

CHAPTER 461J
PHYSICAL THERAPY PRACTICE ACT

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

"Board" means the board of physical therapy.

"Competence" is the application of knowledge, skills, and behaviors required to function effectively, safely, ethically, and legally within the context of the individual's role and environment.

"Continuing competence" is the lifelong process of maintaining and documenting competence through ongoing self-assessment, development, and implementation of a personal learning plan, and subsequent reassessment.

"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 therapist assistant" means a person who is licensed as a physical therapist assistant in the State and assists the physical therapist in selected components of treatment or intervention.

"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 or physical therapist assistant 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.

"Unit" is a relative value assigned to continuing competence activities in which one continuing competence unit is equivalent to at least fifty minutes of classroom or hands on instruction.

§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", "DPT", "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 as a physical therapist under this chapter.

(c) No person shall use the title "physical therapist assistant", the letters "PTA", or any other words, abbreviations, or insignia in connection with that person's name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is appropriately licensed as a physical therapist assistant under this chapter.

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

§461J-2.3 Physical therapist use of support or auxiliary personnel. (a) A physical therapist may use support or auxiliary personnel, including licensed physical therapist assistants, to assist the physical therapist in the practice of physical therapy; provided that the support or auxiliary personnel shall:

- (1) Perform only the duties prescribed in the rules of the board; and
- (2) Perform these duties under the supervision and direction of a physical therapist.

(b) Physical therapists and physical therapist assistants shall provide proof of compliance with this section upon written request from the board.

[§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 a physical therapist assistant, 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, physical therapist assistants, 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) Nothing in this chapter shall be construed to prohibit a person licensed as a physical therapist or as a physical therapist assistant in another state or foreign country from practicing 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 an individual from acting as an athletic trainer under chapter 436H.

(e) Nothing in this chapter shall be construed to prohibit a physical therapist or physical therapist assistant who is practicing in the United States Armed Services, United States Public Health Service, or Department of Veteran Affairs pursuant to federal regulations for state licensure of healthcare providers from practicing as a physical therapist or physical therapist assistant; provided that if the person, while federally employed as a physical therapist or a physical therapist

assistant, engages in the practice of physical therapy outside the course and scope of the person's federal employment, the person shall be required to obtain a license in accordance with this chapter.

(f) Nothing in this chapter shall be construed to prohibit a physical therapist who is licensed in a jurisdiction of the United States or another country from engaging in the practice of physical therapy if that person by contract or employment is providing physical therapy to individuals affiliated with or employed by established athletic teams, athletic organizations, or performing arts companies that temporarily practice, compete, or perform in the State for no more than sixty days in a calendar year.

§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 physical therapist assistant, 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 physical therapist assistant member of the board shall possess a valid permanent license as a physical therapist assistant and shall have, after graduation from an accredited physical therapist assistant program or an accredited physical therapy program, at least three years of full-time experience.

(d) 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 as a physical therapist or physical therapist assistant 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 that 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-7.5 Physical therapist assistant license without necessity of examination. Any applicant who submits proof of graduation from an accredited physical therapist assistant program or an accredited physical therapy program recognized by the United States Department of Education, and five years of work experience as a physical therapist assistant by December 31, 2014, may be licensed as a physical therapist assistant under this chapter without the necessity of examination.

[§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. (a) 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.

(b) 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. (Effective December 31, 2016: (b) will also include provision of proof of completion of the required continuing competence units.)

§461J-10.1 Continuing competence. (a) Beginning with the December 31, 2016, renewal, each licensed physical therapist shall be required to obtain at least thirty units of approved continuing competence units in each two-year license renewal period, where one continuing competence unit is equivalent to at least fifty minutes of classroom or hands on instruction.

(b) For first-time license renewals, if the initial license was issued less than twelve months prior to the renewal date, no continuing competence units will be required for the first renewal period. If the initial license was issued more than twelve months prior to the renewal date, the licensee shall be required to obtain fifteen units of approved continuing competence units for the first renewal period.

