REGULATION OF PHYSICAL THERAPY IN HAWAII

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Honolulu, Hawaii
FOREWORD

This report on Regulation of Physical Therapy in Hawaii was prepared in response to House Resolution No. 287 and Senate Resolution No. 122, adopted during the 1983 legislative session.

These resolutions requested the Office of the Legislative Reference Bureau to conduct a study on the advisability of establishing a board under the Department of Commerce and Consumer Affairs to license physical therapists and physical therapist assistants and regulate the practice of physical therapy. The study was conducted using the proposals contained in House Bill No. 582 and Senate Bill No. 473, introduced during the 1983 legislative session, as guides for the report.

We wish to express our deep appreciation and gratitude to the many physical therapists who took the time to respond carefully and thoughtfully to our survey and to the following individuals who provided information and assistance: Peter A. Sybinsky, Administrative Assistant to the Director, Department of Health; Donald D. H. Ching, former Acting Director, Department of Commerce and Consumer Affairs; Russel S. Nagata, Acting Director, Department of Commerce and Consumer Affairs; Dick H. Okaji, Administrator, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs; Herbert Yee, RPT and former President, Hawaii Chapter of the American Physical Therapy Association; Mark K. Ono, RPT and President, Hawaii Chapter of the American Physical Therapy Association; and Marilyn E. Miller, RPT and member of the legislative committee of the Hawaii Chapter of the American Physical Therapy Association.

Samuel B. K. Chang
Director

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SUMMARY

This study on Regulation of Physical Therapy in Hawaii reviews the development of the licensing system for physical therapists in Hawaii and compares the current structure to the professional regulatory boards which license and monitor most regulated professions in this State. At the present time, physical therapists are regulated by the Department of Health rather than by a board administratively located within the Department of Commerce and Consumer Affairs.

Although the Department of Health appears to be doing a good job of licensing physical therapists, the Bureau found there are several ways in which the existing system could be improved:

(1) The absence of formal mechanisms for involving physical therapists in the regulatory process is a disadvantage that should be remedied. In the other 49 states where there is a regulatory board, either physical therapists or other medical professionals provide the technical expertise necessary to evaluate educational programs, design practical examinations, and assess a practitioner's competency.

(2) As the law is currently written, the Department of Health has no jurisdiction over the practice of physical therapy but only over physical therapists. The department, therefore, is unable to take action against anyone who is offering or practicing physical therapy without being licensed to do so.

(3) Other limitations in the department's authority and resources also restrict its operations. The department cannot issue temporary licenses to expedite the licensing process and lacks procedures for granting licensure on a reciprocal basis to someone already licensed in another state. Resource constraints as well as legal impediments restrict the department's investigative capabilities.

In Hawaii, the Department of Commerce and Consumer Affairs has the staff and the expertise to support the activities of the professional regulatory boards under its jurisdiction. The department's resources are particularly important with regard to the investigation and prosecution of complaints.

This report concludes that the regulation of physical therapists would be more logically conducted by a board composed in part by physical therapists under the Department of Commerce and Consumer Affairs. In addition, the report recommends broadening the scope of the regulatory authority to include the practice of physical therapy to allow some control over individuals practicing without a physical therapist's license.
Chapter 1
INTRODUCTION

Part I. Background to this Study

In 1983, the Legislature of the State of Hawaii was asked to consider a revision in the method of regulating physical therapists. In addition to expanding the scope and types of licensure, the proposed legislation included a major reorganization of regulatory responsibility. Under this proposal, responsibility for licensing and regulating physical therapists would be removed from the Department of Health and placed in a board located for administrative purposes within the Department of Commerce and Consumer Affairs.

Hawaii, along with most other states in the country, has faced a proliferation of regulatory boards and commissions in recent years and has become concerned with the associated costs and encumbrances of the government bureaucracy. To address these problems, laws have been enacted to require review of the need for existing boards ("sunset" laws) and to establish standards for the creation of new regulatory measures or structures ("sunrise" laws).

Hawaii has adopted both types of laws. The underlying policy as articulated by the Legislature is as follows:

1. The regulation and licensing of professions and vocations by the State shall be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation;

2. Where regulation of professions and vocations is reasonably necessary to protect consumers, government regulation in the
form of full licensure or other restrictions on the professions or vocations should be retained or adopted;

(3) Professional and vocational regulations shall be imposed where necessary to protect consumers who, because of a variety of circumstances, may be at a disadvantage in choosing or relying on the provider of the service;

(4) Evidence of abuses by providers of the service shall be accorded great weight in determining whether government regulation is desirable;

(5) Professional and vocational regulation which artificially increases the costs of goods and services to the consumer should be avoided;

(6) Professional and vocational regulation should be eliminated where its benefits to consumers are outweighed by its costs to taxpayers; and

(7) Regulations shall not unreasonably restrict entry into professions and vocations by all qualified persons.

Strictly speaking, the proposed change in the regulation of physical therapists does not fall within section 26H-6, Hawaii Revised Statutes, which applies to new regulatory measures since physical therapists are already licensed. It is reasonable, however, to apply the same criteria for determining the need to revise the system of regulation as are used for instituting new regulations. That is, any proposed change should be evaluated for its impact upon the health, safety, and welfare of consumers of the services offered by the profession concerned.

Under section 26H-6, Hawaii Revised Statutes, the Director of Commerce and Consumer Affairs is required to analyze the effects of the proposed
regulatory measure, assess its compatibility with the policy guidelines set forth in section 26H-2, Hawaii Revised Statutes, assess alternative forms of regulation, and report the findings to the Legislature. Although the Legislature determined that a study was needed before any decision was made on the proposed change in the regulation of physical therapists, the Department of Commerce and Consumer Affairs did not acknowledge its responsibility but instead suggested during its testimony that the Legislative Auditor conduct this study.

The Legislature, in House Resolution No. 287 and Senate Resolution No. 122 (attached as Appendices A and B, respectively) turned to the Office of the Legislative Reference Bureau for this study. These resolutions requested a study "on the advisability of establishing a board under the Department of Commerce and Consumer Affairs to license physical therapists and physical therapist assistants and regulate the practice of physical therapy". The resolutions further directed that the study use House Bill No. 582 and Senate Bill No. 473 introduced during the 1983 legislative session as guides for the study.

Part II. Organization of this Report

This report presents the findings of the Legislative Reference Bureau based on interviews with representatives of concerned agencies and organizations, a mail survey of physical therapists licensed by the State of Hawaii as of January 1, 1983, a review of the statutes of the other forty-nine states, a review of the testimony on this issue, and an examination of some of the literature in the field of regulation of health-related professions. Chapter 2 provides an overview of the field of physical therapy and its regulation by state government. Chapter 3 describes the development of the regulation of physical therapists in Hawaii and discusses problems with the current system within the Department of Health. Chapter 4 focuses on the use of professional regulatory boards in the Department of Commerce and Consumer Affairs and the advantages and disadvantages of regulating physical therapists through such a board. Chapter 5 provides an overview of key
elements in the regulatory laws and structures in use in the other states and compares them to the system in use in Hawaii. Chapter 6 reviews the conclusions reached in this study and presents recommendations for the Legislature to consider.
Chapter 2

OVERVIEW OF THE DEVELOPMENT OF THE FIELD OF PHYSICAL THERAPY AND ITS REGULATION

Physical therapy is one of the most rapidly growing areas in the health care field today as the services offered by its practitioners are increasingly in demand in widely ranging aspects of modern life. From amateur athletics to industrial settings, from schools at all levels to more traditional medical facilities, physical therapists are playing an important role in both the prevention and treatment of disease and injury.

As generally defined, physical therapy involves the use of joint mobilization, therapeutic exercise, muscle re-education, and the application of physical agents such as heat, cold, and traction to improve the functioning of victims of stroke, arthritis, automobile accidents, industrial accidents, or congenital conditions. Working as part of the entire medical team, physical therapists also assist recent surgical patients to regain their normal lifestyles.

Initially, the physical therapist treated patients who were referred by physicians or other health professionals and often functioned under the direction or supervision of the referring practitioner. At this time, most states (as reviewed in Chapter 5) continue to prohibit physical therapists from evaluating or treating patients without some involvement of a physician or other medical specialist.

Although most of the techniques used by physical therapists have been in existence for many years and also are used by other health care professionals, the recognition of physical therapy as a distinct component of the medical field largely has developed in the last forty to fifty years. The demand for physical therapy services generated by two world wars and two major polio epidemics (including the 1952 epidemic which created nearly 58,000 cases) were important factors in this development.1
REGULATION OF PHYSICAL THERAPY IN HAWAII

As more people began to perform these services, states took steps to regulate the profession through some form of registration or licensing. Although a few states had enacted some form of regulation before this time, most such activity occurred during the 1940's and 1950's. By the late 1960's, only Texas failed to regulate physical therapists and this was remedied in 1971 when a licensing statute was passed into law.

