

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendments and Compilation of Chapter 16-110
Hawaii Administrative Rules

December 2, 2014

SUMMARY

1. §§16-110-1 through 16-110-2 are amended.
2. §§16-110-4 through 16-110-6 are amended.
3. §§16-110-20 through 16-110-50 are amended.
4. Chapter 16-110 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 110

PHYSICAL THERAPY

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SUBCHAPTER 1

GENERAL PROVISIONS

§16-110-1 Objective. The objective of this chapter is to establish licensing requirements for physical therapists and physical therapist assistants in the interest of safeguarding life and health. [Eff 6/5/87; comp 12/4/92; comp 10/13/94; comp 12/9/10; am and comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §461J-5)

§16-110-2 Definitions. As used in this chapter:

"Accredited physical therapist assistant program" means a post-secondary physical therapist assistant program that is accredited by the Commission on Accreditation in Physical Therapy Education, its predecessor organization, or its successor organization.

"Accredited physical therapy program" means a post-secondary physical therapy program that is accredited by the Commission on Accreditation in Physical Therapy Education, its predecessor organization, or its successor organization.

"APTA" means the American Physical Therapy Association, which is the primary, voluntary, national professional organization of physical therapists and physical therapist assistants.

"Commission on Accreditation in Physical Therapy Education" or "CAPTE" means an independent accrediting body that is recognized by the United States Department of Education and by the Commission on Recognition of Postsecondary Accreditation, or their successor organizations as the entity in the United States that is responsible for accrediting education programs for the preparation of physical therapists and physical therapist assistants.

"Department" means the department of commerce and consumer affairs, unless otherwise identified.

"Director" means the director of the department of commerce and consumer affairs or the director's departmental representative.

"Encumbered" means a license issued by any state or territory of the United States for the practice of physical therapy that is revoked, suspended, made probationary or conditional, or otherwise disciplined by the licensing or registering authority in that state or territory.

"Evaluation" means the process in which the physical therapist makes clinical judgments based on data gathered during the physical therapy examination. Findings from the physical therapy examination are integrated to establish a diagnostic classification, prognosis, and plan of care. This process may identify problems that require consultation with or referral to another provider.

"Federation of State Boards of Physical Therapy" or "FSBPT" means the not-for-profit organization established on February 12, 1987, under the laws of the State of Alabama. The FSBPT develops and administers the National Physical Therapy Examination and also works towards reasonable uniformity in regulation and standards through ongoing communications between it and the states and territories of the United States.

"Licensure examination" means a national physical therapy exam approved by the board for the licensure of a physical therapist or physical therapist assistant.

"Patient" means an individual who is the recipient of physical therapy examination, evaluation, diagnosis, prognosis, and intervention and who has a disease, disorder, condition, impairment, functional limitation, or disability and also includes a person who may engage the services of a physical therapist, who can benefit from the physical therapist's consultation, interventions, professional advice, prevention services, or services promoting health, wellness, and fitness.

"Physical therapy examination" means the process of obtaining a history, a systems review, and selecting and administering tests and measures to gather data about the patient. The initial physical therapy examination is a comprehensive screening and specific testing process. Tests and measurements may include, but are not limited to:

- (1) Muscle strength, force, endurance, and tone;
- (2) Joint motion, mobility, and stability;

- (3) Reflexes and automatic reaction;
- (4) Movement skill and accuracy;
- (5) Sensation and perception;
- (6) Peripheral nerve integrity;
- (7) Locomotor skill, stability, and endurance;
- (8) Activities of daily living;
- (9) Cardiac, pulmonary, and vascular functions;
- (10) The fit, function, and comfort of prosthetic, orthotic, and other assistive devices;
- (11) Posture and body mechanics;
- (12) Limb length, circumference, and volume;
- (13) Thoracic excursion and breathing patterns;
- (14) Vital signs;
- (15) The nature and locus of pain and conditions under which pain varies;
- (16) Photosensitivity; and
- (17) Home, community, and work physical environments.

"Student" means an individual who is currently enrolled in an accredited physical therapist assistant program or in an accredited physical therapy program.

"Support or auxiliary personnel" means a temporary physical therapist licensee or a physical therapy student who performs duties delegated by a supervising physical therapist.

"Temporary physical therapist licensee" means a person who meets the applicable requirements set forth in section 16-110-40.

