 nor more than \$10,000 for each violation, which sum shall~~
17 ~~be collected in a civil action brought by the attorney general~~
18 ~~or the director of the office of consumer protection on behalf~~
19 ~~of the State."]~~

20 SECTION 8. There is appropriated out of the compliance
21 resolution fund established pursuant to section 26-9(o), Hawaii
22 Revised Statutes, the sum of \$ or so much thereof as may

1 be necessary for fiscal year 2014-2015 to implement an
2 occupational therapy licensure program, including hiring of
3 necessary personnel to assist with the implementation and
4 continuing functions of chapter 457G, Hawaii Revised Statutes,
5 as well as covering operating expenditures such as office
6 supplies, postage, and other current expenses to carry out and
7 maintain the new regulatory area within the purview of the
8 director of commerce and consumer affairs; provided that the
9 department of commerce and consumer affairs may employ necessary
10 personnel without regard to chapter 76, Hawaii Revised Statutes.

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

13 SECTION 9. Upon issuance of a new license and at each
14 license renewal period, each licensee shall be assessed a
15 surcharge of \$100 in addition to the other licensing fees. This
16 surcharge shall cease once the amount collected from the
17 surcharge imposed pursuant to this section is equal to the
18 amount of the appropriation in section 8 of this Act.

19 SECTION 10. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute
21 appropriate section numbers for the letters used in designating
22 the new sections in this Act.



1 SECTION 11. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 12. This Act shall take effect upon approval.



Report Title:

Occupational Therapy; Occupational Therapists; Occupational Therapy Assistants; Regulation; Licensing; Appropriation

Description:

Improves the regulation of occupational therapists and occupational therapy assistants by establishing an occupational therapy program and licensing requirements for occupational therapists and occupational therapy assistants. Makes an appropriation. (SB2472 HD2)

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