State action to regulate and license various professions is based on the theory that the public health, safety, or welfare is at stake if measures are not taken to allow only those with certain qualifications into the profession and to monitor the conduct of the members of the profession. Regulation can take many forms and can vary in the level of scrutiny involved. In its simplest form, regulation provides for either certification or registration without any independent assessment of an individual's capabilities. Licensing statutes, on the other hand, typically contain a requirement that an applicant pass some type of examination to test knowledge, practical skill, or both.

In many fields the licensing and monitoring functions are carried out through a regulatory board or commission composed in part of members of the regulated profession or closely related professions. Described as the "most salient feature of professional regulation", an expert board is based on the theory that "delegation to experts is made necessary by the highly technical knowledge that forms the core of modern professions." The underlying assumption is that members of the regulated profession are the most knowledgeable group regarding current standards and practices relating to their field, and thus help ensure that examinations are up to date and that members of the profession are using the most modern procedures and techniques in their practice.

Physical therapists are licensed in all fifty states and, in forty-nine of these states, they are regulated by a professional board operating under a governmental agency. Hawaii's system of regulation differs considerably from that of other states. Hawaii only recently moved from a system of certification to one of licensure and as yet does not have a board involved in the regulation of this group.
Chapter 3

REGULATION OF PHYSICAL THERAPY IN HAWAII UNDER THE DEPARTMENT OF HEALTH

Part I. Historical Development of the Regulation of Physical Therapy in Hawaii

The regulation of physical therapists first occurred in Hawaii in 1941. The legislature that year gave the Board of Health power to prescribe rules and regulations governing several occupational groups including physical therapists. In addition, it was declared unlawful for anyone to engage in any of the regulated occupations without obtaining a certificate of registration or permit from the Board of Health. In 1957, a new section was added to the statutes which required that those practicing the enumerated occupations obtain a license and set forth a schedule of examination fees.

As noted in the preceding chapter, the difference between a certificate of registration and a license is more than a mere relabelling of the type of regulation imposed. Typically, a system of registration only involves a recording of information followed by an automatic grant of authority to engage in the regulated activity. Licensing on the other hand implies a system in which there are standards to be met and qualifications to be demonstrated before a grant of authority to engage in regulated activities is made.

Although physical therapists have been regulated in Hawaii for over 40 years and there has been a licensing requirement for more than 25 years, it is only within the past three years that the actual system of regulation has approached full licensure. Prior to the early 1980's, the Department of Health's system more closely resembled a certification or registration process than licensure despite the change enacted in 1957, since any applicant who was a member of the American Physical Therapy Association automatically received a license. During that period of time, the Department of Health assumed that the American Physical Therapy Association had determined that the individual had the proper education to be a member which meant that the
person also met the qualifications for a license. No independent verification of credentials or testing of qualifications or competency was performed by the Department of Health. As a result, Hawaii obtained somewhat of a reputation as an easy place to get a physical therapist's license and many licenses were issued to therapists who never practiced nor intended to practice in the State. As evidence of this, 32 (or 18 per cent) of the 177 physical therapists responding to a survey conducted by the Legislative Reference Bureau have never practiced in Hawaii.³

Hawaii moved toward a true licensing system about 1981 due to a change in the Department of Health's interpretation of the law. Prior to that time, the Department of Health had believed the requirement of an examination to be satisfied by an examination of the credentials of an applicant, a task which in essence had been delegated to the American Physical Therapy Association. Worried both about legal challenges stemming from Federal Trade Commission rulings on professions or professional associations restricting entry into the profession and the language of the Hawaii law, the Department of Health instituted an examination system for new applicants for a physical therapist license. Since then, the licensing procedures have remained essentially unchanged.

Part II. Existing Regulatory System

The Department of Health has a great deal of discretion in establishing the qualifications and procedures for licensing physical therapists in Hawaii under the statutory framework that has been in existence since 1941. The statutes provide the Department of Health with the authority to regulate this occupation but do not specify any criteria for evaluating applicants for physical therapist licenses nor do the statutes define any different types of licenses. Instead, details of this sort are handled through rules drawn up by the Department of Health. (At the present time, physical therapist assistants are not licensed or regulated in any way in Hawaii, either by statute or rule, although 87 per cent of the physical therapists practicing in Hawaii and responding to the survey supported licensing for assistants. There are only an estimated six persons acting as physical therapist
assistants in the State and officials of the Hawaii Chapter of the American Physical Therapy Association agree that licensing of assistants is a minor issue at this point.)

The Department of Health has adopted the following requirements for an applicant for a physical therapist license: "(1) A certified transcript indicating graduation from a school of physical therapy which at the time of graduation was approved by an agency recognized by either the United States Department of Education or the Council on Postsecondary Accreditation; or (2) In the case of a foreign-trained person, a credentials evaluation indicating completion of an education program(s) that has been determined to be equivalent to entry level physical therapist education in the United States. Such an evaluation shall be performed by a credentials evaluation agency recognized by the department."*

Although there are agencies whose function is to evaluate credentials of individuals and schools and the Department of Health is authorized to make use of the services of these agencies, this aspect of licensing does pose some difficulties for the administrator of the physical therapy licensing program. The Hawaii Chapter of the American Physical Therapy Association notes that many new physical therapy programs are being accredited and that it is difficult to remain current on which programs satisfy the State's licensing requirements. The Department of Health administrator noted that it is possible that someone whose only degree comes from a diploma mill could be licensed but stated that the chance of this happening is very remote.

Of much greater concern are the difficulties associated with assessing equivalency for graduates of foreign programs. The services of the agencies which assess programs for equivalency are not completely helpful in this area according to the administrator in the Department of Health. These agencies merely make a ruling that a program is or is not equivalent. If the finding is that the program is not equivalent, the agencies merely report this, but do not indicate whether the program is not equivalent as a result of the quality of the instruction or if equivalency can be obtained by taking remedial courses.
The Department of Health administrator stated that he did not feel qualified to make judgments on the quality of any schools, domestic or foreign, nor did he feel able to recommend remedial steps an applicant could take to become eligible for licensing in the absence of an equivalent education. Both the Department of Health representative and officials of the Hawaii Chapter of the American Physical Therapy Association agreed that this was an area in which input from professional physical therapists would be very beneficial in setting policy.

As noted above, until very recently, applicants for licenses in Hawaii only had to pass the initial assessment of credentials (which was actually done by the American Physical Therapy Association). Now, however, Hawaii makes applicants for a license take an examination prepared by the Professional Examination Service. Initially, examinations were given as needed, even on an individual basis on occasion. At the present time, examinations are given approximately every six months.

Although the lack of frequency of the exam is sometimes mentioned as a problem under the current licensing structure, Association officials feel that this is not a barrier to most applicants. Only those who arrive in Hawaii without making any inquiries or preparations to obtain a license may be inconvenienced by having to wait any length of time for the next scheduled examination.

Another issue that has arisen since the Department of Health began to conduct examinations for physical therapists applying for a license to practice in Hawaii involves the matter of selection of a passing score for the examination. When the examination requirement was first instituted, the Department of Health adopted a 75 per cent raw score only to find a very low percentage of applicants were passing. In some instances, individuals who had practiced physical therapy for several years in other states were denied licensure under Hawaii's standard at that time. The department became convinced that this result was undesirable both in its effect on individual applicants and on the State given the shortage of physical therapists in Hawaii. In response to these concerns, the Department of Health revised its
passing score to be 1.5 standard deviation below the national mean. In the view of many observers and of the Department itself, this response was an overreaction to the problem. There were a number of complaints that this passing score was too low and raised the risk of unqualified applicants being licensed.

The Department of Health followed the example of several other states including Washington and Oregon and revised the standard upward to 1.0 standard deviation below the national mean. This approach seems to be a reasonable compromise and is generally accepted by the Department of Health and the representatives of the Hawaii Chapter of the American Physical Therapy Association interviewed for this study.

Although there were no specific complaints about the quality of the licensing examination used by the Department of Health, physical therapists mentioned the value of input by people in the field in designing and updating the tests used. These individuals feel that administrative personnel have no knowledge of the technical details of the field of physical therapy nor do they have any opportunity to note new developments or approaches to keep the examination as current as possible. In addition, occupational testing procedures have been criticized in some areas for failing to test applicants sufficiently on their practical skills or knowledge.

