

JAN 17 2014

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 Accordingly, the purpose of this Act is to improve the
7 regulation of occupational therapists and occupational therapy
8 assistants by establishing an occupational therapy program and
9 licensing requirements for occupational therapists and
10 occupational therapy assistants, including provisions relating
11 to the practice of occupational therapy, qualifications, titles,
12 supervision of occupational therapy assistants, exemptions,
13 issuance of permanent and temporary licenses, licensure renewal,
14 and revocation or suspension of licenses.

15 SECTION 2. Chapter 457G, Hawaii Revised Statutes, is
16 amended by adding nine new sections to be appropriately
17 designated and to read as follows:

18 "§457G-A Occupational therapy program. There is
19 established an occupational therapy program within the
20 department to be administered by the director.

21 §457G-B Practice of occupational therapy; qualifications;
22 titles. (a) Occupational therapists and occupational therapy



1 assistants shall have completed the educational requirements and
2 supervised field work established by the Accreditation Council
3 for Occupational Therapy Education and shall have passed a
4 national certification examination administered by the National
5 Board for Certification in Occupational Therapy.

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

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

21 (d) No person shall use the title "occupational therapy
22 assistant licensed", "licensed occupational therapy assistant",



1 the letters "OTA/L" or "COTA/L", or any other words, letters,
2 abbreviations, or insignia indicating or implying that the
3 person is an occupational therapy assistant unless that person
4 is appropriately licensed as an occupational therapy assistant
5 under this chapter.

6 **§457G-C Supervision of occupational therapy assistants.**

7 (a) An occupational therapy assistant may practice occupational
8 therapy only under the supervision of an occupational therapist
9 who is licensed to practice occupational therapy in the State.

10 The occupational therapist shall be responsible for occupational
11 therapy evaluation, appropriate reassessment, treatment
12 planning, interventions, and discharge from occupational therapy
13 based on standard professional guidelines. Supervision of an
14 occupational therapy assistant by an occupational therapist
15 shall be a shared responsibility. The supervising occupational
16 therapist and the supervised occupational therapy assistant
17 shall have legal and ethical responsibility for ongoing
18 management of supervision, including providing, requesting,
19 giving, or obtaining supervision.

20 (b) The supervising occupational therapist shall:



1 (1) Determine the frequency, level, and nature of
2 supervision with input from the occupational therapy
3 assistant; and

4 (2) Base the supervision determination on a variety of
5 factors, including the clients' required level of
6 care, treatment plan, and experience and pertinent
7 skills of the occupational therapy assistant.

8 (c) The supervising occupational therapist shall supervise
9 the occupational therapy assistant to ensure that the
10 occupational therapy assistant:

11 (1) Does not initiate or alter a treatment program without
12 prior evaluation by and approval of the supervising
13 occupational therapist;

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

17 (3) Does not interpret data beyond the scope of the
18 occupational therapy assistant's education and
19 training.

20 **§457G-D Exemptions.** (a) Nothing in this chapter shall be
21 construed to prohibit any person from acting within the scope of
22 a license issued to that person under any other law; provided



1 that the person shall not claim to be an occupational therapist
2 or occupational therapy assistant, or that the person is
3 performing occupational therapy, unless the person is also
4 licensed under this chapter.

5 (b) Nothing in this chapter shall be construed to prohibit
6 students in an educational program for occupational therapists
7 or occupational therapy assistants from participating in
8 activities that are conducted as part of the educational program
9 and are under the guidance and supervision of a licensed
10 occupational therapist.

11 (c) Nothing in this chapter shall be construed to prohibit
12 a person licensed as an occupational therapist in another state
13 or foreign country from practicing occupational therapy in this
14 State if the person is part of an educational demonstration or
15 instructional program or seminar sponsored by an educational
16 institution, hospital, medical care program, the Occupational
17 Therapy Association of Hawaii, 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 an occupational therapist who is practicing in the United States
22 Armed Services, United States Public Health Service, or



1 Department of Veteran Affairs pursuant to federal regulations
2 for state licensure of health care providers from practicing as
3 an occupational therapist; provided that if the person, while
4 federally employed as an occupational therapist, engages in the
5 practice of occupational therapy outside the course and scope of
6 the person's federal employment, the person shall be required to
7 obtain a license in accordance with this chapter.

