

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 436

FINAL READING

Introduced by Hansen, B., 16; Murman, 38.

Read first time January 15, 2021

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Athletic Training Practice Act; to
2 amend sections 38-401, 38-402, 38-404, 38-408, 38-409, 38-410, and
3 38-411, Reissue Revised Statutes of Nebraska; to provide, change,
4 and eliminate definitions; to change provisions relating to
5 licensure and scope of practice; to harmonize provisions; to repeal
6 the original sections; and to outright repeal sections 38-403,
7 38-405, and 38-407, Reissue Revised Statutes of Nebraska.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-401, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-401 Sections 38-401 to 38-414 and sections 4 to 6 of this act
4 shall be known and may be cited as the Athletic Training Practice Act.

5 Sec. 2. Section 38-402, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 38-402 For purposes of the Athletic Training Practice Act and
8 elsewhere in the Uniform Credentialing Act, unless the context otherwise
9 requires, the definitions found in sections 38-404 and 38-406 and
10 sections 4 to 6 of this act ~~38-403 to 38-407~~ apply.

11 Sec. 3. Section 38-404, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 38-404 Athletic trainer means a health care professional who is
14 licensed to practice athletic training under the Athletic Training
15 Practice Act and who, under guidelines established with a licensed
16 physician, performs the functions outlined in section 38-408 except as
17 otherwise provided in subsection (5) of section 38-408 ~~person who is~~
18 ~~responsible for the prevention, emergency care, first aid, treatment, and~~
19 ~~rehabilitation of athletic injuries under guidelines established with a~~
20 ~~licensed physician and who is licensed to perform the functions set out~~
21 ~~in section 38-408. When athletic training is provided in a hospital~~
22 ~~outpatient department or clinic or an outpatient-based medical facility,~~
23 ~~the athletic trainer will perform the functions described in section~~
24 ~~38-408 with a referral from a licensed physician for athletic training.~~

25 Sec. 4. Condition means a disease, illness, or injury.

26 Sec. 5. Impression means a summation of information or an opinion
27 formed, which is the outcome of the examination and assessment process.

28 Sec. 6. Injuries and illnesses means injuries or common illnesses
29 and conditions which are related to, or which limit participation in,
30 exercise, athletic activities, recreational activities, or activities
31 requiring physical strength, agility, flexibility, range of motion,

1 speed, or stamina, and for which athletic trainers as a result of their
2 education and training are qualified to provide care and make referrals
3 to the appropriate health care professionals.

4 Sec. 7. Section 38-408, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 38-408 (1) As set forth in the Athletic Training Practice Act, the
7 practice of athletic training includes providing the following regarding
8 injuries and illnesses:

9 (a) Prevention and wellness promotion;

10 (b) Examination, assessment, and impression;

11 (c) Immediate and emergency care, including the administration of
12 emergency drugs as prescribed by a licensed physician and dispensed by a
13 pharmacy for emergency use, subject to subsection (2) of this section;

14 (d) Therapeutic intervention or rehabilitation of injuries and
15 illnesses in the manner, means, and methods deemed necessary to affect
16 care, rehabilitation, or function;

17 (e) Therapeutic modalities. For purposes of this subdivision, and
18 except as provided in subsection (9) of this section, therapeutic
19 modalities includes, but is not limited to:

20 (i) Physical modalities; and

21 (ii) Mechanical modalities, including, but not limited to, dry
22 needling; and

23 (f) Health care administration, risk management, and professional
24 responsibility.

25 (2) The department shall adopt and promulgate rules and regulations
26 regarding the administration of emergency drugs as authorized in this
27 section, including drugs, medicines, and medicinal substances as defined
28 in section 38-2819 except for controlled substances listed in section
29 28-405.

30 (3) The department shall adopt and promulgate rules and regulations
31 regarding the use of dry needling by athletic trainers.

1 (4) The scope of practice of athletic trainers does not include the
2 use of joint manipulation, grade V mobilization/manipulation, thrust
3 joint manipulation, high velocity/low amplitude thrust, nor any other
4 procedure intended to result in joint cavitation. Joint manipulation
5 commences where grades one through four mobilization ends.