The addition of a practical examination to licensing requirements has been suggested as a solution to this problem although grading such exams is clearly subjective and there are other difficulties with this type of test. In a recent report on the Board of Acupuncture, the Legislative Auditor noted that the Department of Commerce and Consumer Affairs "has encouraged all boards to conduct their practical examinations with maximum anonymity and to increase the objectivity of the practical examinations because of a suit brought against the State's Board of Dental Examiners in 1976 . . . [alleging] bias and discrimination in testing."9

Under the current system, Hawaii accepts the results of written examinations taken elsewhere in lieu of the examination administered by the
Department of Health if the test is equivalent to that given in this State. In the past this was a cumbersome process for two reasons: (1) there was some delay in obtaining the necessary information from the professional testing services; and (2) it was not sufficient for the department to learn that the applicant passed the test according to another state's standards since each state uses its own conversion methods. Instead, the test results had to be assessed to determine if the applicant passed under the formula used in Hawaii at the time the test was taken.

These issues were of more concern to the department when examinations were first required than they are now since an agreement has been reached with the professional testing service under which an applicant’s scores are calculated using Hawaii’s standards. Currently, test results are available within four to six weeks after they are requested.

The department does not have any procedure for automatically granting a license to a physical therapist licensed in another jurisdiction. The issue of assessing equivalency of standards is again raised as a problem that professionals could help address. Thus, a person licensed in another state must rely on a previous examination (which may be impractical if it was taken years ago) or begin the licensing process anew.

Applicants for licenses are not able to practice in Hawaii until the licensing process is completed. In response to a survey question, 90 per cent of the physical therapists currently practicing in this State supported the use of a temporary license which would allow an applicant to practice under supervision while waiting to take the examination.

The Attorney General has informed the department that it lacks the authority to issue any type of temporary license and, as a result, there may be some delay between the time a physical therapist arrives in the State and when the person is employed. Given the shortage of physical therapists in the State, this may be detrimental to the public. The Hawaii Chapter of the American Physical Therapy Association representatives question the
reasonableness of this situation especially as it concerns applicants who may have years of experience in another state.

Part III. Scope of Regulation

Regulation of Physical Therapists

The Department of Health, as the licensing authority for physical therapists, is also charged with monitoring the conduct of licensees, handling consumer complaints, and suspending or revoking licenses if necessary. Although the Department of Health has neither the personnel nor the expertise to conduct lengthy investigations into allegations of fraud, misconduct, or impairment (the general criteria for action against a licensee), and it certainly lacks the resources to identify unreported instances of wrongdoing, there appears to be little cause for concern. The Department of Health has received only four or five complaints regarding physical therapy in recent years and only one such complaint involved a claim against a licensed physical therapist. Since this case also involved a complaint against the referring or supervising physician, the Department of Health worked in concert with the Board of Medical Examiners to resolve the consumer's problems.

It is beyond the scope of this study to make any determinations regarding the level of competency of physical therapists practicing in this State. Thus, there is no way to know whether the absence of complaints stems from consumer apathy or lack of knowledge of possible remedies, or whether this situation reflects the actual frequency of problems caused by physical therapists. Although administrators in both the Department of Health and the Department of Commerce and Consumer Affairs avow respect for the quality of practicing physical therapists in Hawaii, the physical therapists themselves claim to know of instances of patient harm resulting from incompetent therapists.

No system of regulation can guarantee that it will uncover all problems among the regulated group, although some would argue that a regulatory
board can perform public awareness and education functions so that consumers know what standards to expect and what avenues of recourse are available. (One state's sunset report contained a recommendation that its board undertake these activities to increase the likelihood that consumers would report any problems known to them.) An alternative, if these functions were found to be important, would be for the professional association to undertake this role in the absence of a change in the regulatory structure.

Although there is agreement that safeguards against incompetent physical therapists are necessary, this seems to be adequately covered by existing law. In part, the requirement that physical therapists operate following a referral or under the supervision of a physician or other specified licensed medical professional contributes to the feeling that current safeguards are sufficient. Proposals to revise the requirements regarding referral or supervision are controversial among physical therapists as is demonstrated by the survey results in which only 41 per cent of the physical therapists who responded and who currently practice in Hawaii indicated that they would support such a change.

The issue of the appropriateness of the referral or supervision requirement will not be addressed in this study. As noted in Chapter 5, however, several states have changed or eliminated this requirement and it appears that this may be the trend of the future. If this is the case, there may be more grounds for concern over the level of scrutiny and the investigative capacity of the regulatory agency than currently exists.

Regulation of the Practice of Physical Therapy

In theory, regulation of a profession extends beyond the issuing of a license and encompasses activity to ensure that services are delivered competently and only by qualified individuals. This latter component of regulation is non-existent in this State and appears to be one of the most important concerns of the physical therapists in Hawaii. Yet this important component is falling through a legal gap at this time.
Under the Department of Health's interpretation of sections 321-13 and 321-14, Hawaii Revised Statutes, the department's authority is limited to licensing and regulating physical therapists. The department contends that it has no legal authority to regulate the practice of physical therapy. The department, which asserts that the Department of the Attorney General informally has concurred with this interpretation, relies on the statutory language which states that the department may make rules respecting the "occupation[s] of physical therapist[s]" and that it is unlawful for "any person to practice any of the occupations specified . . . without a license to do so". In interpreting this language, the department believes that it is charged with regulating physical therapists or the occupation of physical therapist but that it has no authority over the practice of physical therapy.

This distinction lies at the core of the concerns of the physical therapists in Hawaii. Just as no one other than a physical therapist can legally refer to one's self as a physical therapist or claim to be such in any other way (by using initials such as L.P.T., R.P.T., or through any other means), there is a feeling that there should be an exclusive right to the use of terms such as physical therapy or physical therapy services. As it now stands, the department is unable to respond to complaints that someone other than a physical therapist is practicing or offering to practice physical therapy. Interestingly, every complaint except one received by the department in recent years concerned this issue.

Physical therapists stress that this is a major weakness in the regulatory framework existing in Hawaii today. The belief that trained physical therapists are the only ones who can offer thorough and comprehensive assessment and treatment is part of the basis for this feeling. The concern over this issue goes beyond this point, however. Physical therapists assert that the consuming public is being deceived in the nature of the services the public is receiving if a non-physical therapist claims to be providing physical therapy. Testimony by Marilyn Miller, a practicing physical therapist and a member of the Hawaii Chapter of the American Physical Therapy Association's legislative committee, illustrates this point: "[The rules of the Department of Health] are not interpreted to govern the service rendered and referred to as
physical therapy, but only regulate persons who call themselves physical therapists. Thus, a consumer could receive services referred to as physical therapy from someone other than a physical therapist or physical therapist assistant. The consumer would be subject to misrepresentation and questionable results while assuming services are being rendered by persons specifically trained to deliver such services. The current regulation leaves the consumer without recourse for dissatisfaction with the services or the outcome.

In addition to concerns of professional pride and consumer awareness, this issue has economic implications as well. Many insurance companies and government-funded health programs pay for physical therapy but not for other similar services. Thus, a non-physical therapist may perform services on a patient and receive direct reimbursement from the insurer, which would otherwise be unavailable, by billing the services as physical therapy.

In many instances, the person performing and billing for these services is another licensed practitioner. (Chiropractics are the most frequently mentioned professionals in this regard, but certainly this practice extends to other groups as well.) In fact, the services performed are generally within the scope of the licensee's authority or may be services that do not require any licensing at all. Since physical therapy is a field which cannot be narrowly or exclusively defined but is instead described by examples of the types of functions and treatment techniques used, there is considerable overlap between physical therapy and many other fields.

In any discussion of regulating physical therapists or the practice of physical therapy, there is considerable concern from other groups who question the impact of such regulation on their own activities. An example of this occurred during the testimony on S.B. No. 473 (relating to physical therapy), Twelfth Legislature of the State of Hawaii, Regular Session of 1983. On February 25, 1983, Marion Poirier, the Executive Director of the Hawaii Nurses Association, testified that "the meaning of physical therapy contains the same components which are included in both the disciplines of medicine
and nursing" and "need to be performed at the bedside, seven days a week, and during the course of a 24-hour day."

The representatives of the Hawaii Chapter of the American Physical Therapy Association recognize that this concern is legitimate and make it clear that their efforts are not directed at restricting the lawful practice of any other profession. When informed that the laws of many other states include a provision that the regulations concerning physical therapy should not be construed to limit the activities of other licensees operating within the scope of their licenses (see Chapter 5), the Hawaii Chapter of the American Physical Therapy Association representatives said they had no objections to a similar provision in Hawaii's laws.