"Treatment" or "intervention" means purposeful and skilled interaction between the physical therapist, PTA, temporary physical therapist licensee or student and the patient in the care of the patient using various physical therapy methods and techniques to produce changes in the patient's condition that are consistent with the diagnosis and treatment. A physical therapy treatment or intervention may consist of the following components:

- (1) Air;
- (2) Sound;
- (3) Compression;
- (4) Light;
- (5) Mechanical stimulation;
- (6) Biofeedback;
- (7) Positioning;
- (8) Therapeutic heat and cold;
- (9) Therapeutic exercise;
- (10) Gait training;
- (11) Activities of daily living and functional training;

- (12) Therapeutic electric current;
- (13) Therapeutic massage;
- (14) Ultrasound;
- (15) Behavior modification;
- (16) Traction;
- (17) Hydrotherapy;
- (18) Pulmonary therapy;
- (19) Wound care and external dressings;
- (20) Orthoses and external supports;
- (21) Assistive/adaptive devices;
- (22) Therapeutic equipment;
- (23) Neurodevelopmental activities;
- (24) Mobilization and manipulation;
- (25) Posture training;
- (26) Prosthetic management;
- (27) Cardiopulmonary rehabilitation;
- (28) Coordination, communication and documentation;
- (29) Patient-related instruction; and
- (30) Procedural interactions including but not limited to:
 - (A) Therapeutic exercise;
 - (B) Functional training in self-care and home management, including activities of daily living and instrumental activities of daily living;
 - (C) Functional training in work, including school and play, community and leisure integration or reintegration, including instrumental activities of daily living, work hardening, and work conditioning;
 - (D) Manual therapy techniques, including mobilization or manipulation;
 - (E) Prescription, application, and, as appropriate, fabrication of devices, and assistive, adaptive, orthotic, protective, supportive, and prosthetic equipment;
 - (F) Airway clearance techniques;
 - (G) Integumentary repair and protection techniques;
 - (H) Electrotherapeutic modalities;
 - (I) Physical agents; and
 - (J) Mechanical modalities. [Eff 6/5/87; am and comp 12/4/92; am and comp 10/13/94; am and comp 12/9/10; am and comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§461J-1, 461J-3, 461J-5, 461J-9)

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§16-110-3 When referrals required. A licensed physical therapist may perform an evaluation of any person without a referral. A physical therapist may treat a patient with or without a referral unless the physical therapist has reasonable cause to believe that the patient has a symptom or condition that is either beyond the physical therapist's scope of practice, or for which physical therapy is contraindicated, in which case the physical therapist shall refer that patient to an appropriate healthcare provider. [Eff 6/5/87; comp 12/4/92; am and comp 10/13/94; am and comp 12/9/10; comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§461J-1, 461J-2, 461J-5)

§16-110-4 Duties and minimum standards of a supervising physical therapist. (a) A physical therapist shall supervise all physical therapy care provided by physical therapist assistants, and support or auxiliary personnel.

(b) A supervising physical therapist shall be responsible for managing all aspects of the physical therapy care of each patient. A licensed physical therapist shall utilize only the assistance of physical therapist assistants, or support or auxiliary personnel in the practice of physical therapy. A supervising physical therapist shall provide:

- (1) An interpretation of referrals when available;
- (2) An initial physical therapy examination, evaluation, diagnosis and prognosis of the patient;
- (3) The development or implementation of a plan of care based on the initial physical therapy examination or physical therapy reexamination, and which includes the physical therapy goals and anticipated outcomes;
- (4) A determination of the components and the intervention that shall be provided by a physical therapist and the components that may be delegated to physical therapist assistants, or support or auxiliary personnel;
- (5) Direct one-on-one reexamination of the patient and revision of the plan of care when indicated;
- (6) The establishment of the discharge plan and documentation of the patient's discharge status;
- (7) Oversight of all services rendered to each patient, including the applicable documentation in accordance with APTA guidelines; and
- (8) Telecommunications accessibility at all times when the supervising physical therapist is not on site and the ability to be on site within two hours if the supervising physical therapist's physical presence is needed.

(c) A supervising physical therapist shall assure that the physical therapist assistants, and support or auxiliary personnel under the physical therapist's supervision are competent and able to safely complete all delegated activities.