8 **§457G-E Powers and duties of the director.** In addition to
9 any other powers and duties authorized by law, the director
10 shall have the powers and duties to:

11 (1) Grant, deny, renew, refuse to renew, restore,
12 terminate, reinstate, condition, restrict, suspend, or
13 revoke a license issued pursuant to this chapter;

14 (2) Grant permission to a person to practice occupational
15 therapy and to use the title of "licensed occupational
16 therapist" or a description indicating that the person
17 is a licensed occupational therapist in this State;

18 (3) Grant permission to a person to practice as an
19 occupational therapy assistant and to use the title of
20 "licensed occupational therapy assistant" or a
21 description indicating that the person is a licensed
22 occupational therapy assistant in this State;



- 1 (4) Adopt, amend, or repeal rules pursuant to chapter 91
2 as the director finds necessary to carry out this
3 chapter;
- 4 (5) Administer, coordinate, and enforce this chapter;
- 5 (6) Prepare and administer examinations pursuant to the
6 requirements of this chapter;
- 7 (7) Establish the criteria for successful passage of an
8 examination administered pursuant to this chapter;
- 9 (8) Discipline a licensed occupational therapist or
10 licensed occupational therapy assistant on grounds
11 specified by this chapter or chapter 436B or for any
12 violation of rules adopted by the director pursuant to
13 this chapter;
- 14 (9) Refuse to license a person for failure to meet the
15 licensing requirements in this chapter or for any
16 reason specified by this chapter as grounds to
17 discipline an occupational therapist or occupational
18 therapy assistant; and
- 19 (10) Appoint an advisory committee composed of practicing
20 occupational therapists and occupational therapy
21 assistants to assist with the implementation of this
22 chapter.



1 **§457G-F Permanent license.** An applicant for a permanent
2 license to practice as an occupational therapist or occupational
3 therapy assistant shall submit proof of educational
4 qualifications and any other information required by the
5 director on an application form prescribed by the director. The
6 director shall maintain a current list of schools of
7 occupational therapy that are approved by an agency recognized
8 by the United States Department of Education or Council on
9 Postsecondary Accreditation.

10 In the case of foreign-trained persons, the applicant shall
11 have completed the National Board for Certification in
12 Occupational Therapy occupational therapist eligibility
13 determination process and shall have passed a national
14 certification examination administered by the National Board for
15 Certification in Occupational Therapy.

16 **§457G-G Temporary license.** (a) An applicant for a
17 permanent license under section 457G-F may also apply for a
18 temporary license, pending approval of a permanent license, by
19 providing the following to the director:

20 (1) Evidence that the applicant has submitted an
21 application to take the national certification
22 examination administered by the National Board for



1 Certification in Occupational Therapy within six
2 months from the time of initial application for
3 licensure; or

4 (2) Evidence that the applicant has taken the national
5 certification examination administered by the National
6 Board for Certification in Occupational Therapy and is
7 awaiting results.

8 (b) An applicant shall be supervised throughout the period
9 of temporary licensure by an occupational therapist with a
10 permanent active license and shall submit to the director the
11 name and license number of each licensed supervising
12 occupational therapist.

13 (c) A temporary license shall be in force until the
14 earliest of the following occurs:

15 (1) The sixth month following the date of issuance of the
16 temporary license;

17 (2) The date the temporary licensee leaves the supervision
18 of the occupational therapist authorized under the
19 temporary license;

20 (3) The date on which the director revokes the temporary
21 license pursuant to 457G-I;



1 (4) The applicant fails to successfully pass the national
2 certification examination administered by the National
3 Board for Certification in Occupational Therapy; or

4 (5) The date on which the applicant receives a permanent
5 license.