In addition to the overlap with the activities of other licensees, physical therapy shares common elements with a variety of services which may be performed without any licensing requirement. The proposal to create a physical therapist licensing board would prohibit anyone other than a licensed physical therapist from offering physical therapy services, but would not necessarily restrict the activities of unlicensed individuals so long as they did not improperly label themselves or their services. As a practical matter, someone could offer "exercise therapy" or "rehabilitation services" without violating any law and yet not change any aspect of the services being performed. A Hawaii Chapter of the American Physical Therapy Association representative felt that such a change was more than cosmetic and stated his feeling that the issue was one of accuracy and consumer protection. The intent of such a change would be to ensure that consumers were not misled as to the credentials of the person performing the services as they might be if they believed they were being treated by a licensed physical therapist.

As noted earlier, the Department of Health currently receives very few complaints of any type relating to physical therapists or the practice of physical therapy in this State. The department points out that this situation is fortunate in view of its lack of personnel and the expertise necessary to conduct any lengthy or complex investigations. It fears any changes in the law will lead to more complaints, thus straining the already limited resources.
of the department. If the law is changed to prohibit practicing physical therapy or offering physical therapy services without a license, the department is concerned that it would become involved in investigating complaints of improper billing, reviewing insurance company records and payment practices, and many other activities for which it is ill-equipped and untrained. In essence, the Department of Health believes that any change in the licensing or regulation of physical therapists will necessitate additional funding for the department.

Part IV. Alternatives for Regulatory Procedures Within the Department of Health

Some of the solutions to the problems identified with the current system of regulation seem fairly simple on their face. For example, expanding the scope of what is being regulated and providing for reciprocal or temporary licenses may require additional resources to implement but may not appear to require a major revision of the allocation of administrative responsibility. Two factors suggest that even these changes are not as simple as they seem. First, the Department of Health lacks the expertise necessary to carry out many of the tasks required by any expansion of the scope or process of regulation. Secondly, there are no mechanisms in place in the department to allow ready access to this expertise.

As noted earlier, reciprocal licenses and licensing of foreign-trained applicants raise issues of the equivalency of the qualifications of the applicants which the department has difficulty addressing. If temporary licenses are to be used, someone must decide who is eligible for this type of license, when temporary licenses would expire, whether renewal would be allowed, and whether any restrictions would be placed on practice while operating under a temporary license. (Other states vary considerably in their laws regarding temporary licenses, as discussed in Chapter 5.) Expanding the scope of what is regulated may require judgments as to what is physical therapy and what is not. Thus, the need for involvement by those knowledgeable about the field becomes quite clear.
Although the Department of Health has access to this expertise through its consultation with the Hawaii Chapter of the American Physical Therapy Association, there is no structured or formal system for involving the members of the physical therapy profession in the regulatory process. One alternative might be to have a committee of physical therapists who would assist the department in making many of the decisions which the department finds difficult. The Department of Health has doubts as to its authority to institute such a committee and notes that the role of the committee would be advisory only. There also would be costs associated with convening a committee of this type.

Therefore, while professional input is seen as very helpful to the department at the present time and there is clear recognition that the importance of this type of expertise would increase if the scope of regulation or the licensing process were expanded, the department is not set up to formalize a system of expert participation. Of course, in Hawaii, the use of professional boards in the licensing and regulatory process is institutionalized in the Department of Commerce and Consumer Affairs. The operations of that department and its professional boards are the subject of the next chapter.
Chapter 4

REGULATION BY PROFESSIONAL BOARDS IN HAWAII

Almost every profession which is regulated in Hawaii is under the jurisdiction of a board administratively placed within the Department of Commerce and Consumer Affairs. As of December, 1983, there were 30 boards or commissions attached to the Department of Commerce and Consumer Affairs as well as several other regulatory programs without boards. Many of these boards have responsibility for professions in the health-care field. There are boards for chiropractics, dentists, physicians, nurses, osteopaths, masseurs, and naturopaths. Although the Department of Health had regulatory power over some of these groups in the past, the trend has been to move most professional regulatory systems into the Department of Commerce and Consumer Affairs. In the case of chiropractics, for instance, the Department of Health was relieved of all regulatory responsibility in 1969.

At the present time, the Department of Health has direct regulatory responsibility and licenses the occupations of midwives, laboratory directors, laboratory technicians, tattoo artists, and sanitarians in addition to physical therapists. Although the Department of Health has some authority over other occupations such as beauticians and barbers, there is no licensing requirement within this department for these groups. Only radiologic technologists and waste water treatment operators are regulated by boards placed in the Department of Health for administrative purposes.

Administrative responsibility for regulatory boards is placed within the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs. The Division's staff includes nine executive secretaries who assist the boards in carrying out their functions and serve as liaisons between the boards and the department. Executive secretaries assist the boards in adopting rules, handle correspondence, establish agendas, coordinate activities with the other units in the department, assist the boards in developing application forms and examinations, and perform research and prepare legislation for the boards. In addition, the licensing branch and the
examination branch provide support to the professional regulatory boards. Another component of the department which is involved in professional regulation is the Regulated Industries Complaints Office. This office is responsible for investigating, mediating, and prosecuting consumer complaints against individual licensees and other areas of business including the insurance and banking industries.

Each board is generally empowered to "establish standards for licensing; develop and administer licensing examinations; grant and deny licenses; direct investigations; hold hearings; suspend or revoke licenses; make, amend, and repeal rules and regulations to effectuate the purposes of their respective laws; enforce the laws and rules; and recommend changes in law." Thus, the boards are given the authority to perform many of the functions for which there are specialists within the various units of the Professional and Vocational Licensing Division.

In the past, the tendency of some boards to undertake many of the administrative tasks associated with the licensing process rather than to remain a policy-making body has caused problems. As a result, the licensing process involved considerable duplication, delay, and confusion. In some instances, boards adopted requirements for licensure that were legally flawed and some examination procedures were biased. In its 1982 report, the Legislative Auditor described many of these problems and suggested steps that should be taken to improve the area of professional regulation.

Since then, a number of changes have been made, either through legislation or administrative action, to remedy many of these problems. Licensing standards were reviewed for ambiguity and unlawful or unreasonable requirements, the examination process has been upgraded, some administrative functions have been centralized within the department staff, and the complaints resolution functions have been delegated to the Regulated Industries Complaints Office.

Some problems still exist, however, with individual boards as is evidenced by the recent sunset evaluation report on the Board of
Acupuncture. In that report, the Legislative Auditor found that the board had adopted irrelevant requirements for licensure, the examination used was unreliable and subject to bias, the passing score had no rational basis, and board members were engaged in activities that could be construed as involving a conflict of interest. Thus, while it appears that considerable progress has been made in improving the licensing and regulatory procedures, problems still remain in individual situations.

Despite occasional criticisms, however, it is generally agreed that the Department of Commerce and Consumer Affairs is the agency best-suited to administer regulatory boards given its experience in this area and the availability of staff. The Department of Commerce and Consumer Affairs is especially better equipped to handle consumer complaints than the Department of Health. Representatives of both departments agree that this is the case and point out that it would be fairly simple for a board to expand the categories of licenses and to upgrade the quality of the examination.

One area of concern to the Department of Commerce and Consumer Affairs, however, is the need for additional resources if its responsibilities are increased. While acknowledging that the regulation of physical therapists would not in and of itself create a major burden, the department feels that many new regulatory programs have been added in the past without any additional resources being provided. Even one more at this point will create a strain on the department's ability to do its job effectively in the view of department administrators.

Although boards generate revenue through fees for licenses, there is no provision in Hawaii's law for these funds to be used directly to support the activities of the board. (Some states allow the funds collected by the board to be placed in a special fund to carry out the board's duties as discussed in Chapter 5.) In theory, the level of fees is intended to reflect the costs of administering the licensing and regulatory program; however, the funds generated are not always translated into staff and other resources needed by the department. Therefore, this remains the only real concern of the department if any change is made in the regulation of physical therapists.
REGULATION BY PROFESSIONAL BOARDS IN HAWAII

There is strong support among physical therapists for establishing a regulatory board for physical therapy. Of the 101 physical therapists currently engaged in the practice of physical therapy in Hawaii who responded to the survey conducted as part of this study, 90 per cent agreed that a board should be created. Most of these individuals (62 per cent) felt that the board's jurisdiction should be limited to physical therapy. A smaller group (8 per cent) felt that the regulation of physical therapists should be placed under the Board of Medical Examiners, an idea opposed by the department since that board is already overloaded by its current responsibilities. Twenty-one per cent of the physical therapists either had no opinion regarding the placement of the board for physical therapy or were willing to see a system of regulation which combined physical therapy with another profession other than physicians.

