

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

January 26, 2022

1:33 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Joshua Revak, Vice Chair
Senator Peter Micciche
Senator Gary Stevens
Senator Elvi Gray-Jackson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 99

"An Act relating to the State Physical Therapy and Occupational Therapy Board; relating to the practice of physical therapy; and relating to the practice of occupational therapy."

- MOVED HB 99 OUT OF COMMITTEE

SENATE BILL NO. 127

"An Act establishing a private cause of action for unfair claim settlement practices; and amending Rules 79 and 82, Alaska Rules of Civil Procedure."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 99

SHORT TITLE: PHYSICAL/OCCUPATIONAL THERAPY BD/PRACTICE

SPONSOR(S): REPRESENTATIVE(S) CLAMAN

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	HSS, L&C
02/19/21	(H)	HSS REFERRAL REMOVED
02/19/21	(H)	FIN REFERRAL ADDED AFTER L&C
02/19/21	(H)	BILL REPRINTED
03/05/21	(H)	L&C AT 3:15 PM BARNES 124
03/05/21	(H)	Heard & Held

03/05/21 (H) MINUTE (L&C)
 03/12/21 (H) L&C AT 3:15 PM BARNES 124
 03/12/21 (H) Moved HB 99 Out of Committee
 03/12/21 (H) MINUTE (L&C)
 03/15/21 (H) L&C RPT 6DP
 03/15/21 (H) DP: SNYDER, NELSON, MCCARTY, SCHRAGE,
 KAUFMAN, SPOHNHOLZ
 03/26/21 (H) FIN AT 2:00 PM ADAMS 519
 03/26/21 (H) <Bill Hearing Canceled>
 04/09/21 (H) FIN AT 9:00 AM ADAMS 519
 04/09/21 (H) Heard & Held
 04/09/21 (H) MINUTE (FIN)
 04/12/21 (H) FIN RPT 6DP 2NR
 04/12/21 (H) DP: ORTIZ, EDGMON, LEBON, THOMPSON,
 MERRICK, FOSTER
 04/12/21 (H) NR: WOOL, JOSEPHSON
 04/12/21 (H) FIN AT 9:00 AM ADAMS 519
 04/12/21 (H) Moved HB 99 Out of Committee
 04/12/21 (H) MINUTE (FIN)
 05/18/21 (H) TRANSMITTED TO (S)
 05/18/21 (H) VERSION: HB 99
 05/19/21 (S) READ THE FIRST TIME - REFERRALS
 05/19/21 (S) L&C, FIN
 01/26/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

REPRESENTATIVE MATT CLAMAN
 Alaska State Legislature
 Juneau, Alaska
POSITION STATEMENT: Sponsor of HB 99.

LIZZIE KUBITZ, Staff
 Representative Matt Claman
 Alaska State Legislature
 Juneau, Alaska
POSITION STATEMENT: Presented the sectional analysis for HB 99
 on behalf of the sponsor.

ALEC G. KAY, Alaska President
 American Physical Therapy Association;
 President, United Physical Therapy
 Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 99.

LEEANNE CARROTHERS, Director
 Allied Health at UAA;

Alaska Government Affairs Liaison
Alaska Physical Therapy Association
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided supporting information during the hearing on HB 99.

SARA CHAMBERS, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 99.

KEITH POORBAUGH PT, ScD, Chair
State Physical Therapy and Operational Therapy Board
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 99.

ACTION NARRATIVE

[1:33:23 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Gray Jackson, Revak, Stevens, and Chair Costello. Senator Micciche arrived during the course of the meeting.

HB 99-PHYSICAL/OCCUPATIONAL THERAPY BD/PRACTICE

[1:34:00 PM](#)

CHAIR COSTELLO announced the consideration of HOUSE BILL NO. 99 "An Act relating to the State Physical Therapy and Occupational Therapy Board; relating to the practice of physical therapy; and relating to the practice of occupational therapy."

[1:34:43 PM](#)

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, Juneau, Alaska, Sponsor of HB 99, read the following prepared testimony to introduce the legislation:

Good afternoon members of the Committee, for the record, my name is Matt Claman, and I am the State Representative for House District 21 in West Anchorage. First, I would like to thank you for hearing House Bill 99. We often talk of making Alaska open and ready for business. House Bill 99 makes sure

we're open and ready for the business of providing physical and occupational therapy.

My office introduced House Bill 99 at the request of the Alaska Physical and Occupational Therapy Associations. House Bill 99 amends the governing statutes for physical therapists, physical therapy assistants, occupational therapists and occupational therapy assistants practicing in Alaska. These changes are designed to bring Alaska statutes in line with national standards and terminology, and overall make the administrative experience of these professionals smoother and up to date.

