
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, licensure renewal,
14 restoration, penalty, and revocation or suspension of licenses.

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

21 In addition, the Act provides that, effective January 1,
22 2017, except as otherwise provided in this chapter, no person



1 shall practice as an occupational therapy assistant or represent
2 the person's self as being able to practice as an occupational
3 therapy assistant in the State without possessing a valid
4 license issued by the director of commerce and consumer affairs
5 in accordance with this Act.

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

9 "§457G-A Occupational therapy program. There is
10 established an occupational therapy program within the
11 department to be administered by the director.

12 §457G-B Powers and duties of the director. In addition to
13 any other powers and duties authorized by law, the director
14 shall have the powers and duties to:

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



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



1 assistants to assist with the implementation of this
2 chapter.

3 **§457G-C Qualifications of occupational therapy assistants.**

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

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

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

18 **§457G-D Supervision of occupational therapy assistants.**

19 (a) An occupational therapy assistant may practice occupational
20 therapy only under the supervision of an occupational therapist
21 who is licensed to practice occupational therapy in the State.

22 The occupational therapist shall be responsible for occupational



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

8 (b) The supervising occupational therapist shall:

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

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

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

19 (1) Does not initiate or alter a treatment program without
20 prior evaluation by and approval of the supervising
21 occupational therapist;



1 (2) Obtains prior approval of the supervising occupational
2 therapist before making adjustments to a specific
3 treatment procedure; and

4 (3) Does not interpret data beyond the scope of the
5 occupational therapy assistant's education and
6 training.

7 §457G-E Exemptions. (a) Nothing in this chapter shall be
8 construed to prohibit any person from acting within the scope of
9 a license issued to that person under any other law; provided
10 that the person shall not claim to be an occupational therapist
11 or occupational therapy assistant, or that the person is
12 performing occupational therapy, unless the person is also
13 licensed under this chapter.

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

20 (c) Nothing in this chapter shall be construed to prohibit
21 a person licensed as an occupational therapist in another state
22 or foreign country from practicing occupational therapy in this

1 State if the person is part of an educational demonstration or
2 instructional program or seminar sponsored by an educational
3 institution, hospital, medical care program, the Occupational
4 Therapy Association of Hawaii, or any other similar person or
5 group, for the duration of the program or seminar and confined
6 to the purpose of the program or seminar.

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

17 §457G-F Biennial renewal; failure to renew; restoration,
18 inactive license; conversion from registration. (a) The
19 biennial renewal fee shall be paid to the department on or
20 before December 31 of each even-numbered year. Failure,
21 neglect, or refusal of any licensee to pay the biennial renewal
22 fee on or before this date shall constitute a forfeiture of the



1 license. A forfeited license may be restored upon written
2 application within one year from the date of forfeiture and the
3 payment of the delinquent fee plus an amount equal to fifty per
4 cent of the delinquent fee.

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

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

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

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



1 (3) Affect any pending investigation or administrative
2 proceeding.

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

8 §457G-G License revocation or suspension; reinstatement;
9 probation. (a) In addition to any other actions authorized by
10 law, any license issued under this chapter may be revoked or
11 suspended by the director at any time for any cause authorized
12 by law, including but not limited to the following:

- 13 (1) Obtaining a fee on the assurance that a manifestly
- 14 incurable disease can be permanently cured;
- 15 (2) Wilfully betraying patient confidentiality;
- 16 (3) Making an untruthful and improbable statement in
- 17 advertising one's practice or business;
- 18 (4) False, fraudulent, or deceptive advertising;
- 19 (5) Being habituated to the excessive use of drugs or
- 20 alcohol or being or having been addicted to, dependent
- 21 on, or a habitual user of, a narcotic, barbiturate,

- 1 amphetamine, hallucinogen, or other drug having
- 2 similar effects;
- 3 (6) Practicing occupational therapy while the ability to
- 4 practice is impaired by alcohol, drugs, or mental
- 5 instability;
- 6 (7) Procuring a license through fraud, misrepresentation,
- 7 or deceit, or knowingly permitting an unlicensed
- 8 person to practice occupational therapy;
- 9 (8) Professional misconduct, gross negligence, or manifest
- 10 incapacity in the practice of occupational therapy;
- 11 (9) Conduct or practice contrary to recognized standards
- 12 of ethics for the practice of occupational therapy in
- 13 the United States; or
- 14 (10) Violation of this chapter, chapter 436B, or any rule
- 15 or order of the director.