6 **§457G-H Biennial renewal; failure to renew; inactive**

7 **license.** (a) The biennial renewal fee shall be paid to the
8 department on or before December 31 of each even-numbered year.
9 Failure, neglect, or refusal of any licensee to pay the biennial
10 renewal fee on or before this date shall constitute a forfeiture
11 of the license. A forfeited license may be restored upon
12 written application within one year from the date of forfeiture
13 and the payment of the delinquent fee plus an amount equal to
14 fifty per cent of the delinquent fee.

15 (b) Upon written request of a licensee, the director may
16 place the licensee's active license on an inactive status.
17 During the inactive period, a licensee shall not engage in the
18 practice of occupational therapy. The license may be
19 reactivated at any time by making a written request to the
20 director and by payment of the renewal and any other applicable
21 fees. A licensee's inactive status shall not deprive the



1 director of the director's authority to institute or continue
2 any disciplinary or enforcement action against the licensee.

3 **§457G-I License revocation or suspension; probation of**

4 **licensee.** (a) In addition to any other actions authorized by
5 law, any license issued under this chapter may be revoked or
6 suspended by the director at any time for any cause authorized
7 by law, including but not limited to the following:

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

10 (2) Wilfully betraying patient confidentiality;

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

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

14 (5) Being habituated to the excessive use of drugs or
15 alcohol or being or having been addicted to, dependent
16 on, or a habitual user of, a narcotic, barbiturate,
17 amphetamine, hallucinogen, or other drug having
18 similar effects;

19 (6) Practicing occupational therapy while the ability to
20 practice is impaired by alcohol, drugs, or mental
21 instability;



- 1 (7) Procuring a license through fraud, misrepresentation,
2 or deceit, or knowingly permitting an unlicensed
3 person to practice occupational therapy;
- 4 (8) Professional misconduct, gross negligence, or manifest
5 incapacity in the practice of occupational therapy;
- 6 (9) Conduct or practice contrary to the ethics of the
7 profession of occupational therapy in the United
8 States;
- 9 (10) Violation of the conditions or limitations upon which
10 a temporary license is issued or an exemption is
11 granted; or
- 12 (11) Violation of this chapter or the rules adopted
13 pursuant thereto.
- 14 (b) To reinstate a suspended license, or to grant
15 licensure to an applicant whose license was previously revoked,
16 the director may require further education or training or
17 require proof of competence in performance.
- 18 (c) In lieu of revoking or suspending a license, the
19 director may place the licensee on probation, the terms of which
20 may require observation of the licensee by an appropriate group
21 or society of occupational therapists."



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

3 1. By adding five new definitions to be appropriately
4 inserted and to read:

5 "Educational institution" means public schools as defined
6 under chapter 302A, privately operated schools of lower
7 education, and colleges, the University of Hawaii, and other
8 universities.

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

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

14 "Occupational therapy" means the therapeutic use of
15 everyday life activities with individuals or groups for the
16 purpose of participation in roles and situations in home,
17 school, workplace, community, and other settings. It includes:

18 (1) Evaluation of factors affecting activities of daily
19 living, instrumental activities of daily living, rest
20 and sleep, education, work, play, leisure, and social
21 participation, including:



- 1 (A) Client factors, including body functions, such as
2 neuromusculoskeletal, sensory-perceptual, visual,
3 mental, cognitive, and pain factors; body
4 structures, such as cardiovascular, digestive,
5 nervous, integumentary, genitourinary systems,
6 and structures related to movement; values;
7 beliefs; and spirituality;
- 8 (B) Habits, routines, roles, rituals, and behavior
9 patterns;
- 10 (C) Occupational and social environments, cultural,
11 personal, temporal, and virtual contexts and
12 activity demands that affect performance; and
- 13 (D) Performance skills, including motor and praxis,
14 sensory-perceptual, emotional regulation,
15 cognitive, communication, and social skills;
- 16 (2) Methods or approaches selected to direct the process
17 of interventions, including:
 - 18 (A) Establishment, remediation, or restoration of a
19 skill or ability that has not yet developed, is
20 impaired, or is in decline;