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House Bill 99 is supported by the State Physical Therapy and Occupational Therapy Board, which believes HB 99 will help the Board in its work to protect the public. A letter stating that support is in your bill packet.

Currently, physical therapists, physical therapy assistants, occupational therapists, and occupational therapy assistants, are represented by the State Physical Therapy and Occupational Therapy Board. This board is made up of one physician, three Physical Therapists, two Occupational Therapists, and one member of the public. House Bill 99 removes the physician from this board, and replaces them with another occupational therapist, thereby balancing the representation of the professions on the board. There is good reason for this. When this statute was originally written, the work of Physical and Occupational therapists required referral by a physician. This has not been the case in Alaska for more than thirty years.

House Bill 99 also enables the board to discipline a therapist who commits infractions under AS 08.84.120, such as conviction of a felony, gross negligence, or abuse of alcohol. Currently the board has the ability to revoke or deny a license based on infractions, but has no ability to discipline.

Additionally, House Bill 99 clarifies the language in the requirements for those therapists who received their training outside of the U.S., ensuring that

their training is equivalent to a U.S professional Physical Therapy Training program, and also exempting therapists trained in an English language program from having to take an English proficiency test. Furthermore, this bill updates language in Alaska Statute that references an accrediting entity that no longer exists, and makes the language more general, allowing the state board to designate the appropriate accrediting entity as needed. Several other updates to terminology are made to update the language.

House Bill 99 does not constitute a restructuring of the relevant statute, but it contains a number of long-awaited changes that will make it easier for professionals to do business in Alaska. I'll pass you off now to Lizzie Kubitz, who can walk you through the sectional analysis.

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LIZZIE KUBITZ, Staff, Representative Matt Claman, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis for HB 99 on behalf of the sponsor. It read as follows:

[Original punctuation provided.]

Section 1

AS 08.84.010. Creation and membership of the board.

Removes the seat for a physician and balances out the board with 3 physical therapists or physical therapy assistants and 3 occupational therapists or occupational therapy assistants along with one public member, to make up the 7-member board. It also changes the term "physical therapy assistant" to "physical therapist assistant" in this section and throughout the entire statute. This change is to conform to the industry title used nationally.

Section 2

AS 08.84.030. Qualifications for licensing.

Allows the board to have broader authority over what entities will have accreditation oversight over physical therapy & occupational therapy education programs. Some of the accrediting entities listed in statute are now either renamed or no longer exist, making that statute obsolete.

Section 2 removes language from the statute relating to additional supervised field work that occupational therapists must complete as these requirements are covered by the accrediting bodies.

Section 3

AS 08.84.032. Foreign-educated applicants.

Changes the section headline from "trained" to "educated." New language is added that requires foreign-educated physical therapist or physical therapy assistant students to have attended a "substantially" equivalent educational program that is accredited by a U.S. accreditation entity that has been approved by the board. Outdated and obsolete language is removed that can be found on page 4, lines 3 -9 of this bill.

Added to subsection (3) of this section is language that would require that a physical therapist or physical therapist assistant pass a test demonstrating competency of the English language only if their program was taught in a foreign language. Subsection (4) requires that a foreign-educated applicant is a legal alien or a U.S. citizen. Subsection (7) requires them to pay the required fee and meet any other qualifications for licensure set by the board under 08.84.010(b).

All the above changes in Section 3 are replicated for occupational therapists or occupational therapy assistants on page 4, lines 27-31 and over to page 5, lines 1-22.

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Section 4

AS 08.84.060. Licensure by acceptance of credentials.

Makes conforming terminology changes.

Section 5

AS 08.84.065(c). Temporary changes.

Makes conforming terminology changes.

Section 6

AS 08.84.075(b). Limited permit.

Makes conforming terminology changes.

Section 7

AS 08.84.075(c). *Limited permit.*
Changes language that would now require that a limited permit is valid for 120 consecutive days.

Section 8

AS 08.84.075(d). *Limited permit.*
Allows only one limited permit per 12-month period.

Section 9

AS 08.84.090. *Licensure.*
Updates licensure terminology.

[1:40:01 PM](#)

Section 10

AS 08.84.120(a). *Refusal, revocation, and suspension of license.* Adds disciplinary action as a possibility to actions a board might consider for an infraction of their licensure and updates terminology in item (7) and states in (9) that failure to comply with the law or regulations or order of the board might result in disciplinary action or suspension of a license.

Section 11

AS 08.04.130(a). *False claim of license prohibited.*
Adds updated credentialing and terminology.