(d) A supervising physical therapist may supervise a maximum of three persons, which may include any combination of the following:

- (1) A temporary physical therapist licensee;
- (2) A student; or
- (3) A physical therapist assistant. [Eff and comp 12/4/92; comp 10/13/94; am and comp 12/9/10; comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§461J-3, 461J-5, 461J-9)

§16-110-5 Duties of physical therapist assistants, and support or auxiliary personnel. Physical therapist assistants, and support or auxiliary personnel may perform the following treatment or intervention components that they are qualified to perform and as delegated by the supervising physical therapist:

- (1) A physical therapist assistant, temporary physical therapist licensee, and a physical therapy student may perform:
 - (A) Coordination, communication, and documentation;
 - (B) Patient-related instruction;
 - (C) Procedural interactions including but not limited to:
 - (i) Therapeutic exercise;
 - (ii) Functional training in self-care and home management, including activities of daily living and instrumental activities of daily living;
 - (iii) Functional training in work, including school and play, community and leisure integration or reintegration, including instrumental activities of daily living, work hardening, and work conditioning;
 - (iv) Prescription, application, and, as appropriate, fabrication of devices, and assistive, adaptive, orthotic, protective, supportive, and prosthetic equipment;
 - (v) Airway clearance techniques;
 - (vi) Integumentary repair and protection techniques;
 - (vii) Electrotherapeutic modalities;
 - (viii) Physical agents; and
 - (ix) Mechanical modalities;

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- (2) A physical therapist assistant may perform manual therapy, excluding thrust joint mobilization and spinal and peripheral joint mobilization or manipulation; and
- (3) A temporary physical therapist licensee or a physical therapy student may perform manual therapy techniques, including mobilization or manipulation. [Eff and comp 12/9/10; comp 2/28/15] (Auth: HRS §§461J-3, 461J-5) (Imp: HRS §§461J-3, 461J-5)

§16-110-6 Identification of personnel. (a) A licensed physical therapist shall wear a conspicuously placed name tag stating, at a minimum, the person's name and the title "physical therapist" or "PT".

(b) The supervising physical therapist shall ensure that all physical therapist assistants, and support or auxiliary personnel wear a conspicuously placed name tag identifying the individual's name and professional designation at the time of care. [Eff and comp 12/9/10; comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§461J-2, 461J-5)

SUBCHAPTER 2

APPLICATIONS

§16-110-10 Application for licensure. (a) All applicants for licensure shall apply on a form or forms prescribed by the board.

(b) The proper documentation and fee shall accompany the application forms.

(c) It shall be the applicant's responsibility to submit all evidence of qualifications, including the passage of any required licensure examination and payment of any applicable fee, within one year of the application date.

(d) If a license is not issued within one year of the application date as a result of the applicant's failure to complete licensure requirements, take the required licensure examination, if required, or to submit the required documentation and evidence of qualifications, the applicant shall submit a new application form, documentation of qualifications, and applicable fees in addition to meeting licensure requirements that are in effect at the time of filing the new application. [Eff 6/5/87; am and comp 12/4/92; comp 10/13/94; am and comp 12/9/10; comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§461J-5, 461J-6, 461J-7, 461J-9, 461J-10)

SUBCHAPTER 3

PERMANENT LICENSE

§16-110-20 Requirements for a permanent physical therapist or physical therapist assistant license. (a) A person seeking a permanent license to practice as a physical therapist or physical therapist assistant in the State shall submit an application for the license on forms provided by the board.

(b) An applicant for licensure as a physical therapist shall provide the board with:

(1) A certified transcript indicating graduation from a physical therapy education program from a school or college accredited by CAPTE;
or

(2) In the case of a person who is a graduate of a school or college of physical therapy located outside the United States that is not accredited by CAPTE, a certified credentials evaluation indicating successful completion of a program or programs, including education and training, equivalent to programs in the United States accredited pursuant to paragraph (b)(1). That evaluation shall be prepared within one year from the date of the application's submission and shall be performed by a credentials evaluation agency approved by the board. Additionally, the applicant shall take and pass one of the following English language proficiency tests if the school or college is in a country, state, or province where the official language is other than English:

(A) The Test of English as a Foreign Language (TOEFL) with the passing score for each exam as recommended by the FSBPT; or

(B) The TOEFL internet based test with a passing score as recommended by the FSBPT.

(c) An applicant for licensure as a physical therapist assistant shall provide the board with:

(1) A certified transcript indicating graduation from a physical therapist assistant program or a physical therapy program accredited by CAPTE; or

(2) In the case of a person who is a graduate of a school or college of physical therapy or physical therapist assistant program located outside the United States that is not accredited by CAPTE, a certified credentials evaluation indicating successful completion of a program or programs, including education and training, equivalent to

programs in the United States accredited pursuant to paragraph (c)(1). That evaluation shall be prepared within one year from the date of the application's submission and shall be performed by a credentials evaluation agency approved by the board. Additionally, the applicant shall take and pass one of the following English language proficiency tests if the school or college is in a country, state, or province where the official language is other than English:

- (A) The Test of English as a Foreign Language (TOEFL) with the passing score for each exam as recommended by the FSBPT; or
- (B) The TOEFL internet based test with a passing score as recommended by the FSBPT.