- 16 (b) To reinstate a suspended license, or to grant
- 17 licensure to an applicant whose license was previously revoked,
- 18 the director may require further education or training or
- 19 require proof of competence in performance.

- 20 (c) In lieu of revoking or suspending a license, the
- 21 director may place the licensee on probation, the terms of which



1 may require observation of the licensee by a licensed
2 occupational therapist."

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

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

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

10 "Occupational therapist" means a person who is licensed to
11 practice occupational therapy in this State.

12 "Occupational therapy assistant" means a person who is
13 licensed to practice occupational therapy under the supervision
14 of and in partnership with an occupational therapist."

15 2. By repealing the definition of "occupational therapy
16 services".

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

18 ~~(1) The assessment of needs and provision of treatment in~~
19 ~~consultation with the individual, family, or other~~
20 ~~appropriate persons;~~

21 ~~(2) Interventions directed toward developing, improving,~~
22 ~~ascertaining, enhancing, or restoring:~~



- 1 ~~(A) Daily living skills, including self care skills~~
- 2 ~~and activities that involve interactions with~~
- 3 ~~others and the environment, work readiness or~~
- 4 ~~work performance, play skills or leisure~~
- 5 ~~capacities, or educational performance skills; or~~
- 6 ~~(B) Sensorimotor, oral motor, perceptual, or~~
- 7 ~~neuromuscular functioning; or emotional,~~
- 8 ~~motivational, cognitive, or psychosocial~~
- 9 ~~components of performance;~~
- 10 ~~(3) The education of the individual, family, or other~~
- 11 ~~appropriate persons in carrying out appropriate~~
- 12 ~~interventions;~~
- 13 ~~(4) Design, development, adaptation, application, or~~
- 14 ~~training in the use of:~~
- 15 ~~(A) Assistive technology devices; and~~
- 16 ~~(B) Rehabilitative technology such as orthotic or~~
- 17 ~~prosthetic devices;~~
- 18 ~~(5) The application of physical agent modalities as an~~
- 19 ~~adjunct to, or in preparation for, purposeful~~
- 20 ~~activity;~~



1 ~~(6) The application of ergonomic principles, and the~~
2 ~~adaptation of environments and processes to enhance~~
3 ~~functional performance; and~~

4 ~~(7) The promotion of health and wellness."]~~

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

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

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



1 ~~(c) Nothing in this chapter shall be construed to prohibit~~
2 ~~a registered occupational therapist from utilizing occupational~~
3 ~~therapy support personnel to assist in the practice of~~
4 ~~occupational therapy; provided that the occupational therapy~~
5 ~~support personnel shall work under the supervision of or in~~
6 ~~consultation with the registered occupational therapist.~~

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

14 ~~(d) A registration granted under this chapter shall mean~~
15 ~~that the person has met requirements that include minimum~~
16 ~~practice standards to provide protection to the public and is~~
17 ~~permitted to use the title and engage in the practice as an~~
18 ~~occupational therapist. In the granting of permission to engage~~
19 ~~in this profession, and consistent with section 436B-2, the~~
20 ~~definition for "license" is inclusive of a registration issued~~
21 ~~under this chapter and, as such, an occupational therapist that~~



1 ~~holds a registration shall be similarly regarded as an~~
2 ~~occupational therapist that holds a license.]~~

3 The practice of occupational therapy is the therapeutic use
4 of everyday life activities with individuals or groups for the
5 purpose of participation in roles and situations in home,
6 school, workplace, community, and other settings. It includes:

7 (1) Evaluation of factors affecting activities of daily
8 living, instrumental activities of daily living, rest
9 and sleep, education, work, play, leisure, and social
10 participation, including:

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

18 (B) Habits, routines, roles, rituals, and behavior
19 patterns;

20 (C) Occupational and social environments, cultural,
21 personal, temporal, and virtual contexts and
22 activity demands that affect performance; and



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



- 1 (3) Interventions and procedures to promote or enhance
- 2 safety and performance in activities of daily living,
- 3 instrumental activities of daily living, rest and
- 4 sleep, education, work, play, leisure, and social
- 5 participation, including:
- 6 (A) Therapeutic use of occupations, exercises, and
- 7 activities;
- 8 (B) Training in self-care, self-management, health
- 9 management and maintenance, home management,
- 10 community reintegration, work reintegration,
- 11 school activities, and work performance;
- 12 (C) Development, remediation, or compensation of
- 13 neuromusculoskeletal, sensory-perceptual, visual,
- 14 mental, and cognitive functions; pain tolerance
- 15 and management; and behavioral skills;
- 16 (D) Therapeutic use of self, including one's
- 17 personality, insights, perceptions, and
- 18 judgments, as part of the therapeutic process;
- 19 (E) Education and training of individuals, including
- 20 family members, caregivers, groups, populations,
- 21 and others;



