

CHAPTER 461J
PHYSICAL THERAPY PRACTICE ACT

SECTION

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§461J-1 Definitions. As used in this chapter:

"Board" means the board of physical therapy.

"Educational institution" means public and private schools as defined under chapter 297, and colleges, the University of Hawaii, and other universities.

"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 the 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; and 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.

[§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", "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.

[§461J-2.5] Prohibited practices. A physical therapist shall not use invasive procedures. For purposes of this section, an invasive procedure is the breaking or puncturing of a person's good skin integrity, for example, through surgery or injections.

§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 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.

(d) Nothing in this chapter shall be construed to prohibit a certified 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.

(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.

§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 chapters 453, or a dentist with a permanent license under chapter 448 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 governor may appoint and fill each vacancy on the board pursuant to section 26-34.

§461J-5 Powers and duties of board. In addition to any other powers and duties authorized by law, 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.

§461J-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 prescribed 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 461J-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.

§461J-7 Examination waiver. The board may recommend licensing without written examination of an applicant who submits evidence satisfactory to the board that the applicant has scored equal to or higher than the established passing score of the examination administered by a testing agency selected by the board.

[§461J-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 January 1, 1986 shall be licensed under this chapter on January 1, 1986 without necessity of examination or meeting the education requirement.

[§461J-9] Temporary license. The board shall establish rules for issuing temporary licenses to applicants for permanent licenses either under section 461J-6 or 461J-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.

[§461J-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.

§461J-11 REPEALED.

§461J-12 Revocation, suspension, probation of license. (a) In addition to any other actions authorized by law, any license issued under this chapter may be revoked or suspended by the board at any time for any cause authorized by law, including but not limited to the following:

- (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 or 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 practice physical therapy;
- (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 therapy 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) To reinstate a suspended license, or to grant licensure to an applicant whose license was previously revoked, the board may require further education or training or require proof of competence in performance.

(c) 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.

[\$461J-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.