(d) Each applicant for licensure shall be required to take the physical therapist or physical therapist assistant licensure examination, as applicable, scheduled and administered by the board's designated licensing examination service;

(e) The passing score for the licensure examination shall be the criterion-referenced passing score recommended by the FSBPT.

(f) Each applicant shall ensure that after each administration of the licensure examination, the licensing examination service reports the applicant's examination score directly to the board. The FSBPT shall notify the applicant directly of the applicant's licensure examination score.

(g) Any applicant who fails to achieve a passing score on the licensure examination may be entitled to re-take the examination;

(h) An applicant may apply for an examination waiver as follows:

(1) The board may waive the licensure examination for a physical therapist applicant if the applicant:

(A) Submits proof that the applicant previously passed the same physical therapist licensure examination required by the board in another jurisdiction approved by the board, and received an examination score that meets or exceeds the passing score specified in this chapter; and

(B) Submits verification on the status of the applicant's license in the other jurisdiction, including but not limited to whether the license is or has been encumbered, whether disciplinary action has been taken against the applicant or is currently pending, and whether the applicant is being investigated for any licensing violations in that jurisdiction.

(2) The board may waive the licensure examination for a physical therapist assistant applicant if the applicant:

- (A) Graduated from an accredited physical therapist assistant program, or an accredited physical therapy program recognized by the United States Department of Education; and has five years of experience within the last eight years as a physical therapist assistant by December 31, 2014; provided that:
 - (i) The applicant shall provide written verification from each place of employment as a physical therapist assistant during the aforementioned five-year period; and
 - (ii) Employment verification shall include documentation of employment dates, job titles, job descriptions, employment status, names of all supervisors, and any other documentation requested by the board to verify employment; or
- (B) Submits proof that the applicant previously passed the same physical therapist assistant licensure examination required by the board in another jurisdiction approved by the board, and received an examination score that meets or exceeds the passing score specified in this chapter.

(i) An applicant may submit a letter of completion by the licensure examination date from the appropriate college authority which states that the student is in the final year of that physical therapy program and has completed the physical therapy program which at the time of graduation was accredited by CAPTE to be accepted in lieu of the final transcript to sit for the licensure examination. However, the license shall not be issued, even if the applicant has passed the licensure examination for physical therapists, until the final transcript is submitted showing graduation from the physical therapy program. [Eff 6/5/87; am and comp 12/4/92; am and comp 10/13/94; am and comp 12/9/10; am and comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§461J-2, 461J-5, 461J-6, 461J-7)

SUBCHAPTER 4 - REPEALED

§16-110-30 Repealed. [R 12/9/10]

SUBCHAPTER 5

TEMPORARY LICENSE

§16-110-40 Requirements for temporary physical therapist or physical therapist assistant license. (a) An applicant for a temporary license who has applied for a permanent license, shall provide the board with:

- (1) The documents and evidence of qualifications as set forth in subsection 16-110-20(b) or 16-110-20(c); and
- (2) Evidence that the applicant has submitted to the board either an application to take the licensure examination within six months or evidence showing that the applicant has taken the licensure examination and is awaiting its results; or
- (3) For examination waiver, evidence that the applicant has fulfilled the requirements of section 16-110-20(h).

(b) The applicant shall submit to the board a completed Statement of Supervising Licensed Physical Therapist, on a form prescribed by the board, from each proposed supervising physical therapist, verifying that the supervising physical therapist agrees to supervise the applicant. The Statement of Supervising Licensed Physical Therapist shall indicate the name of the applicant, the name and license number of each supervising physical therapist, the date when the supervision shall commence, and shall be signed by each supervising physical therapist. The temporary licensee shall be supervised throughout the period of temporary licensure by a physical therapist holding a permanent active license.

(c) An applicant may submit a written request to the board for a change in supervising physical therapist. The request shall include the reason for the change, the date of change, and a Statement of Supervising Physical Therapist from the new proposed supervising physical therapist. The request shall be signed by the applicant, new proposed supervising physical therapist, and the immediate prior supervising physical therapist, unless the applicant can provide adequate documentation to establish that the immediate prior supervising physical therapist cannot be contacted after reasonable attempts by the applicant.

