

COMMITTEE REPORT

TO: Patrick O'Donnell
Clerk of the Legislature

FROM: Senator Sara Howard
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on
Regulated Occupations within Committee Jurisdiction – Athletic Trainer

GENERAL INFORMATION

- I. Occupation Regulated
 - A) Athletic Trainer

- II. Name of Occupational Board Responsible for Enforcement
 - A) Per Nebraska Revised Statutes Section [38-161](#), the Board of Athletic Training provides recommendations to the Department of Health and Human Services regarding the issuance or denial of credentials, and provides recommendations to the Department of Health and Human Services regarding rules and regulations to carry out the Uniform Credentialing Act.

- III. Public Purpose and Assumptions Underlying License Creation
 - A) Athletic Training means the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries by the use of electrical stimulation, ultrasound, medical diathermies, infrared light, and ultraviolet light under guidelines established with a referring licensed physician. Athletic injuries are the types of musculoskeletal injury or common illness and conditions which Athletic Trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation. Persons who solely use heat, cold, air, water or exercise are not considered to be practicing Athletic Training. The purpose of license creation is to protect the health, safety, and welfare of Nebraskans.

- IV. Number of Regulated Professionals in Nebraska
 - A) There are 485 licensed Athletic Trainers in Nebraska.

BOARD MEMBERSHIPS AND MEETINGS

- I. Number of Members
 - A) There are four members of the Board of Athletic Training.

- II. Who Appoints Members of the Board / Is Legislative Approval Required?
 - A) The Board of Health appoints the members of the Board of Athletic Training. Legislative approval is not required.

- III. Term Length
 - A) The length of term for service on the Board of Athletic Training is up to two consecutive five year terms, on a rotating basis.

- IV. Qualifications for Membership of the Board
 - A) The Board of Athletic Training is made up of three professional Athletic Trainers and one public member. The professional Athletic Trainers shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member.

- V. The Number of Meetings Required Per Year / Meetings Actually Held
 - A) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 1.
 - B) For FY 2015-2016: Meetings Required – 1; Meetings Held – 1.
 - C) For FY 2016-2017: Meetings Required – 1; Meetings Held – 1.
 - D) For FY 2017-2018: Meetings Required – 1; Meetings Held – 2.
 - E) For FY 2018-2019: Meetings Required – 1; Meetings Held – 5.

- VI. Annual Budget Information for the Previous Five Years
 - A) The Board of Athletic Training is cash-funded from licensure fees. Funds for credentialed occupations may come from interest earned on the Professional and Occupational Credentialing Cash Fund, certification and verification of credentials, administrative fees, reinstatement fees, general funds and federal funds, fees for miscellaneous services, gifts, and grants.
 - B) For FY 2014-2015: \$3,855
 - C) For FY 2015-2016: \$1,388
 - D) For FY 2016-2017: \$21,955
 - E) For FY 2017-2018: \$17,271
 - F) For FY 2018-2019: \$22,666

VII. Statement from Occupational Board on Effectiveness of Regulations

- A) The Chair of the Board of Athletic Training stated that she believed the regulations were effective, and were needed to ensure the health, safety, and welfare of Nebraskans.

AUTHORIZATION

I. Statutory Authorization

- A) Statutory authorization for the Athletic Trainer occupation may be found in the Nebraska Revised Statutes, sections [38-401](#) to [38-414](#), which may be cited as the Athletic Training Practice Act. For text of the Nebraska statutes relating to the Athletic Trainer occupation, see Appendix A.

II. Other Authorization

- A) Rules and regulations regarding the Athletic Trainer occupation may be found in the Nebraska Administrative Code [Title 172, Chapter 17](#).

CREDENTIALING

I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years

- A) There were 248 Athletic Trainer licenses issued in the past five years.

II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years

- A) There were no Athletic Trainer licenses denied in the past five years.

III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years

- A) There were no Athletic Trainer licenses revoked in the past five years.

IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years

- A) There were six Athletic Trainer licenses penalized in the past five years.
- B) These were administrative penalties for practice of the profession without an active license.

V. Comparison of How Other States Regulate This Occupation

- A) All states except for California regulate the Athletic Trainer occupation in some way. Oregon, Colorado, Minnesota, West Virginia, and Hawaii require registration. South Carolina requires certification. Every other state and Washington D.C. requires Athletic Trainers to be licensed.

VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?