(c) At the time of renewal, each licensee shall submit evidence of completing the required continuing competence units to the board or agency designated by the board. Failure to present evidence of compliance at the time of renewal shall constitute a forfeiture of the license, which may be restored only upon written application and payment to the board of a restoration fee and proof of compliance with continued competence requirements.

(d) The board may randomly audit a licensee's continuing competence units, and may establish guidelines for random audits in rules adopted in accordance with chapter 91.

§461J-10.11 Content standards of continuing competence. (a) Continuing competence units shall be obtained in subjects related to either the professional practice of physical therapy or patient/client management.

(b) The "professional practice of physical therapy" includes but is not limited to professional accountability, professional behavior, and professional development.

(c) "Patient/client management" includes but is not limited to examination, evaluation, diagnosis, and prognosis; plan of care; implementation; education; and discharge.

§461J-10.12 Continuing competence subject matter requirements and other limitations. For each renewal period, a licensee's continuing competence units shall include the following:

- (1) Two units in ethics, laws, and rules (jurisprudence), or some combination thereof; and
- (2) Four units in life support for health care professionals; provided that such training shall be comparable to, or more advanced than, the American Heart Association's basic life support health care provider course.

§461J-10.13 Authorize providers of continuing competence units. Continuing competence units shall be obtained from a provider or agency approved by the board, including but not limited to:

- (1) Continuing education courses, including home and self study courses, obtained from an agency recognized by the board;

- (2) College coursework from an educational institution accredited by the United States Department of Education or other agency recognized by the board; and
- (3) Other competence related activities approved by the board or an agency recognized by the board.

[§461J-10.14] Exemption from continuing competence requirements. (a) Prior to the expiration of a renewal period, a licensee may submit a written request to the board for an exemption from the continuing competence requirements in this chapter.

(b) The request for an exemption shall include the following information:

- (1) Evidence that, during the two-year period prior to the expiration of the license, the licensee was residing in another country for one year or longer, reasonably preventing completion of the continuing competence requirements;
- (2) Evidence that, during the two-year period prior to the expiration of the license, the licensee was ill or disabled for one year or longer as documented by a licensed physician, surgeon, or clinical psychologist, preventing completion of the continuing competence requirements; or
- (3) Evidence that, during the two-year period prior to the expiration of the license, a dependent family member of the licensee was ill or disabled for one year or longer as documented by a licensed physician, surgeon, or clinical psychologist, preventing completion of the continuing competence requirements.

(c) The above exemptions shall not be granted for more than one renewal period. In the event a licensee cannot complete the continuing competence requirements during the two-year period after receiving an exemption, the licensee may only renew the license on an inactive status.

(d) When a licensee is absent from the State because of military service for a period of one year or longer during the two-year renewal period, preventing completion of the continuing competence requirement, the board may provide an exemption from the continuing competence requirement for more than one renewal period.

[§461J-10.15] Record keeping for continuing competence. (a) Each licensee shall keep and maintain records showing that each course or activity for which credit is claimed has been completed.

(b) These records shall reflect the title of the course or activity, the date taken or completed, and the record of participation.

(c) Each licensee shall retain such documentation for a period of seven years after the course or activity concludes.

(d) Each licensee shall provide copies of such documentation to the board or its designee within fourteen calendar days after being requested to provide such documentation.

§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-12.5] Inactive status. (a) A licensee may apply in writing to have the licensee's license placed on inactive status. While on inactive status, the licensee shall not engage in the practice of physical therapy.

(b) A license on inactive status shall be renewed during the same time period as active licenses. While on inactive status, the licensee shall not be required to comply with the continuing competence requirements in this chapter.

(c) To reactivate a license on inactive status, the licensee shall:

- (1) Pay the renewal and any applicable fees; and
 - (2) Have obtained continuing competence units equivalent to that required for a single renewal period of an active license within the last two years prior to applying to restore the license to active status.
- (d) The inactive status of any licensee shall not deprive the board of its authority to institute or continue any disciplinary or enforcement action against the licensee.

[\$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.