(d) Except as provided herein, a temporary license shall expire within six months of its effective date or be terminated at an earlier date upon any of the following:

- (1) Termination of the supervisory relationship between the applicant and the supervising physical therapist verifying the supervision of the applicant;
- (2) The applicant's failure to pass the applicable physical therapy licensure examination identified in subsection (a)(2);

- (3) Determination by the board that the applicant's qualifications for licensure are not as represented by the applicant at the time of application;
- (4) If the board determines that there is cause for termination due to the temporary licensee committing any act specified in section 461J-12 or 436B-19, HRS, or section 16-110-50; or
- (5) The person has received a permanent license.
- (e) The six month period for a temporary license may be extended to one year by the board for good cause. Only one temporary license shall be issued per applicant.
- (f) A temporary license shall not be issued to a person who is not authorized to work in the United States. [Eff 6/5/87; am and comp 12/4/92; am and comp 10/13/94; am and comp 12/9/10; am and comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§461J-5, 461J-6, 461J-7, 461J-9)

§16-110-41 Repealed. [R 12/9/10]

§16-110-42 Repealed. [R 12/9/10]

SUBCHAPTER 6

PROFESSIONAL MISCONDUCT

§16-110-50 Professional misconduct, gross carelessness, manifest incapacity defined. For purposes of section 461J-12(8), HRS, "professional misconduct, gross carelessness, or manifest incapacity in the practice of physical therapy" includes, but shall not be limited to:

- (1) Administering treatments or evaluation in a negligent manner;
- (2) Falsifying or otherwise altering patient records;
- (3) Misappropriating drugs, money, supplies, or equipment;
- (4) Aiding or abetting, or both, the practice of physical therapy by any person not licensed to practice as defined by chapter 461J, HRS;
- (5) Accepting fees for services not provided;
- (6) Improper delegation to or supervision of physical therapist assistants, or support or auxiliary personnel;
- (7) Practicing physical therapy outside the scope of this chapter;

- (8) Failure to abide by the APTA Guidelines for Physical Therapy Documentation, the APTA Code of Ethics, or the APTA Guide to Professional Conduct; or
- (9) Failing to immediately refer any patient to an appropriate healthcare provider if there is reasonable cause to believe that the patient's condition is beyond the physical therapist's scope of practice or is a condition for which physical therapy is contraindicated. [Eff 6/5/87; am and comp 12/4/92; am and comp 10/13/94; am and comp 12/9/10; comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§461J-5, 461J-12)

SUBCHAPTER 7

PRACTICE AND PROCEDURE

§16-110-60 Administrative practice and procedure. The rules of practice and procedure for physical therapists shall be as provided in chapter 16-201, the rules of administrative practice and procedure of the department of commerce and consumer affairs, as adopted and as may subsequently be amended, which are incorporated by reference and made a part of this chapter. [Eff 6/5/87; comp 12/4/92; am and comp 10/13/94; am and comp 12/9/10; comp 2/28/15] (Auth: HRS §§91-2, 461J-5) (Imp: HRS §§91-2, 461J-5)

SUBCHAPTER 8

ORAL TESTIMONY

§16-110-70 Oral testimony. (a) The board shall accept oral testimony on any item which is on the agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony is requested to notify the board not later than forty-eight hours before the meeting, and at that time, to state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;

- (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
 - (4) Persons presenting oral testimony at the beginning of the testimony shall identify themselves and the organization, if any, that they represent;
 - (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and
 - (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.
- (b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another proceeding pending subject to the hearings relief, declaratory relief, or rule relief provisions of chapter 16-201.
- (c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff 6/5/87; am and comp 12/4/92; am and comp 10/13/94; comp 12/9/10; comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§92-3, 461J-5)

SUBCHAPTER 9

FEES

§16-110-80 Fees. (a) The fees for the board of physical therapy shall be as adopted by the director in chapter 16-53, after hearing, pursuant to chapter 91, HRS.

(b) The dishonoring of any check upon first deposit shall be considered a failure to meet the requirements of this chapter. [Eff and comp 12/4/92; comp 10/13/94; am and comp 12/9/10; comp 2/28/15] (Auth: HRS §461J-5) (Imp: HRS §§436B-15, 461J-5)

Amendments to and compilation of Chapter 16-110, Hawaii Administrative Rules, on the Summary page dated December 2, 2014, were adopted on December 2, 2014, following a public hearing held on December 2, 2014, after public notices were given in the Honolulu Star-Advertiser, The Garden Island, Hawaii Tribune-Herald, West Hawaii Today, and The Maui News on November 1, 2014.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Neil Shimabukuro

NEIL SHIMABUKURO, Chairperson
Board of Physical Therapy

APPROVED AS TO FORM: Date 12/12/14

/s/ Rodney J. Tam

Deputy Attorney General

APPROVED: Date 12/17/14

/s/ Keali'i S. Lopez

KEALI'I S. LOPEZ, Director
Department of Commerce and Consumer Affairs

APPROVED: Date 02/18/15

/s/ David Y. Ige

DAVID Y. IGE
Governor
State of Hawaii

February 18, 2015

Filed