Although administrators and physical therapists agree that the system of regulation could be improved in ways short of a complete restructuring of the regulatory framework, all parties note that a board offers a number of advantages. These include the opportunity for professional input which not only improves the quality and currency of the standards but allows greater flexibility in keeping abreast of new developments. There is also agreement that a board is more appropriately placed within the Department of Commerce and Consumer Affairs than the Department of Health. As is discussed in the next chapter, every state except Hawaii has adopted an approach of this type.
Chapter 5
A NATIONAL OVERVIEW OF THE REGULATION OF PHYSICAL THERAPY

Part I. Introduction

As noted throughout this report, every state in the nation, including Hawaii, regulates physical therapists through a licensing procedure. Beyond that point, however, states display some interesting variations in the structure used to monitor the licensing and practice of physical therapists. This chapter describes the key elements of the regulatory systems in the other forty-nine states and compares them to the requirements currently in place in Hawaii as well as the approach proposed for this State.

Appendix C provides an overview of the key elements of regulation of physical therapists in the other forty-nine states. The information was derived from an analysis of the statutory material provided by thirty-nine states which responded to our request for such material. The information on the remaining states was obtained through an examination of the laws available in the Hawaii Supreme Court Law Library. Where possible, these analyses were supplemented by a review of administrative rules or sunset-type reports which were provided by some of the states. As a result of this methodology, two caveats are necessary. First, not all statutes examined in the course of this research were current; therefore, some of the information presented may be out of date. Second, some of the provisions described are found in the rules and not the statutes of some states. Thus, in states for which only the statutes were available, the information reported may be partially accurate. Notwithstanding these limitations, the variation among the states provides an interesting comparison with the procedures followed in Hawaii.

Part II. The Regulatory Structure

The major distinction between Hawaii and the other states is the involvement of a professional board in the regulation of physical therapists in
Hawaii -- the very issue that precipitated the request for this study. Although not every state has a board with jurisdiction exclusively over physical therapists, all states, except Hawaii, have some form of professional board with responsibility in this area. Two-thirds (33) of the states allocate primary responsibility to a board whose sole area of concern is physical therapy. In ten other states, the primary responsibility is lodged with the board of medical examiners but there is a formally constituted advisory body for physical therapy.

Three states combine physical therapists with other professionals: in one state, physical therapists are combined with occupational therapists; in another, physical therapists, occupational therapists, and athletic trainers are regulated by the same body; and in the third state, the board governs the healing arts, which consist of physicians, surgeons, osteopaths, and physical therapists. New York’s system is unique with primary responsibility given to the Department of Education assisted by an advisory group of physical therapists.

Only two states besides Hawaii deny physical therapists any role in the regulatory structure and those two rely on the medical board to oversee the process. Thus, Hawaii’s present approach in this area is unlike that of any other state.

Many states have a "sunset" law similar to that in Hawaii which requires periodic review of regulatory boards to assess their effectiveness and to determine whether they remain necessary to protect the public’s health, safety, and welfare. Reports prepared to meet the requirement for review uniformly seem to support the need for continued regulation of physical therapists and rely on a board as an appropriate regulatory mechanism. To date, no state has regulated physical therapists other than by a board once a board has been created although some states have revised the jurisdictions of some boards by grouping or separating different professions.

The experience of many states parallels that of Hawaii regarding the low number of complaints against physical therapists. As Arizona discovered
when auditing its board regulating physical therapists, "[t]he low number and minor nature of the complaints registered with the [Arizona Board of Physical Therapy Examiners] are consistent with national data. The complaint activity of 14 other state boards regulating physical therapy was reviewed. The number of complaints filed against physical therapists in the 14 states was low and the majority of the complaints received concerned advertising improprieties or other professionals offering physical therapy care."¹

The need for continued regulation generally is supported not by concern over the level of actual harm but by the recognition that there is considerable potential for harm. In addition to the potential for harm stemming from the treatment techniques and modalities used by physical therapists, the condition of the patients receiving physical therapy is also a factor. These patients may have suffered stroke or head injuries, may be in intensive care units, or may have had surgery very recently. Physical therapists often treat patients who are "weak, elderly or completely unaware of their surroundings [or who are] unable to speak or [who] have little control over their own movements."² Given the vulnerability of the patients and the types of treatments used, all fifty states have concluded that there is a clear need for regulation.

Proposals to change the historical relationship between physical therapists and the referring or supervising physician (or other medical professional) generate additional concern over the type and level of regulatory scrutiny. Traditionally, physical therapists have not been allowed to provide services without some involvement by a medical doctor or other licensed professional. There is considerable variation in the restrictions placed on physical therapists by different states. Some jurisdictions allow physical therapists to perform initial evaluations to determine the need for physical therapy but require someone else to prescribe the treatment needed. Other states prohibit physical therapists from having any involvement with a patient prior to a referral from another professional.

In practice, the actual supervision or direction provided by a physician to a physical therapist may be minimal, particularly if the physician is not a specialist in a field related to rehabilitative medicine. Many doctors may rely
on the skill and expertise of the physical therapist and do not become directly involved in the treatment program provided to an individual patient. Moreover, as physical therapists are increasingly employed by schools, industry, or sports organizations, there are instances in which there may be a clear need for physical therapy services but the physical therapist technically must refer the person to a physician without any evaluation at all. As a result of some of these inconsistencies, some states have changed their laws to allow physical therapists greater independence in their practice.

Only four states, however, no longer have any requirements of involvement by a physician or other medical professional in the delivery of physical therapy services. The nature of the regulatory mechanism becomes even more important in these states and in any other state considering this type of change. The performance audit of the physical therapy board in Arizona contained a warning that the potential for harm by physical therapists might increase when the law granting autonomy to physical therapists in that state became effective. Thus, the support for regulation of physical therapists through use of a board in all states except Hawaii is more likely to grow rather than diminish especially as physical therapists gain greater independence.

Part III. The Scope of Licensure

Another area in which Hawaii is in the minority concerns the licensing of physical therapist assistants. Currently, there is no legal recognition of this group in Hawaii. Following a trend towards increased utilization of para-professionals in many fields, particularly in the medical or health-related professions, many states have begun to regulate para-professionals as well.

Twenty-eight states license physical therapy assistants through an examination process and four states approve or certify assistants without any examination. In addition, several states limit by statute the number of physical therapist assistants that a physical therapist may supervise or require approval from the regulatory board to supervise assistants.
Only seventeen states (and Hawaii) do not regulate physical therapist assistants in any way. As discussed in Chapter 3, this may not be an important issue for Hawaii to consider in the immediate future since there are only six known physical therapist assistants in the State at this time. It is interesting to note, however, the recommendation against continued licensing of physical therapist assistants in Arizona was on the ground that the type of tasks performed by physical therapist assistants are unlikely to cause harm.

Of much greater importance in Hawaii, however, is the issue of defining what activities or practices may be performed only by those individuals licensed as physical therapists. Under the current interpretations of the law in Hawaii, no one other than a licensed physical therapist may claim to be a physical therapist or in any way lead another person to believe that the individual is a physical therapist. Virtually every other state has a law containing a similar prohibition. (The sole exception is Nebraska whose laws contain a provision forbidding anyone from claiming to be a physical therapist assistant without being so licensed but lack such a provision concerning physical therapists.)

Additionally, nearly all states (42) prohibit the practice of physical therapy except by those licensed as physical therapists. In all of these states, however, there is some type of exemption from the prohibitions of the law. The most common exception covers anyone licensed under another provision of the law who is practicing within the scope of the license. Some states attempt to enumerate the exempted groups with frequent mention made of various medical specialties including chiropractors. Another specific exemption which is often made covers individuals offering massage. In addition, some states have enacted provisions specifying that the services provided to players or members by athletic trainers or other staff at health clubs, spas, or organizations like the YMCA do not violate the prohibition against unlicensed practice of physical therapy. An even more general approach involves language to the effect that the laws on physical therapy do not prohibit the provision of non-therapeutic massage, baths, or normal exercise.
In a few instances, these exceptions are qualified with language that the activities are allowable only if the person performing them does not falsely claim to be a physical therapist. In South Carolina, the law contains a specific exemption only for chiropractors. The Attorney General issued an opinion that a physician or a nurse acting under the supervision of a physician could practice physical therapy but could not claim to be a physical therapist.\(^7\)

Each of these strategies raises the possibility that new groups or types of services will be challenged as violating the law and the regulatory body will be faced with many difficult decisions given the breadth of services and modalities which constitute physical therapy. (The opinion of the Attorney General in South Carolina appears to be an example of this type of controversy.) This risk is even greater when the statutory exemptions are vaguely or generally worded. As an hypothetical example, the distinction between what is "normal exercise" (a phrase in use in the laws of several states) and what is physical therapy may be exceedingly difficult to ascertain in any given case. The Department of Health administrator who oversees the licensing of physical therapists in Hawaii raised this as a concern if the law were changed in Hawaii. Even the physical therapists interviewed for this study agreed that such a differentiation could be difficult.

