

S.B. NO. 1389

JAN 23 2025

A BILL FOR AN ACT

RELATING TO THERAPY SERVICES.

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

1 SECTION 1. The legislature finds that amending Hawaii's
2 occupational therapy, physical therapy, and speech pathology
3 laws is necessary to promote a more cost effective model for
4 delivering therapeutic services to students in the department of
5 education. Currently, the department of education is unable to
6 claim reimbursement unless licensed occupational therapists,
7 physical therapists, and speech pathologists employed by or
8 contracted with the department of education obtain a
9 prescription from a physician or other authorized health care
10 provider before providing services to students. This
11 requirement creates barriers that hinder the department of
12 education's ability to be reimbursed for the services provided.

13 The legislature further finds that timely access to
14 occupational, physical, and speech therapy services is critical
15 for supporting students' development, particularly in physical,
16 sensory, cognitive, and communication skills. These services
17 enable students to participate more fully in educational and

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1 social activities and to benefit more effectively from their
2 learning environments.

3 Moreover, the legislature finds that expanding the scopes
4 of practice for these licensed professionals may facilitate the
5 department of education's ability for reimbursement. By
6 allowing occupational therapy, physical therapy, and speech
7 therapy services to be provided after a diagnosis of a medical
8 condition by these providers without a physician's diagnosis,
9 the department of education can more effectively bill for these
10 services, generating additional funding to support and enhance
11 therapeutic resources for students.

12 The purpose of this Act is to expand the scopes of practice
13 for occupational therapists, physical therapists, and speech
14 pathologists employed by or contracted with the department of
15 education to diagnose students with a medical condition and
16 treat them, thereby streamlining service delivery.

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

19 "**§457G-1.5 Practice of occupational therapy.** (a) The
20 practice of occupational therapy is the therapeutic use of
21 everyday life activities with individuals or groups for the

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1 purpose of participation in roles and situations in home,
2 school, 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;

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- 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

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- 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;

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- 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

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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.

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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 or represent the person's self as able
4 to practice as an occupational therapy assistant in the State
5 unless:

6 (1) The practice is done under the supervision of and in
7 partnership with an occupational therapist who is
8 licensed to practice occupational therapy in the
9 State; and

10 (2) The person possesses a valid license issued pursuant
11 to this chapter to practice occupational therapy as an
12 occupational therapy assistant.

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

20 (f) A licensed occupational therapist employed by or
21 contracted with the department of education may diagnose medical
22 conditions that can be treated by occupational therapy services

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1 when providing occupational therapy services to students of the
2 department of education in an educational setting.

3 For the purposes of this subsection, "occupational therapy
4 services" means the therapeutic use of everyday life activities
5 with students for the purpose of participation in roles and
6 situations in school, home, and community settings. These
7 services include, but are not limited to:

8 (1) Evaluating students' needs and developing
9 individualized treatment plans;

10 (2) Providing interventions to improve students' fine
11 motor skills, gross motor skills, sensory processing,
12 visual-motor integration, and cognitive skills;

13 (3) Adapting classroom environments and materials to
14 facilitate students' participation in school
15 activities;

16 (4) Training teachers and parents on strategies to support
17 students' occupational needs;

18 (5) Recommending assistive technology devices and adaptive
19 equipment; and

20 (6) Diagnosing medical conditions that can be treated by
21 occupational therapy."

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

3 "§461J-2 Practice of physical therapy;

4 **qualifications.** (a) No person shall practice physical therapy
5 gratuitously or for pay, offer to practice physical therapy,
6 offer physical therapy or physical therapy services, or
7 represent, advertise, or announce, either publicly or privately,
8 that the person is a physical therapist or physiotherapist,
9 unless the person is appropriately licensed under this chapter.

10 (b) No person shall use, in connection with the person's
11 name or business, the words "licensed physical therapist",
12 "physical therapist", or "physiotherapist", or the letters
13 "RPT", "LPT", "DPT", "PT", or any other words, letters,
14 abbreviations, or insignia indicating or implying that the
15 person is a physical therapist, unless the person is
16 appropriately licensed as a physical therapist under this
17 chapter.

18 (c) No person shall use the title "physical therapist
19 assistant", the letters "PTA", or any other words,
20 abbreviations, or insignia in connection with that person's name
21 to indicate or imply, directly or indirectly, that the person is
22 a physical therapist assistant unless that person is

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1 appropriately licensed as a physical therapist assistant under
2 this chapter.

