

**ACT 276**

**S.B. NO. 726**

**A Bill for an Act Relating to Physical Therapy.**

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

**SECTION 1.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## "CHAPTER PHYSICAL THERAPY PRACTICE ACT

§ -1 **Definitions.** As used in this chapter:

"Board" means the board of physical therapy.

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

"Physical therapist" means a person who is licensed to practice physical therapy in this State.

"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 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.

"Practice of physical therapy" includes, but is not limited to, the use of the following:

- (1) Physical agents, such as heat, cold, water, air, sound, compression, light, electricity, and electromagnetic radiation;
- (2) Exercise with or without devices, joint mobilization, mechanical stimulation; biofeedback; postural drainage; traction; positioning, massage, splinting, training in locomotion, and other functional activities with or without assisting devices; and correction of posture, body mechanics, and gait;
- (3) Tests and measurements of: muscle strength, force, endurance, and tone; joint motion, mobility, and stability; reflexes and automatic reaction; movement skill and accuracy; sensation and perception; peripheral nerve integrity; locomotor skill, stability, and endurance; activities of daily living; cardiac, pulmonary, and vascular functions; the fit, function, and comfort of prosthetic, orthotic, and other assisting devices; posture and body mechanics; limb strength, circumference, and volume; thoracic excursion and breathing patterns; vital signs; nature and locus of pain and conditions under which pain varies; photosensitivity; and the home and work physical environments.

§ -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", "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 under this chapter.

(c) No person shall practice as a physical therapist except as licensed pursuant to this chapter and under the administrative rules and regulations determined by the board in accordance with chapter 91.

**§ -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 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 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 person licensed to practice physical therapy by any other state or by a foreign country may practice 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.

**§ -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 five members appointed by the governor pursuant to section 26-34. Three members shall be physical therapists. The fourth member shall be a consumer who has demonstrated interest in community health concerns prior to appointment. The fifth member shall be a physician or surgeon with a permanent license under chapters 453 or 460, or a dentist with a permanent license under chapter 448. All members shall be at least eighteen years of age and residents of the State.

(b) The terms for the physical therapist members first appointed shall be as follows: one shall serve for a term of four years, one shall serve for a term of three years, and one shall serve for a term of two years.

(c) Each physical therapist member of the board shall possess a valid permanent license as a physical therapist in this State 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.

(d) The governor may fill each vacancy for a physical therapist member from a recommendation list of at least two or more persons submitted by the Hawaii Chapter of the American Physical Therapy Association.

(e) Members shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

**§ -5 Meetings; general duties.** (a) The board shall hold meetings semiannually and at such other times deemed necessary by a quorum of the board. A quorum of the board shall be three members.

(b) In addition to any other powers and duties prescribed under this chapter, the board may:

- (1) Adopt, amend, or repeal rules in accordance with chapter 91 for the purposes of this chapter;
- (2) Recommend the denial or withdrawal of accreditation from educational programs for failure to meet prescribed standards;
- (3) Conduct hearings upon charges calling for discipline of a licensee or denial, suspension, limitation, or revocation of a license;
- (4) Exercise the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;
- (5) Enforce this chapter and the rules adopted pursuant thereto; and
- (6) Keep a record of all its proceedings.

**§ -6 Permanent licenses.** (a) An applicant for a permanent license to practice physical therapy shall submit proof of educational qualifications and any other information required by the board on an application form supplied by the board. The board shall maintain a current list of schools of physical therapy which 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.

(b) Except as provided under section -7, every applicant for a permanent license who meets the qualifications established by the board shall take an examination administered by the board or an examination administered by a testing agency selected by the board. The board shall establish the schedule for examinations, determine the passing score, and notify applicants of the results of examinations according to rules adopted by the board.

**§ -7 Reciprocity.** The board shall establish procedures for waiving the examination requirement for applicants who have already taken and passed an equivalent examination or who have been licensed in another state with standards equivalent to or higher than those in Hawaii.

**§ -8 License without necessity of examination or meeting the education requirement.** All persons holding licenses as physical therapists from the department of health and in practice on the day prior to the effective date of this Act shall be licensed under this chapter on the effective date of this Act without necessity of examination or meeting the education requirement.

**§ -9 Temporary license.** The board shall establish rules for issuing temporary licenses to applicants for permanent licenses either under section -6 or -7. The rules adopted by the board shall include provisions concerning the length of time for which temporary licenses are valid, the renewal of such licenses, and the need for supervision by a physical therapist holding a permanent license.

**§ -10 Biennial renewal; failure to renew.** The biennial renewal fee shall be paid to the department of commerce and consumer affairs on or before December 31 of each even-numbered year. Failure, neglect, or refusal of any licensee to pay the biennial renewal fee on or before such date shall constitute a forfeiture of the license. A forfeited license may be restored upon written application within one year from the date of forfeiture and the payment of the delinquent fee plus an amount equal to fifty per cent of the delinquent fee.

**§ -11 Fees.** The fees charged under this chapter shall be adopted by the board in accordance with chapter 91. In determining the level of these fees, the board shall take into consideration the costs of administering this chapter.