There is no way of knowing if the experiences of the forty-two states which prohibit the unlicensed practice of physical therapy with exceptions reflect these difficulties of interpretation. The fact that many statutes have so many exceptions suggests that continuing efforts to redefine what is allowed and what is prohibited are necessary and that legislators are frequently faced with problems in this area.

A more precise type of prohibition in use in nine states focuses on the labeling of services rather than the services themselves.\(^8\) Just as no one other than a licensed physical therapist may refer to the person's self as a physical therapist, some states have enacted legislation to prohibit anyone from labeling services as physical therapy unless they are delivered by a licensed physical therapist. Physical therapists in Hawaii strongly support
the need for such a provision in the laws of this State as discussed in detail in Chapter 3 and point out that the mislabeling is particularly a problem in billing practices. Two states have addressed this latter issue directly. Both North Dakota and Mississippi laws provide that no person who is not licensed as a physical therapist shall "send out billings as providing physical therapy services".9

Part IV. Other Provisions

While every state has an examination requirement for applicants for a physical therapist’s license, most states have adopted procedures allowing the examination to be waived if the person is already licensed in another state or if the person has previously passed an examination administered by another state. Only four states appear to lack any provision for reciprocal recognition of other examinations or licenses.

In states allowing licensure through some form of reciprocity, the issuance of a license is not automatic. A common qualification is that the examination or licensing requirements be equivalent to or more stringent than those of the state in which the license is sought. Only two states require a true system of reciprocity; that is, they accept the validity of licenses issued only by those states which in turn grant reciprocal recognition. At least one state has a provision allowing the board to consider whether to require an examination (oral, written, practical, or a combination) in instances in which the applicant is licensed but has not been engaged in active practice in the other state for a specified period of time.

A similar situation arises concerning foreign-trained applicants, where the essential issue is that of the equivalency of the training. Many states automatically require a period of supervised internship for foreign-trained persons in addition to assessing the educational qualifications of such persons. Again, the issue of equivalency is addressed in all states except Hawaii by the professional board with jurisdiction over physical therapists.
While awaiting licensure, either through an examination process or while credentials are being verified prior to licensure under a reciprocity provision, the applicant may be unable to accept employment as a physical therapist. Some states alleviate this problem by issuing a temporary license allowing the person to practice while the application is being processed.\textsuperscript{19}

Thirty-eight states have some system of temporary licensure, most frequently for graduates awaiting the opportunity to take the required examination.\textsuperscript{11} Typically, these licenses are scheduled to expire once the results of the examination are published.

There is considerable variation between states regarding the right to renew a temporary license and the effect on a temporary license if an applicant does not take or takes and fails an examination. In some states, renewal is prohibited, whereas in others it is at the discretion of the board. Some states place a limit on the number of times a license may be renewed. Moreover, some of the conditions surrounding temporary licensure differentiate between applicants seeking licensing through reciprocity and those who must take an examination.

The authority of a person to practice under a temporary license is limited in 17 of the 38 states granting temporary licenses by a requirement that the person practice under the supervision of a physical therapist who is permanently licensed in the state. Four states impose this restriction on any type of applicant whereas the others are concerned only with those who have never been licensed and are awaiting the opportunity to take the examination.

Twelve states, including Hawaii, appear to have no provision for temporary licenses. In Hawaii, as discussed in Chapter 3, this is the result of a legal interpretation that the Department of Health lacks the power to issue such licenses.

Although the use of temporary licenses is viewed by some of those interviewed as beneficial to the applicant and helping to relieve the shortage of physical therapists, these licenses have been criticized by other states in
the past. The sunset review of the Vermont State Board of Physical Therapy Registration advocated abolishing temporary licenses based on a finding that the public interest would be best served by restricting practice to those who have demonstrated competence and had their credentials checked. Following a similar rationale, the Texas Sunset Advisory Commission recommended that supervision be required for anyone operating under a temporary license.

Part V. Summary

In many ways, Hawaii's requirements and procedures for licensing and regulating physical therapists differ from those of other states. The most obvious difference is the absence in Hawaii of a regulatory board since this State is the only one without such a board. Beyond that, there are differences in the scope of the activities requiring a license, the procedures for issuing a license, and the types of licenses available.

A number of the problems identified with Hawaii's system by administrators and physical therapists appear to be addressed by provisions in the laws and rules of many other states. In assessing the best approach to take in this State, the laws of the other states offer many useful suggestions which are incorporated into the recommendations in this report.
Chapter 6
FINDINGS AND RECOMMENDATIONS

Part I. Findings

The Scope of Regulation

1. At the current time, Hawaii only regulates physical therapists and does not in any way regulate the practice of physical therapy.

2. The narrowness of the regulatory jurisdiction of the Department of Health allows persons other than licensed physical therapists to offer physical therapy services and bill for these services as physical therapy.

3. Physical therapist assistants are not licensed or regulated in any way in Hawaii.

There is almost no evidence indicating actual physical harm to the public under the current regulatory system but given the types of treatment techniques used in physical therapy, Hawaii like every other state regulates this profession because of the real potential for harm. Although physical therapist assistants are not regulated, there is little potential for harm at this time since there are so few in this State and assistants perform less risky tasks under the direction of a licensed physical therapist.

The lack of regulation of the practice of physical therapy poses the risk of another sort of harm, however. Under the existing law, consumers may be confused or misled as to the training and qualifications of the person providing services. Again, the critical issue is not one of actual physical harm resulting from this situation but rather the importance of protecting the consumer's right to receive accurate and not misleading information.
The Licensing and Regulatory Process

1. Although Hawaii’s system of licensing physical therapists has undergone considerable modification in the past few years, it is now reasonably efficient for most applicants.

2. The Department of Health is not well-equipped to assess the training and qualifications of foreign-trained applicants nor to grant licenses based on a reciprocal recognition of another state’s licenses.

3. There is no provision for temporary licenses under the current regulatory system which causes problems for a few applicants and potentially for some employers.

4. There are very few complaints against physical therapists which is fortunate in view of the Department of Health’s lack of investigative resources.

Although the licensing and regulatory system appears to be functioning smoothly, the Department of Health has limited flexibility in adjusting to changing circumstances and new developments in the field. The department could benefit from the expertise of physical therapists in ensuring that examinations are up to date and in assessing the equivalency of training. The department also would be better prepared to respond to any contingency if it had greater flexibility to consider the use of temporary licenses or if it were not constrained by a lack of investigative resources.

The Regulatory Structure

1. A professional regulatory board has several advantages over the system of regulation currently in use, including the opportunity for professional input, the availability of expertise in designing examinations and evaluating credentials, and the existence of resources for investigation and resolution of complaints.
2. Creation of a board for physical therapy is consistent with the policy established under the sunset law.

3. The Department of Commerce and Consumer Affairs has considerable experience in administering regulatory boards and has the trained staff and procedural mechanisms in place to carry out its administrative responsibilities. The Department of Health is not similarly equipped and is less suited to perform these duties.

Physical therapists are already licensed and share similarities with other health related professions regulated under the Department of Commerce and Consumer Affairs in the level of education and training and in the degree of potential risk to the consuming public. Given these facts, creation of a board for physical therapy does not run counter to the concern of overregulation evidenced by the sunset law. In addition, a board provides the advantage of professional participation in policy-making and standard-setting decisions, many of which currently raise difficulties for the Department of Health administrators.

The Department of Commerce and Consumer Affairs cannot be expected to continue to take on new regulatory functions without the addition of more staff, however. Although the regulation of physical therapists is likely to require less effort than other professions which generate many complaints, the addition of one more area of responsibility to the department whose duties have increased dramatically in recent years may prove to be an excessive burden.

Other Issues

1. There is a shortage of physical therapists in this State which is unlikely to be eased merely by a change in regulatory systems.

A number of the suggested modifications in the licensing process, such as temporary licenses or reciprocal licensing, would contribute to expediting the licensing process. Another immeasurable side effect of a board is the
possibility that the reputation of the State would improve in the eyes of physical therapists considering relocating here. Since Hawaii is the only state without a board, some physical therapists may have doubts about the professional climate in the State.

2. There is currently a piecemeal approach to assessing proposals for new regulatory measures or changes in the regulatory structure. The Department of Commerce and Consumer Affairs is charged with conducting sunrise studies and the Legislative Auditor is required to conduct sunset evaluations, both of which rely on similar policy considerations.

Part II. Recommendations

It must be pointed out that the Legislature should be aware of the conflicting position that the Department of Commerce and Consumer Affairs is placed in by having to perform a sunrise study itself. On the one hand, if the Department is in favor of providing the proposed regulation, it may be accused of trying to aggrandize power to itself. On the other hand, if the Department is not in favor of regulation, it may be accused of trying to avoid work. The Department’s position regarding its responsibility is to request moneys to contract out such a study in order to avoid accusations of bias or to suggest that another agency perform the study. It is the Bureau’s recommendation that the Legislature either provide the moneys necessary for the Department to perform its mandated function, or that the Legislature amend section 26H-6, Hawaii Revised Statutes, to direct a different agency to perform the function.