- 1 (F) Care coordination, case management, and
2 transition services;
- 3 (G) Consultative services to groups, programs,
4 organizations, or communities;
- 5 (H) Modification of environments, such as home, work,
6 school, or community, and adaptation of
7 processes, including the application of ergonomic
8 principles;
- 9 (I) Assessment, design, fabrication, application,
10 fitting, and training in seating and positioning;
11 assistive technology; adaptive devices; orthotic
12 devices; and training in the use of prosthetic
13 devices;
- 14 (J) Assessment, recommendation, and training in
15 techniques to enhance functional mobility,
16 including management of wheelchairs and other
17 mobility devices;
- 18 (K) Low vision rehabilitation;
- 19 (L) Driver rehabilitation and community mobility;
- 20 (M) Management of feeding, eating, and swallowing to
21 enable eating and feeding performance;



1 (N) Application of physical agent modalities and use
2 of a range of specific therapeutic procedures,
3 such as wound care management, interventions to
4 enhance sensory-perceptual and cognitive
5 processing, and manual therapy, to enhance
6 performance skills; and

7 (O) Facilitating the occupational performance of
8 groups, populations, or organizations through the
9 modification of environments and the adaptation
10 of processes.

11 (b) No person shall practice occupational therapy
12 gratuitously or for pay, offer to practice occupational therapy,
13 offer occupational therapy, or represent, advertise, or
14 announce, either publicly or privately, that the person is an
15 occupational therapist, unless the person is appropriately
16 licensed under this chapter.

17 (c) No person shall use, in connection with the person's
18 name or business, the words "occupational therapist licensed",
19 "registered occupational therapist", "licensed occupational
20 therapist", "occupational therapist", or "doctor of occupational
21 therapy", or the letters "OT", "OTR", "OTD", "OT/L", "OTR/L", or
22 "OTD/L", or any other words, letters, abbreviations, or insignia



1 indicating or implying that the person is an occupational
2 therapist unless the person is appropriately licensed as an
3 occupational therapist under this chapter.

4 (d) Effective January 1, 2017, except as otherwise
5 provided in this chapter, no person shall practice as an
6 occupational therapy assistant or represent the person's self as
7 being able to practice as an occupational therapy assistant in
8 this State without possessing a valid license issued by the
9 director in accordance with this chapter.

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

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

19 **"§457G-2 Qualifications of occupational therapists. (a)**
20 Occupational therapists shall have completed the educational
21 requirements and supervised field work experience required for
22 certification by the National Board for Certification in



1 Occupational Therapy, and shall have passed a national
2 certification examination administered by that association.

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

9 SECTION 6. Section 457G-4, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[+]§457G-4[] Civil penalty.] Penalty. Any person~~
12 ~~[violating any provisions of this chapter shall be fined a sum~~
13 ~~of not less than \$500 nor more than \$10,000 for each violation,~~
14 ~~which sum shall be collected in a civil action brought by the~~
15 ~~attorney general or the director of the office of consumer~~
16 ~~protection on behalf of the State.] who violates or fails to~~
17 ~~comply with the provisions of this chapter shall be fined not~~
18 ~~more than \$ per violation."~~

19 SECTION 7. Section 457G-3, Hawaii Revised Statutes, is
20 repealed.

1 ~~["§457G-3] Injunction. The attorney general or the~~
2 ~~director of the office of consumer protection may bring~~
3 ~~proceedings to enjoin any violation of this chapter."]~~

4 SECTION 8. There is appropriated out of the compliance
5 resolution fund established pursuant to section 26-9(o), Hawaii
6 Revised Statutes, the sum of \$ or so much thereof as
7 may be necessary for fiscal year 2014-2015 to implement an
8 occupational therapy licensure program, including hiring of
9 necessary personnel to assist with the implementation and
10 continuing functions of chapter 457G, Hawaii Revised Statutes;
11 provided that the department of commerce and consumer affairs
12 may employ necessary personnel without regard to chapter 76,
13 Hawaii Revised Statutes.

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

16 SECTION 9. In codifying the new sections added by section
17 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 10. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 11. This Act shall take effect on July 1, 2050.



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. Effective 7/1/2050. (SD2)

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