1 (B) Compensation, modification, or adaptation of
2 activity or environment to enhance performance or
3 prevent injuries, disorders, or other conditions;

4 (C) Retention and enhancement of skills or abilities
5 without which performance in everyday life
6 activities would decline;

7 (D) Promotion of health and wellness, including the
8 use of self-management strategies, to enable or
9 enhance performance in everyday life activities;
10 and

11 (E) Prevention of barriers to performance and
12 participation, including injury and disability
13 prevention; and

14 (3) Interventions and procedures to promote or enhance
15 safety and performance in activities of daily living,
16 instrumental activities of daily living, rest and
17 sleep, education, work, play, leisure, and social
18 participation, including:

19 (A) Therapeutic use of occupations, exercises, and
20 activities;

21 (B) Training in self-care, self-management, health
22 management and maintenance, home management,



- 1 community reintegration, work reintegration,
- 2 school activities, and work performance;
- 3 (C) Development, remediation, or compensation of
- 4 neuromusculoskeletal, sensory-perceptual, visual,
- 5 mental, and cognitive functions; pain tolerance
- 6 and management; and behavioral skills;
- 7 (D) Therapeutic use of self, including one's
- 8 personality, insights, perceptions, and
- 9 judgments, as part of the therapeutic process;
- 10 (E) Education and training of individuals, including
- 11 family members, caregivers, groups, populations,
- 12 and others;
- 13 (F) Care coordination, case management, and
- 14 transition services;
- 15 (G) Consultative services to groups, programs,
- 16 organizations, or communities;
- 17 (H) Modification of environments, such as home, work,
- 18 school, or community, and adaptation of
- 19 processes, including the application of ergonomic
- 20 principles;
- 21 (I) Assessment, design, fabrication, application,
- 22 fitting, and training in seating and positioning;



1 assistive technology; adaptive devices; orthotic
2 devices; and training in the use of prosthetic
3 devices;

4 (J) Assessment, recommendation, and training in
5 techniques to enhance functional mobility,
6 including management of wheelchairs and other
7 mobility devices;

8 (K) Low vision rehabilitation;

9 (L) Driver rehabilitation and community mobility;

10 (M) Management of feeding, eating, and swallowing to
11 enable eating and feeding performance;

12 (N) Application of physical agent modalities and use
13 of a range of specific therapeutic procedures,
14 such as wound care management, interventions to
15 enhance sensory-perceptual and cognitive
16 processing, and manual therapy, to enhance
17 performance skills; and

18 (O) Facilitating the occupational performance of
19 groups, populations, or organizations through the
20 modification of environments and the adaptation
21 of processes.



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

4 2. By deleting the definition of "occupational therapy
5 services".

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

7 ~~(1) The assessment of needs and provision of treatment in~~
8 ~~consultation with the individual, family, or other~~
9 ~~appropriate persons;~~

10 ~~(2) Interventions directed toward developing, improving,~~
11 ~~ascertaining, enhancing, or restoring:~~

12 ~~(A) Daily living skills, including self-care skills~~
13 ~~and activities that involve interactions with~~
14 ~~others and the environment, work readiness or~~
15 ~~work performance, play skills or leisure~~
16 ~~capacities, or educational performance skills; or~~

17 ~~(B) Sensorimotor, oral motor, perceptual, or~~
18 ~~neuromuscular functioning; or emotional,~~
19 ~~motivational, cognitive, or psychosocial~~
20 ~~components of performance;~~



- 1 ~~(3) The education of the individual, family, or other~~
- 2 ~~appropriate persons in carrying out appropriate~~
- 3 ~~interventions;~~
- 4 ~~(4) Design, development, adaptation, application, or~~
- 5 ~~training in the use of:~~
- 6 ~~(A) Assistive technology devices; and~~
- 7 ~~(B) Rehabilitative technology such as orthotic or~~
- 8 ~~prosthetic devices;~~
- 9 ~~(5) The application of physical agent modalities as an~~
- 10 ~~adjunct to, or in preparation for, purposeful~~
- 11 ~~activity;~~
- 12 ~~(6) The application of ergonomic principles, and the~~
- 13 ~~adaptation of environments and processes to enhance~~
- 14 ~~functional performance; and~~
- 15 ~~(7) The promotion of health and wellness."]~~