1. A board with jurisdiction over physical therapists and the field of physical therapy should be established within the Department of Commerce and Consumer Affairs. In creating such a board, the Legislature should carefully consider the needs of the department for additional resources to carry out this and other responsibilities allocated to it in recent years.

2. The scope of regulation should be expanded beyond physical therapists themselves to include the practice of physical therapy. Sanctions
should be available for use against unlicensed persons who practice or offer to practice physical therapy. Exemptions should be made for the activities of other licensed professionals who are operating within the scope of their licenses. There is no need to license physical therapist assistants at this time.

3. The board should be charged with setting standards for the practice of physical therapy in this State, ensuring the quality of the examination and licensing process, and expanding the types of licenses consistent with the problems identified in this report.

4. The Legislature should determine a more efficient way to assess proposals for new regulatory measures and should address the inherent conflict faced by the Department of Commerce and Consumer Affairs in making this determination.
Chapter 1


Chapter 2


2. Ibid.


Chapter 3


3. A total of 292 survey questionnaires were sent to physical therapists who were licensed in Hawaii on January 1, 1983 according to the Department of Health's records. One hundred seventeen of these had out-of-state addresses and the remaining 175 were in Hawaii. Three were returned as undeliverable and 177 completed questionnaires were returned in time for analysis. (An additional 13 surveys were returned after the cut-off date and are not included in any analysis.) Of the 177 questionnaires which were analyzed, 32 were from physical therapists who had never practiced in Hawaii; 44 had practiced in Hawaii at some time but were not practicing in this State at the time of the survey, and the remaining 101 were practicing physical therapy in Hawaii.


6. The administrator in the Department of Health responsible for licensing physical therapists stated that the demand for physical therapists was high and was due in part to their expanded involvement in schools and other areas. The State feels the shortage most acutely because there are not enough therapists and the State cannot compete with private employers. Testimony by Stanley Snodgrass of the Hospital Association of Hawaii on S.B. No. 473 (relating to physical therapy) on February 25, 1983 voiced the concern over recruitment difficulties faced by a hospital administrator of Kauai.


8. It should be noted that the question on the survey treated referral or supervision as a single condition whereas some of the respondents added comments that they supported retaining part of the requirement but not the other component. What is particularly interesting in these comments is that some therapists felt that physicians should continue to make referrals to physical therapists but that there was no need for a supervisory relationship since the physical therapist is a trained professional, whereas other respondents indicated their support for retaining a requirement of supervision but stated that patients should be able to go directly to a physical therapist without the necessity of first seeing a doctor who would then make a referral.

Chapter 4


5. Ibid.

Chapter 5


2. Ibid., p. 12.


4. Information received from Massachusetts indicated that the provision governing the requirement of a referral or supervision by a doctor had been omitted by error and was going to be reenacted. Therefore, Massachusetts is not included as one of the states which has repealed this requirement.


6. Ibid., p. 19.


8. The language of state statutes was interpreted very narrowly on this issue. A state was included in this category only if it had an explicit provision restricting anyone from offering, promising to deliver, or claiming to provide physical therapy or a provision using similar terms. The focus in this type of provision is on the services offered rather than on the qualifications or status of the person offering the services.

10. The discussion of temporary licenses which follows concerns licenses used for the regular and continuous delivery of services. Although most states permit physical therapists to perform their services as part of a special project or in cases of emergency, these situations are not included within the scope of this discussion.

11. This figure includes some states which allow practice without actually issuing a temporary license or permit.


REQUESTING A STUDY ON THE ADVISABILITY OF ESTABLISHING A BOARD UNDER THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO LICENSE PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS AND REGULATE THE PRACTICE OF PHYSICAL THERAPY.

WHEREAS, under current law, physical therapists are licensed by the Department of Health; and

WHEREAS, no full-time equivalent position is assigned by the Department of Health for the licensure of physical therapists or investigation of illegal or inappropriate actions; and

WHEREAS, because of the lack of attention, the Legislature has considered bills to establish a board under the Department of Commerce and Consumer Affairs to regulate the practice of physical therapy; and

WHEREAS, the present law requiring the licensure of physical therapists indicates that the Legislature deems regulation necessary to protect the public health; and

WHEREAS, although the Legislature, in the recent past, has been wary of establishing new boards to regulate professions and occupations, some of the arguments submitted in support of the establishment of a board to regulate the practice of physical therapy have merit; and

WHEREAS, a study must be conducted to determine if a board to regulate the practice of physical therapy is necessary to provide the best protection for patients of physical therapy; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twelfth Legislature of the State of Hawaii, Regular Session of 1983, that the Legislative Reference Bureau is requested to conduct a study of the advisability of establishing a board under the Department of Commerce and Consumer Affairs to license physical therapists and physical therapists assistants and regulate the practice of physical therapy; and
BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to use House Bill No. 582 and Senate Bill No. 473 as guides in the conduct of the study; and

BE IT FURTHER RESOLVED that the study be submitted to the Legislature prior to the convening of the Regular Session of 1984; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of the Office of the Legislative Reference Bureau, the Director of Health, and the Hawaii Chapter of the American Physical Therapy Association.

OFFERED BY: [Signature]

MAR 4 1983
SENATE RESOLUTION

REQUESTING A STUDY ON THE ADVISABILITY OF ESTABLISHING A BOARD UNDER THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO LICENSE PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS AND REGULATE THE PRACTICE OF PHYSICAL THERAPY.

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WHEREAS, although the Legislature, in the recent past, has been wary of establishing new boards to regulate professions and occupations, some of the arguments submitted in support of the establishment of a board to regulate the practice of physical therapy have merit; and

WHEREAS, a study must be conducted to determine if a board to regulate the practice of physical therapy is necessary to provide the best protection for patients who undergo physical therapy; now, therefore,

BE IT RESOLVED by the Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1983, that the Legislative Reference Bureau is requested to conduct a study of the advisability of establishing a board under the Department of Commerce and Consumer Affairs to license
physical therapists and physical therapist assistants and regulate the practice of physical therapy; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to use Senate Bill No. 473 and House Bill No. 582, introduced in the Regular Session of 1983, as guides in the conduct of the study; and

BE IT FURTHER RESOLVED that the study be submitted to the Legislature not less than twenty days prior to the convening of the Regular Session of 1984; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of the Office of the Legislative Reference Bureau, the Director of Health, the Director of Commerce and Consumer Affairs, and the Hawaii Chapter of the American Physical Therapy Association.

OFFERED BY: [Signature]
<table>
<thead>
<tr>
<th>STATE</th>
<th>REGULATORY BOARD</th>
<th>LICENSING OF PTs</th>
<th>RECIPROCITY</th>
<th>TEMPORARY LICENSES</th>
<th>REQUIREMENT OR NOTIFICATION AND/OR SUPERVISION</th>
<th>PRACTICE OF PT</th>
<th>HOLDING SELF OUT AS A PT</th>
<th>OFFERING PT SERVICES</th>
<th>EXEMPTION FOR ACTIVITIES OF OTHERS</th>
<th>OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>Board of PT.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>Yes; while awaiting exam.</td>
<td>Yes; supervision required while seeking license through reciprocity.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Alaska</td>
<td>PT Board.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>Yes, supervision required while seeking license through reciprocity.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Special fund for board expenses.</td>
</tr>
<tr>
<td>Arizona</td>
<td>Board of PT Examiners, with advice and assistance from Licensing Committee for PI.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>Yes; while awaiting exam.</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Special fund for board expenses.</td>
</tr>
<tr>
<td>Arkansas</td>
<td>Board of Medical Examiners, with advice and assistance from Licensing Committee for PI.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>California</td>
<td>PT Licensing Committee in Division of Allied Health Professionals under Board of Medical Quality Assurance.</td>
<td>No; approval process but not licensing.</td>
<td>Yes; supervision required while seeking license through reciprocity.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>California must receive approval to supervise PTs; special fund to carry out inspection.</td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes; if a licensed PT agrees to be responsible.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>If applicants for license through reciprocity have not practiced within five years, Board may require demonstration of competence, training, courses, or exam.</td>
</tr>
<tr>
<td>Connecticut</td>
<td>Board of Examiners for PT.</td>
<td>No</td>
<td>Yes; that state must have a reciprocity provision.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No. Pursuant to P.T. definitions in the General Assembly, any amount in P.T. account in excess of $5,000 shall be transferred to general fund.</td>
</tr>
<tr>
<td>Delaware</td>
<td>No; approval process but not licensing.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td>Board of Medical Examiners.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>Yes; while awaiting exam.</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>Board of PT.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td>Board of Medicine with advice from PI Advisory Committee.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td>PT Licensing Committee.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td>Board of Medical Registration and Examination, assisted by State Examination, run by State for PI and PTA.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Iowa</td>
<td>Board of Physical and Occupational Therapy Examiners.</td>
<td>No</td>
<td>No; if law is used but exam still required.</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Kansas</td>
<td>Board of Healing Arts, with advice from State Examination Committee for Physical Therapy.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>80% of funds go to funding arts (fee fund).</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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<tr>
<td>Maine</td>
<td>Board of Examiners in PI.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>No; statute gives</td>
<td>Yes</td>
<td>Yes; while awaiting exam and results.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
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<tr>
<td>Montana</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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<tr>
<td>Nebraska</td>
<td>Board of Examiners in PI.</td>
<td>Yes</td>
<td>Yes; for both PI and PTA</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
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<tr>
<td>Nevada</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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<tr>
<td>Ohio</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Oklahoma</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>Board of Physical and Occupational Therapy Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>Board of PT.</td>
<td>No; statute gives</td>
<td>Yes; while awaiting exam and results.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>South Dakota</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Tennessee</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Vermont</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Washington</td>
<td>Board of Medical Examiners.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