3 (d) No person shall practice as a physical therapist or as
4 a physical therapist assistant, except as licensed pursuant to
5 this chapter and under the administrative rules determined by
6 the board in accordance with chapter 91.

7 (e) A licensed physical therapist employed by or
8 contracted with the department of education may diagnose medical
9 conditions that can be treated by physical therapy services when
10 providing physical therapy services to students of the
11 department of education in an educational setting.

12 For the purposes of this subsection, "physical therapy
13 services" includes the following:

- 14 (1) Assessing students' physical abilities and
15 limitations;
16 (2) Developing and implementing individualized treatment
17 plans to address students' physical therapy needs;
18 (3) Providing interventions to improve students' strength,
19 flexibility, range of motion, balance, coordination,
20 and mobility;

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- 1 (4) Adapting physical education activities and school
- 2 environments to meet the needs of students with
- 3 physical disabilities;
- 4 (5) Educating teachers, parents, and students on proper
- 5 body mechanics and injury prevention;
- 6 (6) Recommending adaptive equipment to facilitate
- 7 students' participation in school activities; and
- 8 (7) Diagnosing medical conditions that can be treated by
- 9 physical therapy."

10 SECTION 4. Section 468E-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§468E-3 Practice as speech pathologist or audiologist;**
13 **title or description of services.** (a) A person represents
14 oneself to be a speech pathologist when the person:

- 15 (1) Holds oneself out to the public by any title or
- 16 description of services incorporating the words
- 17 "speech pathologist", "speech pathology", "speech
- 18 therapy", "speech correction", "speech correctionist",
- 19 "speech therapist", "speech clinic", "speech
- 20 clinician", "language pathologist", "language
- 21 pathology", "logopedics", "logopedist",
- 22 "communicology", "communicologist", "asphasiologist",

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1 "voice therapy", "voice therapist", "voice pathology",
2 or "voice pathologist", "language therapist", or
3 "phoniatriest", or any similar titles;

4 (2) Purports to treat stuttering, stammering, or other
5 disorders of speech;

6 (3) Is employed as a faculty member in speech pathology;

7 (4) Is employed as a speech pathologist by the State or
8 any county agency.

9 (b) A licensed speech pathologist employed by or
10 contracted with the department of education may diagnose medical
11 conditions that can be treated by speech pathology services when
12 providing speech pathology services to students of the
13 department of education in an educational setting.

14 ~~(b)~~ (c) A person represents oneself to be an audiologist
15 when the person:

16 (1) Holds oneself out to the public by any title or
17 description of services incorporating the terms
18 "audiology", "audiologist", "audiological",
19 "hearing clinic", "hearing clinician", "hearing
20 therapist", or any similar titles;

21 (2) Is employed as a faculty member in audiology;

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1 (3) Is employed as an audiologist by the State or any
2 county agency."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: 

BY REQUEST

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Report Title:

DOE; Department of Commerce and Consumer Affairs; Department of Human Services

Description: Expands the scopes of practice for occupational therapists, physical therapists, and speech pathologists to allow those professionals working for or contracted by the Department of Education to diagnose medical conditions that can be treated with their respective services.

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

JUSTIFICATION SHEET

SB. NO. 1389

DEPARTMENT: Education

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

PURPOSE: To facilitate the Department's ability to bill and be reimbursed for therapy services provided in a school setting by expanding the scopes of services for occupational therapists, physical therapists, and speech pathologists employed or contracted by the Department.

MEANS: Amend sections 457G-1.5, 461J-2, and 468E-3, Hawaii Revised Statutes.

JUSTIFICATION: This bill would allow the Department to expand its ability to bill and be reimbursed for therapy services by expanding the scopes of practice for occupational therapists, physical therapists, and speech pathologists employed or contracted by the Department of Education to diagnose medical conditions that can be treated with their respective therapy services.

Impact on the public: This bill will positively impact the public by helping to improve the health and academic success of students.

Impact on the department and other agencies: The bill amends certain Department of Commerce and Consumer Affairs' statutes to expand the scopes of practice for occupational therapists, physical therapists, and speech pathologists to include medical diagnosis. This bill may require the Department of Human Services to amend its administrative rules and the Medicaid State Plan.

GENERAL FUND: None.

OTHER FUNDS: None.

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PPBS PROGRAM
DESIGNATION:

None.

OTHER AFFECTED
AGENCIES:

Department of Commerce and Consumer Affairs,
Department of Human Services.

EFFECTIVE DATE:

Upon approval.