**§ -12 Revocation, suspension, probation of license.** (a) Any license issued under this chapter may be revoked or suspended, by the board at any time for any one or more of the following acts or conditions on the part of the holder of the license:

- (1) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (2) Wilfully betraying patient confidentiality;
- (3) Making an untruthful and improbable statement in advertising one's practice of business;
- (4) False, fraudulent, or deceptive advertising;
- (5) Being habituated to the excessive use of drugs or alcohol or being or having been addicted to, dependent on, or a habitual user of, a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (6) Practicing physical therapy while the ability to practice is impaired by alcohol, drugs, or mental instability;
- (7) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;
- (8) Professional misconduct, gross carelessness, or manifest incapacity in the practice of physical therapy;
- (9) Conduct or practice contrary to the ethics of the profession of physical therapists in the United States;
- (10) Violation of the conditions or limitations upon which a temporary license is issued or an exemption is granted; or
- (11) Violation of this chapter or the rules adopted pursuant thereto.

(b) All actions under this section shall be taken in accordance with chapter 91.

(c) Any license revoked or suspended may be restored in full by the board but not until at least one calendar year has elapsed from the date of revocation or suspension. To restore a license, the board may require further education or training or require proof of competence in performance.

(d) In lieu of revoking or suspending a license, the board may place the licensee on probation, the terms of which may require observation of the licensee by an appropriate group or society of physical therapists.

**§ -13 Penalty.** Any person who violates or fails to comply with any of the provisions of this chapter shall be fined not more than \$1,000 for each violation."

**SECTION 2.** Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The board of acupuncture, board of public accountancy, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, contractors license board, board of dental examiners, board of electricians and plumbers, elevator mechanics licensing board, board of registration for professional engineers, architects, and surveyors, factory built housing advisory board, board of hearing aid dealers and fitters, board of massage, board of medical examiners, motor vehicle industry licensing board, motor vehicle repair industry board, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, pest control board, board of pharmacy, board of physical therapy, board of practicing psychologists, board of detectives and guards, real estate

commission, board of veterinary examiners, and speech pathology and audiology are placed within the department of commerce and consumer affairs for administrative purposes."

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates. [(a) The following chapter is hereby repealed effective December 31, 1984:

(1) Chapter 436D (Board of Acupuncture)

31, 1985: (b)] (a) The following chapters are hereby repealed effective December

(1) Chapter 460 (Board of Osteopathic Examiners)

(2) Chapter 461 (Board of Pharmacy)

(3) Chapter 455 (Board of Examiners in Naturopathy)

(4) Chapter 463E (Podiatry)

(5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)

(6) Chapter 457B (Board of Examiners of Nursing Home Administrators)

(7) Chapter 448H (Elevator Mechanics Licensing Board)

(8) Chapter 462A (Board of Pilot Commissioners)

31, 1986: [(c)] (b) The following chapters are hereby repealed effective December

(1) Chapter 437 (Motor Vehicle Industry Licensing Board)

(2) Chapter 437B (Motor Vehicle Repair Industry Board)

(3) Chapter 440 (Boxing Commission)

(4) Chapter 460J (Pest Control Board)

(5) Chapter 438 (Board of Barbers)

(6) Chapter 439 (Board of Cosmetology)

31, 1987: [(d)] (c) The following chapters are hereby repealed effective December

(1) Chapter 458 (Board of Dispensing Opticians)

(2) Chapter 459 (Board of Examiners in Optometry)

(3) Chapter 452 (Board of Massage)

(4) Chapter 471 (Board of Veterinary Examiners)

(5) Chapter 441 (Cemeteries and Mortuaries)

(6) Chapter 463 (Board of Detectives and Guards)

31, 1988: [(e)] (d) The following chapters are hereby repealed effective December

(1) Chapter 465 (Board of Certification for Practicing Psychologists)

(2) Chapter 468E (Board of Speech Pathology and Audiology)

(3) Chapter 359L (Factory Built Housing Advisory Board)

(4) Chapter 468B (Solar Energy Device Dealers)

(5) Chapter 468K (Travel Agencies)

(6) Chapter 373 (Commercial Employment Agencies)

(7) Chapter 442 (Board of Chiropractic Examiners)

(8) Chapter 448 (Board of Dental Examiners)

31, 1989: [(f)] (e) The following chapters are hereby repealed effective December

(1) Chapter 444 (Contractors License Board)

(2) Chapter 448E (Board of Electricians and Plumbers)

(3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)

(4) Chapter 466 (Board of Public Accountancy)

(5) Chapter 467 (Real Estate Commission)  
31, 1990: [(g)] (f) The following chapters are hereby repealed effective December

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)[.]

(g) The following chapter is hereby repealed effective December 31, 1991:

- (1) Chapter (Board of Physical Therapy)."

SECTION 4. Section 321-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of health with the approval of the governor, may prescribe such rules as it deems necessary for the public health or safety respecting:

- (1) The occupations or practices of midwives, laboratory directors, laboratory technicians, [physical therapists,] tattoo artists, and sanitarians;
- (2) The health, education, training, experience, habits, qualifications, or character of persons to whom certificates of registration or permits for such occupations or practices may be issued;
- (3) The health, habits, character, practices, standards, or conduct of persons holding such certificates or permits; or
- (4) The ground or causes for revoking or suspending such certificates or permits.

Such rules shall have the force and effect of law."

SECTION 5. All administrative rules of the department of health concerning the licensure and regulation of physical therapists shall continue in effect until modified or repealed by the board of physical therapy.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on January 1, 1986.

(Approved June 7, 1985.)