**Legend:**
- Yes: Allowed
- No: Disallowed
- NA: Not Applicable
- Special fund for board expenses
- California must receive approval to supervise PTs; special fund to carry out inspection.
- Connecticut obtains authority to reject, board's rules provide for certification without exam.
- Funds go into a PT account in excess of $5,000 shall be transferred to general fund.
- 80% of funds go to funding arts (fee fund).
- Must receive board approval for PT to supervise more than 2 PTs on side.
<table>
<thead>
<tr>
<th>State</th>
<th>Regulatory Board</th>
<th>Licensing of PAs</th>
<th>Reciprocity</th>
<th>Temporary Licenses</th>
<th>Requirement of Referral and/or Supervision</th>
<th>Practice of PT</th>
<th>Holding Self Out as a PT</th>
<th>Offering Services</th>
<th>Exemption for Activities of Others</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maryland</td>
<td>Board of PT Examiners.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes; while awaiting exam and results.</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>Board on Allied Health Professions.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes; for both PT and PTA.</td>
<td>No licenses although law allows practice while awaiting exam and results.</td>
<td>Yes*</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes</td>
<td>Yes; while awaiting exam and results.</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>Board of Medical Examiners, with advice and assistance from PT Council.</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Mississippi</td>
<td>PT Board.</td>
<td>No</td>
<td>Yes</td>
<td>Yes; after exam while awaiting results, while awaiting license under reciprocity provision.</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Special fund for board expenses.</td>
</tr>
<tr>
<td>Missouri</td>
<td>Board of Registration for the Healing Arts.</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Montana</td>
<td>Board of PT Examiners.</td>
<td>No</td>
<td>Yes</td>
<td>Yes; requirement of supervision while awaiting exam and results.</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Nebraska</td>
<td>Board of Examiners in PT.</td>
<td>Yes</td>
<td>No</td>
<td>Yes; while awaiting exam and results.</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td>Board of PT Examiners.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes; for both PT and PTA.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>New Hampshire</td>
<td>Board of Registration in Medicine, Assisted by Advisory Committee Composed of PTs and PTA.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes; for both PT and PTA.</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td>Board of PT.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes; while awaiting exam.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td>PT Licensing Board.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes; for both PT and PTA.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>Board of Regents of Department of Education, by Board for PT.</td>
<td>No</td>
<td>No</td>
<td>Yes; may practice under supervision if in order to reduce educational deficiencies within one year.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
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<tr>
<td>North Carolina</td>
<td>Board of PT Examiners.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes; for both PT and PTA.</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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<tr>
<td>North Dakota</td>
<td>Examining Committee for PT.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Ohio</td>
<td>PT Section of Occupational Therapy and PT Board.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes; for both PT and PTA.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Oklahoma</td>
<td>Board of Medical Examiners, Assisted by PT Committee.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
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<tr>
<td>Oregon</td>
<td>PT Licensing Board.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes; for both PT and PTA.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
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<tr>
<td>Pennsylvania</td>
<td>Board of PT Examiners.</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

*Comments on materials sent from Massachusetts suggested that this requirement had been deleted by error and that it was being reinstated.
<table>
<thead>
<tr>
<th>STATE</th>
<th>REGULATORY BOARD</th>
<th>LICENSING OF PTAS</th>
<th>RECIPROCITY</th>
<th>TEMPORARY LICENSES</th>
<th>REQUIREMENT OF INITIAL AND/OR SUPERVISION</th>
<th>LAW PROHIBITS:</th>
<th>OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rhode Island</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes</td>
<td>Yes; given receipt upon filing for licensure which allows practice under supervision while awaiting exam and results.</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Board of PT Examiners.</td>
<td>Yes</td>
<td>Yes; for both PT and PTA,</td>
<td>No</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>No special fund for board expenses but board collections must offset costs.</td>
</tr>
<tr>
<td>South Dakota</td>
<td>Board of Medical and Osteopathic Examiners, assisted by PT Commission.</td>
<td>No; certified without requirement of exam.</td>
<td>Yes</td>
<td>No</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>No special fund for board expenses but board collections must offset costs.</td>
</tr>
<tr>
<td>Tennessee</td>
<td>Board of PT Examiners.</td>
<td>Yes</td>
<td>Yes; for both PT and PTA,</td>
<td>Yes; supervision required unless seeking licensure through reciprocity.</td>
<td>Yes</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Board approval must be obtained for a PT to supervise PTA; a PT may supervise 2 PTA, unless prior approval not obtained.</td>
</tr>
<tr>
<td>Texas</td>
<td>Board of PT Examiners.</td>
<td>Yes</td>
<td>Yes; for both PT and PTA,</td>
<td>Yes; while awaiting exam and results.</td>
<td>Yes</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Board approval must be obtained for a PT to supervise PTA; a PT may supervise 2 PTA, unless prior approval not obtained.</td>
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<tr>
<td>Utah</td>
<td>Committee for PT.</td>
<td>No</td>
<td>No</td>
<td>Yes; for applicants seeking licensure through reciprocity.</td>
<td>Yes</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Board approval must be obtained for a PT to supervise PTA; a PT may supervise 2 PTA, unless prior approval not obtained.</td>
</tr>
<tr>
<td>Vermont</td>
<td>Board of PT Registration.</td>
<td>Yes</td>
<td>Yes; for both PT and PTA,</td>
<td>Yes; supervision required while awaiting exam and results.</td>
<td>Yes</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Board approval must be obtained for a PT to supervise PTA; a PT may supervise 2 PTA, unless prior approval not obtained.</td>
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<tr>
<td>Virginia</td>
<td>Board of Medicine, with assistance from Advisory Committee on PT.</td>
<td>Yes</td>
<td>Yes; for both PT and PTA,</td>
<td>Yes; for applicants seeking licensure through reciprocity.</td>
<td>Yes</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Board approval must be obtained for a PT to supervise PTA; a PT may supervise 2 PTA, unless prior approval not obtained.</td>
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<tr>
<td>Washington</td>
<td>Examining Committee of PT.</td>
<td>No</td>
<td>Yes</td>
<td>Yes; while awaiting exam and results.</td>
<td>Yes</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Board approval must be obtained for a PT to supervise PTA; a PT may supervise 2 PTA, unless prior approval not obtained.</td>
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<tr>
<td>West Virginia</td>
<td>Board of PT.</td>
<td>Yes</td>
<td>Yes; for both PT and PTA,</td>
<td>Yes; while awaiting exam and results.</td>
<td>Yes</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Board approval must be obtained for a PT to supervise PTA; a PT may supervise 2 PTA, unless prior approval not obtained.</td>
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<tr>
<td>Wisconsin</td>
<td>Medical Examiners, assisted by PT Examiners Council.</td>
<td>No</td>
<td>Yes</td>
<td>Yes; requirement of supervision prior to any exam; no requirement of supervision if applicant has passed a written exam and awaiting oral exam.</td>
<td>Yes</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Board approval must be obtained for a PT to supervise PTA; a PT may supervise 2 PTA, unless prior approval not obtained.</td>
</tr>
<tr>
<td>Wyoming</td>
<td>Board of PT.</td>
<td>No</td>
<td>Yes</td>
<td>Yes; requirement of supervision while awaiting exam.</td>
<td>Yes</td>
<td>Yes; for chiropractors; Attorney General opinion covering physicians and nurses.</td>
<td>Board approval must be obtained for a PT to supervise PTA; a PT may supervise 2 PTA, unless prior approval not obtained.</td>
</tr>
</tbody>
</table>