16 SECTION 4. Section 457G-1.5, Hawaii Revised Statutes, is
17 repealed.

18 ~~["§457G-1.5 Practice of occupational therapy;~~
19 ~~qualifications; registration. (a) No person shall represent,~~
20 ~~advertise, or announce oneself, either publicly or privately, as~~
21 ~~an occupational therapist, nor use, in connection with the~~
22 ~~person's name or place of business, the words "occupational~~



1 ~~therapist", "certified occupational therapist", "occupational~~
2 ~~therapist registered", or the letters "OT", "COT", or "OTR", or~~
3 ~~any other words, letters, abbreviations, or insignia indicating~~
4 ~~or implying that such person is an occupational therapist unless~~
5 ~~such person registers the person's name and business address~~
6 ~~biennially with the department of commerce and consumer affairs~~
7 ~~in a manner established by rules adopted pursuant to chapter 91,~~
8 ~~and meets the qualifications of section 457C-2.~~

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

12 ~~(c) Nothing in this chapter shall be construed to prohibit~~
13 ~~a registered occupational therapist from utilizing occupational~~
14 ~~therapy support personnel to assist in the practice of~~
15 ~~occupational therapy, provided that the occupational therapy~~
16 ~~support personnel shall work under the supervision of or in~~
17 ~~consultation with the registered occupational therapist.~~

18 ~~"Occupational therapy support personnel" includes a person~~
19 ~~certified by the National Board for Certification in~~
20 ~~Occupational Therapy, and who uses the title "occupational~~
21 ~~therapy assistant" or "certified occupational therapy~~
22 ~~assistant", the letters "COTA" or "OTA", or any other titles,~~



1 ~~letters, abbreviations, or insignia indicating or implying that~~
2 ~~the person is an occupational therapy assistant.~~

3 ~~(d) A registration granted under this chapter shall mean~~
4 ~~that the person has met requirements that include minimum~~
5 ~~practice standards to provide protection to the public and is~~
6 ~~permitted to use the title and engage in the practice as an~~
7 ~~occupational therapist. In the granting of permission to engage~~
8 ~~in this profession, and consistent with section 436B-2, the~~
9 ~~definition for "license" is inclusive of a registration issued~~
10 ~~under this chapter and, as such, an occupational therapist that~~
11 ~~holds a registration shall be similarly regarded as an~~
12 ~~occupational therapist that holds a license."]~~

13 SECTION 5. Section 457G-2, Hawaii Revised Statutes, is
14 repealed.

15 ~~["**§457G-2 Qualifications of occupational therapists.**~~
16 ~~Occupational therapists shall have completed the educational~~
17 ~~requirements and supervised field work experience required for~~
18 ~~certification by the National Board for Certification in~~
19 ~~Occupational Therapy, and shall have passed a national~~
20 ~~certification examination administered by that association."]~~

21 SECTION 6. Section 457G-3, Hawaii Revised Statutes, is
22 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."]~~

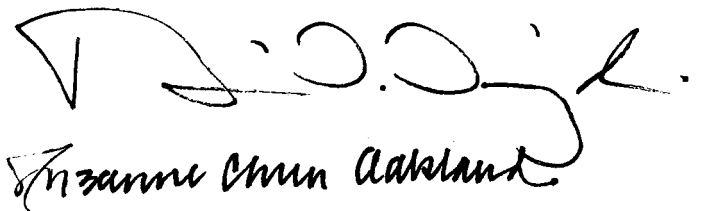
4 SECTION 7. In codifying the new sections added by section
5 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 8. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 9. This Act shall take effect upon its approval.

11

INTRODUCED BY: Ronald H. Beck


Suzanne Chun Oakland





S.B. NO. 2472

Report Title:

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

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.

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

