

ACT 220

S.B. NO. 1074

A Bill for an Act Relating to Physical Therapy.

Be It Enacted by the Legislature of the State of Hawaii:

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

“§461J- Physical therapist assistant license without necessity of examination. Any applicant who submits proof of graduation from an accredited physical therapist assistant program or an accredited physical therapy program recognized by the United States Department of Education, and five years of work experience as a physical therapist assistant by December 31, 2014, may be licensed as a physical therapist assistant under this chapter without the necessity of examination.

§461J- Physical therapist use of support or auxiliary personnel. (a) A physical therapist may use support or auxiliary personnel, including licensed physical therapist assistants, to assist the physical therapist in the practice of physical therapy; provided that the support or auxiliary personnel shall:

- (1) Perform only the duties prescribed in the rules of the board; and
- (2) Perform these duties under the supervision and direction of a physical therapist.

(b) Physical therapists and physical therapist assistants shall provide proof of compliance with this section upon written request from the board.”

SECTION 2. Section 461J-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read: ““Physical therapist assistant” means a person who is licensed as a physical therapist assistant in the State and assists the physical therapist in selected components of treatment or intervention.”

2. By amending the definition of “physical therapy” or “physical therapy services” to read:

“Physical therapy” or “physical therapy services” means the examination, treatment, and instruction of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction, pain from injury, disease, and any other physical or mental condition as performed by a physical therapist appropriately licensed under this chapter. It includes but is not limited to:

- (1) Administration, evaluation, modification of treatment, and instruction involving the use of physical measures, activities, and devices, for preventive and therapeutic purposes; provided that should the care or treatment given by a physical therapist or physical therapist assistant contravene treatment diagnosed or prescribed by a medical doctor, osteopath, or as determined by the board, the physical therapist shall confer with the professional regarding the manner or course of treatment in conflict and take appropriate action in the best interest of the patient; and
- (2) The provision of consultative, educational, and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction, or pain.”

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

“[H§461J-2] Practice of physical therapy; qualifications. (a) No person shall practice physical therapy gratuitously or for pay, offer to practice physical therapy, offer physical therapy or physical therapy services, or represent, advertise, or announce, either publicly or privately, that the person is a physical therapist or physiotherapist, unless the person is appropriately licensed under this chapter.

(b) No person shall use, in connection with the person’s name or business, the words “licensed physical therapist”, “physical therapist”, or “physiotherapist”, or the letters “RPT”, “LPT”, “DPT”, “PT”, or any other words, letters, abbreviations, or insignia indicating or implying that the person is a physical therapist, unless the person is appropriately licensed as a physical therapist under this chapter.

(c) No person shall use the title “physical therapist assistant”, the letters “PTA”, or any other words, abbreviations, or insignia in connection with that person’s name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is appropriately licensed as a physical therapist assistant under this chapter.

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

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

“§461J-3 Exemptions. (a) Nothing in this chapter shall be construed to prohibit any person from acting within the scope of a license issued to that person under any other law; provided that the person shall not claim to be a physical therapist or a physical therapist assistant, or that the person is performing physical therapy or physical therapy services.

(b) Nothing in this chapter shall be construed to prohibit students in an educational program for physical therapists, physical therapist assistants, or

physical therapist support personnel from participating in activities that are conducted as part of the educational program and are under the guidance and direct supervision of a licensed physical therapist.

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

(d) Nothing in this chapter shall be construed to prohibit [a-certified] an individual from acting as an athletic trainer [as recognized by the National Athletic Trainers Association from performing within the scope of such certification; nor shall it be construed to prohibit any person employed as an athletic trainer in any public or private educational institution from administering hot packs, whirlpool, and cold packs, protective taping, and basic first aid intervention, or from acting under the direct supervision of a certified athletic trainer or team physician; provided that the services are performed on regularly enrolled students, that the students are engaged in or are eligible to engage in institutionally sponsored athletic events, and that in no case shall the person claim to be a physical therapist or claim to be performing physical therapy.] under chapter 436H.

(e) Nothing in this chapter shall be construed to prohibit a [duly licensed physical therapist from using support or auxiliary personnel to assist the physical therapist in the practice of physical therapy; provided that such support or auxiliary personnel shall perform only those duties that they are qualified to perform as allowed by the rules defining scope of practice adopted by the board; and provided further that such support or auxiliary personnel shall perform these duties under the supervision and direction of a physical therapist.] physical therapist or physical therapist assistant who is practicing in the United States Armed Services, United States Public Health Service, or Department of Veteran Affairs pursuant to federal regulations for state licensure of healthcare providers from practicing as a physical therapist or physical therapist assistant; provided that if the person, while federally employed as a physical therapist or a physical therapist assistant, engages in the practice of physical therapy outside the course and scope of the person's federal employment, the person shall be required to obtain a license in accordance with this chapter.

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

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

"§461J-4 Board of physical therapy; establishment, appointment, membership. (a) There is established within the department of commerce and consumer affairs for administrative purposes the board of physical therapy. The board shall consist of seven members. Four members shall be physical therapists,

one member shall be a ~~[physician, osteopathic physician, or surgeon with a permanent license under chapter 453, or a dentist with a permanent license under chapter 448,]~~ physical therapist assistant, and two members shall be consumers. All members shall be at least eighteen years of age and residents of the State.

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

(c) The physical therapist assistant member of the board shall possess a valid permanent license as a physical therapist assistant and shall have, after graduation from an accredited physical therapist assistant program or an accredited physical therapy program, at least three years of full-time experience.

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

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

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

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

SECTION 7. Upon the issuance of a new license under section 461J-6, Hawaii Revised Statutes, as amended by this Act, and at each license renewal period, each physical therapist assistant shall pay, in addition to the license fee or renewal fee, a surcharge of \$100, which shall be maintained in a separate account within the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes. At the end of each quarter, the moneys contained in the separate account established pursuant to this section shall be transferred to the compliance resolution fund until the total of the transferred amounts equals the amount appropriated in section 8 of this Act. Thereafter, no surcharge shall be assessed, and any funds in excess of the amount appropriated in section 8 of this Act shall be deposited into the compliance resolution fund.

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

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

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 10. This Act shall take effect upon its approval; provided that:

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- (1) The board of physical therapy shall adopt rules pursuant to section 461J-5, Hawaii Revised Statutes, implementing the licensure requirement under this Act no later than December 1, 2014;
- (2) A physical therapist assistant may practice without a license until November 30, 2014, or the effective date of rules implementing licensure requirements by the board of physical therapy, whichever occurs first; and
- (3) Section 8 of this Act shall take effect on July 1, 2014.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.