Section 12

AS 08.84.130(b). *False claim of license prohibited.*
Updates terminology.

Section 13

AS 08.84.190. *Definitions.*
Adds a new paragraph defining the updated term "physical therapist assistant."

[1:40:31 PM](#)

Section 14

AS 11.41.470(1). *Definitions.*
Updates definitions in criminal law/sexual assault statute.

Section 15

AS 47.17.290(14). *Definitions.*
Updates terminology under definitions in child protection statute. 3

Section 16

AS 08.84.190(7). *Definitions.*

Repeals subsection (7), which is the definition using outdated term of physical therapy assistant; according to Leg. Legal, when the actual "term" used for the definition is being changed, the entire citing must be repealed. The new definition is set out on page 8, Section 13, lines 11-14.

Section 17

Applicability

Sets out the applicability clauses for licensure for sections 2 and 3 of this Act and for sections 7 and 8.

Section 18

Uncodified law

Transition language for the board vacancy and appointments for the PT/OT board, and states that the changes do not apply to current licensees until it is time for their licensure renewal and then all changes to the law will apply

[1:41:39 PM](#)

CHAIR COSTELLO asked if the physician seat would fall open immediately if the bill were to pass, so an occupational therapist could be appointed or if the physician in that seat would fill out their term.

REPRESENTATIVE CLAMAN deferred to Ms. Kubitz.

MS. KUBITZ said she would defer to either Alec Kay or Sara Chambers, or she would follow up with the information.

[1:42:38 PM](#)

SENATOR GRAY-JACKSON asked the sponsor if he said that referrals from a doctor have not been required for 30 years.

REPRESENTATIVE CLAMAN replied that is correct.

SENATOR GRAY-JACKSON asked if it is insurance companies that require referrals.

REPRESENTATIVE CLAMAN related a personal experience to answer the question. His chiropractor suggested he see a physical therapist and that he could schedule an appointment directly because insurance companies do not require a referral. He made the appointment and the insurance company paid the claim without question.

SENATOR GRAY-JACKSON related that she was told she needed a doctor's referral to make a PT appointment.

REPRESENTATIVE CLAMAN said that for many years he was under the impression that a doctor's referral was necessary to make an appointment with a physical therapist, but it is not necessary.

SENATOR GRAY-JACKSON commented that now she knows the rules.

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SENATOR STEVENS commented that he visited a physical therapist yesterday with a note from his doctor. He asked if that is the only rationale for removing the physician seat from the board or if there has been a problem having a physician on the board.

REPRESENTATIVE CLAMAN replied the rationale is to create balance on the board between occupational and physical therapists. Also, the level of training for physical therapists has increased to the Ph.D. level, which was not the case when the statute was written. He deferred to Mr. Kay for more detail.

SENATOR STEVENS asked for an explanation of the difference between occupational and physical therapy.

REPRESENTATIVE CLAMAN replied they are separate fields, and he would defer to Mr. Kay for the distinction.

CHAIR COSTELLO turned to invited testimony. She asked Mr. Kay to respond to the questions he heard and explain the medical training needed to become a physical therapist and occupational therapist.

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ALEC G. KAY, Alaska President, American Physical Therapy Association; President, United Physical Therapy, Anchorage, Alaska, explained that when the practice act was established about 50 years ago, the profession of physical therapy was under the supervision of the American Medical Association. Since then PT has evolved into its own profession. He agreed with the sponsor that the education requirements have also evolved such that all physical therapists now must hold a doctoral degree. The profession is practicing more autonomously now as evidenced by the direct access the committee was discussing.

To Senator Gray Jackson's question, he explained that some government sponsored insurance such as Medicare and Medicaid,

some unions, and some others require a doctor's referral to see a physical therapist, but the law does not require a referral. He posited that some physical therapy offices may blanket ask patients to bring a referral to make sure they are paid timely. He related his experience that in the 30 years he has been practicing, the licensing board either has not had a physician in the physician seat or the physician in the seat was not engaged. He acknowledged he was not familiar with the physician in the seat currently. He opined that replacing the physician seat with an occupational therapist or occupational therapist assistant would be more useful to the board's mission.

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SENATOR STEVENS asked for an explanation of the difference between an occupational therapist and a physical therapist.

MR. KAY deferred to Dr. Carrothers. He added that another reason to support the bill is that it gives the board some disciplinary control. This will be helpful because there are many levels of potential infraction and not all warrant taking the license away.

CHAIR COSTELLO asked how many patients he sees who do not have a doctor's referral.

MR. KAY replied 60 percent arrive without a referral from a doctor; 35 percent are Medicare or Medicaid and 5 percent of people with insurance have a doctor's referral.