6 (5) When athletic training is provided in a hospital outpatient
7 department or clinic, or an outpatient-based medical facility or clinic,
8 the athletic trainer shall perform the functions described in this
9 section with a referral from a licensed physician, osteopathic physician,
10 podiatrist, nurse practitioner, physician assistant, dentist, or
11 chiropractor. The referral shall state the diagnosis and, if deemed
12 necessary, identify any instructions or protocols by the referring
13 provider. In these instances, for each patient under his or her care, the
14 athletic trainer shall ensure documentation is complete, accurate, and
15 timely and shall include the following:

16 (a) Provide and document the initial examination, assessment, and
17 impression;

18 (b) Provide periodic reexamination with documentation of the
19 reexamination, assessment, and impression;

20 (c) Establish a plan of care following either the initial
21 examination or reexamination that is in accordance with the diagnosis and
22 any instructions or protocols indicated by the referring provider;

23 (d) Communicate to the referring provider changes in the patient's
24 condition that may require altering instructions and protocols indicated
25 by the referral from the referring provider;

26 (e) Be responsible for accurate documentation of each followup visit
27 and billing for athletic training services provided; and

28 (f) Provide documentation upon discharge, including patient response
29 to athletic training intervention at the time of discharge.

30 (6) In all other instances, the athletic trainer shall maintain
31 documentation consistent with the guidelines established with a licensed

1 physician and specific to the setting in which the athletic trainer is
2 practicing.

3 (7) An individual who is licensed as an athletic trainer may not
4 provide, offer to provide, or represent that he or she is qualified to
5 provide any care or services that he or she lacks the education,
6 training, or experience to provide or that he or she is otherwise
7 prohibited by law from providing.

8 (8) Pursuant to subdivision (18) of section 38-2025, no athletic
9 trainer shall hold himself or herself out to be a physician or surgeon or
10 qualified to prescribe medications.

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

- 14 ~~(a) Application of electrotherapy;~~
- 15 ~~(b) Application of ultrasound;~~
- 16 ~~(c) Use of medical diathermies;~~
- 17 ~~(d) Application of infrared light; and~~
- 18 ~~(e) Application of ultraviolet light.~~

19 (9) (2) The application of heat, cold, air, water, or exercise shall
20 not be restricted by the Athletic Training Practice Act.

21 Sec. 8. Section 38-409, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 38-409 No person shall be authorized to perform the functions
24 outlined in section 38-408 unless the person first physical modalities
25 ~~set out in section 38-408 on any person unless he or she first obtains a~~
26 license as an athletic trainer or unless such person is licensed as a
27 physician, osteopathic physician, chiropractor, nurse, physical
28 therapist, or podiatrist. No person shall hold himself or herself out as
29 ~~to be an athletic trainer in this state unless such person is licensed~~
30 under the Athletic Training Practice Act.

31 Sec. 9. Section 38-410, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 38-410 (1) An individual who accompanies an athletic team or
3 organization from another state or jurisdiction as the athletic trainer
4 is exempt from the licensure requirements of the Athletic Training
5 Practice Act.

6 (2) An ~~individual who is a graduate student in~~ athletic training
7 student who is enrolled in an athletic training education program
8 accredited by an accrediting body approved by the board and who is
9 ~~practicing under the supervision of a licensed athletic trainer~~ is exempt
10 from the licensure requirements of the Athletic Training Practice Act.

11 Sec. 10. Section 38-411, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 38-411 (1) An applicant for licensure as an athletic trainer shall
14 at the time of application provide proof to the department that the
15 applicant ~~he or she~~ meets one or more of the following qualifications:

16 (a) For any person who graduated prior to January 1, 2004:

17 (i) ~~(a)~~ Graduation after successful completion of the athletic
18 ~~training~~ curriculum requirements of an accredited athletic training
19 education program at an accredited college or university approved by the
20 board; or

21 (ii) ~~(b)~~ Graduation with a four-year degree from an accredited
22 college or university and completion of at least two consecutive years,
23 military duty excepted, as an athletic training student ~~a student~~
24 ~~athletic trainer~~ under the supervision of an athletic trainer approved by
25 the board; and -

26 (b) For any person who graduated after January 1, 2004, graduation
27 after successful completion of the curriculum requirements of an
28 accredited athletic training education program at an accredited college
29 or university approved by the board.

30 (2) In order to be licensed as an athletic trainer, an applicant
31 shall, in addition to the requirements of subsection (1) of this section,

1 successfully complete an examination approved by the board.

2 Sec. 11. Original sections 38-401, 38-402, 38-404, 38-408, 38-409,
3 38-410, and 38-411, Reissue Revised Statutes of Nebraska, are repealed.

4 Sec. 12. The following sections are outright repealed: Sections
5 38-403, 38-405, and 38-407, Reissue Revised Statutes of Nebraska.