- A) If the Athletic Trainer occupation is no longer licensed, certified, or regulated, individuals without the requisite knowledge would be authorized to apply electrotherapy, infrared light, ultraviolet light, ultrasound, and medical diathermy to Nebraskans, which would endanger the health, safety, and welfare of the public.

COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals, and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The licenses, certifications, and registrations overseen by the Board of Athletic Training and the Department of Health and Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Athletic Trainer occupation by licensure is appropriate and balanced and does not need modification at this time.

APPENDIX A

STATUTES PERTAINING TO THE ATHLETIC TRAINING PRACTICE ACT

38-401. Act, how cited.

Sections 38-401 to 38-414 shall be known and may be cited as the Athletic Training Practice Act.

Source: Laws 2007, LB463, § 173.

38-402. Definitions, where found.

For purposes of the Athletic Training Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-403 to 38-407 apply.

Source: Laws 1986, LB 355, § 1; Laws 1996, LB 1044, § 477; Laws 1999, LB 178, § 2; Laws 1999, LB 828, § 140; Laws 2003, LB 242, § 65; R.S.1943, (2003), § 71-1,238; Laws 2007, LB296, § 359; Laws 2007, LB463, § 174.

38-403. Athletic injuries, defined.

Athletic injuries means the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation.

Source: Laws 2007, LB463, § 175.

38-404. Athletic trainer, defined.

Athletic trainer means a person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries under guidelines established with a licensed physician and who is licensed to perform the functions set out in section 38-408. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions described in section 38-408 with a referral from a licensed physician for athletic training.

Source: Laws 2007, LB463, § 176.

38-405. Athletic training, defined.

Athletic training means the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in section 38-408.

Source: Laws 2007, LB463, § 177.

38-406. Board, defined.

Board means the Board of Athletic Training.

Source: Laws 2007, LB463, § 178.

38-407. Practice site, defined.

Practice site means the location where the athletic trainer practices athletic training.

Source: Laws 2007, LB463, § 179.

38-408. Athletic trainers; authorized physical modalities.

(1) Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a licensed physician:

- (a) Application of electrotherapy;
- (b) Application of ultrasound;
- (c) Use of medical diathermies;
- (d) Application of infrared light; and
- (e) Application of ultraviolet light.

(2) The application of heat, cold, air, water, or exercise shall not be restricted by the Athletic Training Practice Act.

Source: Laws 2007, LB463, § 180.

38-409. License required; exceptions.

No person shall be authorized to perform the physical modalities set out in section 38-408 on any person unless he or she first obtains a license as an athletic trainer or unless such person is licensed as a physician, osteopathic physician, chiropractor, nurse, physical therapist, or podiatrist. No person shall hold himself or herself out to be an athletic trainer unless licensed under the Athletic Training Practice Act.

Source: Laws 1986, LB 355, § 3; Laws 1989, LB 342, § 27; Laws 1999, LB 178, § 3; Laws 2003, LB 242, § 67; R.S.1943, (2003), § 71-1,240; Laws 2007, LB463, § 181.

38-410. Licensure requirements; exemptions.

(1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.

(2) An individual who is a graduate student in athletic training and who is practicing under the supervision of a licensed athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.

Source: Laws 1999, LB 178, § 4; Laws 2003, LB 242, § 66; R.S.1943, (2003), § 71-1,239.01; Laws 2007, LB463, § 182.

38-411. Applicant for licensure; qualifications; examination.

(1) An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:

(a) Graduation after successful completion of the athletic training curriculum requirements of an accredited college or university approved by the board; or

(b) Graduation with a four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as a student athletic trainer under the supervision of an athletic trainer approved by the board.

(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the board.

Source: Laws 1986, LB 355, § 4; R.S.1943, (2003), § 71-1,241; Laws 2007, LB463, § 183.

38-412. Continuing competency requirements.

An applicant for licensure as an athletic trainer who has met the education and examination requirements in section 38-411, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.

Source: Laws 2007, LB463, § 184.

38-413. Reciprocity; continuing competency requirements; military spouse; temporary license.

(1) An applicant for licensure as an athletic trainer who has met the standards set by the board pursuant to section 38-126 for a license based on licensure in another jurisdiction but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.

(2) An applicant who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Source: Laws 2007, LB463, § 185; Laws 2017, LB88, § 37.

38-414. Fees.

The department shall establish and collect fees for initial licensure and renewal under the Athletic Training Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 186.