CHAIR COSTELLO asked if he is allowed to offer sports physicals.

MR. KAY replied that he can do functional assessments but it is not within the purview of a physical therapist to assess for underlying cardiac issues. He acknowledged that school districts have different policies.

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LEEANNE CARROTHERS, Director, Allied Health at UAA; Alaska Government Affairs Liaison for the Alaska Physical Therapy Association, Anchorage, Alaska, stated that her testimony is related to her role in the Physical Therapy Association, not the university.

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SENATOR MICCICHE joined the committee.

MS. CARROTHERS responded to the question about the difference between the professions by explaining that the paths are different but both professions work to help people regain skills to return to daily living. Physical therapists work on gross motor skills such as standing up and walking from point to point, whereas occupational therapists focus on fine motor skills involved in activities such as dressing, grooming, and bathing. OTs also work on cognitive rehabilitation after an illness or injury when people have difficulty with such things as thinking and problem solving. She acknowledged that PTs work on cognitive rehabilitation as well but more so for OTs.

SENATOR STEVENS asked if OTs primarily focus on getting people back to work.

MS. CARROTHERS explained that in the definition of "occupational therapy" occupation refers to activities and chores that people need to do in their lives, whether it is paid or unpaid. Activities of daily living include things like getting up, getting dressed, and getting groomed and chores of daily living include things like cooking and feeding. She said there is a lot of overlap between the professions but two distinct bodies of knowledge are required.

CHAIR COSTELLO asked Sara Chambers, if the bill were to pass, whether the governor would be able to immediately appoint an occupational therapist to what is now the physician seat or if the physician's term would have to run its course.

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SARA CHAMBERS, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development, Juneau, Alaska, stated that Section 18 on page 9 has transition language that allows the current physician to continue to serve his term. She relayed that the physician currently on the board is very active and engaged.

CHAIR COSTELLO asked when the term for the physician seat expires. She also noted that the language on page 9, line 17, says, "may serve," which provides some flexibility.

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MS. CHAMBERS answered that the physician was reappointed last year so his current term ends March 2025.

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CHAIR COSTELLO opened public testimony on HB 99.

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KEITH POORBAUGH PT, ScD, Chair, State Physical Therapy and Operational Therapy Board, Wasilla, Alaska, said the physician currently serving will be missed, but it is important to have equal PT and OT representation on the board. He agreed with previous testimony that the training, education, and expertise for these professions has increased since the statute was written. These advances warrant having a board that is representative of the professions, he said. The proposed changes will align with other states and allow direct access to PTs and OTs without a physician referral. He noted that the provision to allow the board broader scope to address disciplinary action also reflects the advances in the professions. On behalf of the board, he stated support for HB 99.

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SENATOR STEVENS asked for the difference in education and training requirements between PT and OT professions.

DR. POORBAUGH answered that there has been a developing separation of the two professions over last 30 years. He said the greatest distinction is that PTs are focused on movement and function, and OTs are focused on activities and fine motor skills. The training is similar for basic anatomy and physiology but diverse for aspects of treatment. He acknowledged that the professions work hand in hand.

SENATOR STEVENS said he appreciated the explanations.

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CHAIR COSTELLO found no one else wished to comment and closed public testimony on HB 99.

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At ease

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CHAIR COSTELLO reconvened the meeting.

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SENATOR GRAY-JACKSON asked Ms. Chambers if there was a way to appoint an [OT] now to achieve balance, and when the physician term expires that seat goes away.

MS. CHAMBERS replied that adding a seat to the board would require an amendment to the bill. As the chair noted, she said

the physician could resign and that position could be filled by a person qualified under the bill. She suggested that is probably the easiest way to move forward.

SENATOR GRAY-JACKSON said she raised the question because the physician currently serving has been described as such an asset, but she would defer to the committee.

CHAIR COSTELLO asked if this issue came up in the other body.

REPRESENTATIVE CLAMAN said no, and his sense is that if the bill passes the physician will likely resign.

CHAIR COSTELLO said the state has over 200 boards and commissions and she is always amazed at how much personal time Alaskans devote to serving on these boards and commissions. She thanked all the people who serve and said her support for the legislation in no way reflects on the physician who is currently serving. She publicly thanked that member.

SENATOR GRAY-JACKSON thanked that member and the members of all the boards and commissions.

[2:10:10 PM](#)

SENATOR REVAK moved to report HB 99, work order 32-LS0506\A, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO found no objection and HB 99 was reported from the Senate Labor and Commerce Standing Committee.

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There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:10 p.m.