

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
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As Engrossed: S2/13/17 S2/21/17
A Bill

SENATE BILL 109

By: Senator J. Hutchinson

For An Act To Be Entitled

AN ACT TO AMEND AND UPDATE THE ARKANSAS ATHLETIC
TRAINERS ACT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND AND UPDATE THE ARKANSAS ATHLETIC
TRAINERS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code §§ 17-93-402 and 17-93-403 are amended to read as follows:

17-93-402. Definitions.

As used in this subchapter:

(1) *"Athlete" means an individual who is participating in organized athletic or team activities at the interscholastic, intramural, intercollegiate, or professional level, or sanctioned recreational sports activities;*

(2) *"Athletic injury or illness" means an injury or illness sustained by the athlete as a result of participation in those organized athletic or team activities which require physical strength, agility, flexibility, range of motion, speed, or stamina, or any comparable injury or illness to an athlete which prevents the person from participating in activities described in subdivision (1) of this section;*

(3)(A) *"Athletic trainer" means a person licensed by the state to engage in athletic training under the supervision of a licensed physician.*

(B) An "athletic trainer" is an allied healthcare professional;



(4) "Athletic training" means:

(A) The ~~the~~ prevention, recognition, evaluation, treatment, and rehabilitation of an athletic injury or illness ~~and the organization and administration of exercise, conditioning, and athletic training programs;~~

(B) The emergency care and use of appropriate preventative and supportive devices for an athletic injury or illness;

(C) The emergency care and treatment of an athletic injury or illness during a non-sanctioned recreational sports activity on the day of the activity which resulted in the athletic injury or illness unless the injury is a concussion which may require a continuum of healthcare; and

(D) The recognition, care, and referral to an appropriate healthcare professional for other illnesses that are not an athletic injury or illness as defined in this section;

(5) "Board" means the Arkansas State Board of Athletic Training;

(6) "Clinical setting" means a licensed healthcare facility or an office of a licensed physician or licensed physical therapist;

(7) "Direct supervision" means supervision of the athletic trainer in a clinical setting in which the ~~supervising physical therapist~~ must be readily available for consultation for the care of the athlete but not necessarily on the premises supervisor is on-site and readily available to intervene on behalf of the patient and provide consultation to the athletic trainer;

~~(7)~~(8)(A) "Indirect supervision" means supervision of the athletic trainer in a nonclinical setting in which the supervising physician is not required to be on-site, but is readily available for consultation via radio, telephone, fax, email, or other accepted forms of communication.

(B) "Indirect supervision" shall be demonstrated by a standing order;

(9) "License" means the document issued by the ~~board~~ Arkansas State Board of Athletic Training to a qualified person to practice athletic training; and

(10) "Physician" means a person who is licensed by the Arkansas State Medical Board;

~~(8)~~(11) "Sanctioned recreational sports activities" means any athletic or team activity which requires physical strength, agility,

flexibility, range of motion, speed, or stamina and meets one (1) or more of the following:

(A) Has officially designated coaches who have the responsibility for athletic activities of the organization;

(B) Has a regular schedule of practices or workouts which are supervised by the officially designated coaches;

(C) Is an activity generally recognized as having an established schedule of competitive events or exhibitions; and

(D) Has a policy requiring documentation of having passed a preparticipation medical examination conducted by a licensed physician as a condition for participation for the athletic activities of the organization; and

(12)(A) "Standing order" means a written agreement developed in conjunction with one (1) or more supervising physicians that identifies protocols or procedures that the athletic trainer may perform and is signed by the supervising physician and the licensed athletic trainer.

(B) "Standing order" includes without limitation:

(i) The manner and frequency in which the athletic trainer regularly communicates with the supervising physician;

(ii) The appropriate interventions for specific athlete injuries and illnesses;

(iii)(a) The appropriate conditions for the immediate referral and subsequent referral to a licensed physician of injured or ill athletes which shall include a time frame for referral if an athlete does not improve, as agreed upon by the supervising physician and the athletic trainer.

(b) A referral under this subdivision shall allow the athlete a choice of healthcare providers;

(iv) The physician's designation of another supervising physician for instances when the supervising physician is not readily available; and

(v) The consultation of supervising physician for continuity of care when the athlete is under the care of a physician who is not the supervising physician of the athletic trainer.

17-93-403. Penalties.

(a)(1) ~~Any~~ A person who violates a provision of this subchapter is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment for not less than thirty (30) days nor more than one hundred eighty (180) days, or both.

(2) Each day of a violation constitutes a separate offense.

(b)(1) After notice and hearing, the Arkansas State Board of Athletic Training ~~is also authorized to~~ may levy a civil penalty against any:

(A) person ~~Person~~ licensed under the provisions of this subchapter after a finding that the person has violated any of the provisions of this subchapter or any ~~regulations~~ rule promulgated by the board; and

(B) Unlicensed person practicing or offering to practice any actions requiring licensure pursuant to the provisions of this subchapter.

(2) Each day a violation occurs shall constitute a separate offense.

(c) ~~Civil penalties~~ A civil penalty assessed by the board shall be no more than one thousand dollars (\$1,000) per incident.

~~(d) In addition to any other sanctions authorized by this subchapter, the board may impose a civil penalty as provided in this section against any unlicensed person practicing or offering to practice any actions requiring licensure pursuant to the provisions of this subchapter.~~

(d) This subchapter does not limit the authority of or prohibit a person licensed under any other law in this state from engaging in the practice for which he or she is licensed.

SECTION 2. Arkansas Code § 17-93-406 is amended to read as follows:
17-93-406. Powers and duties of the board.

(a) The Arkansas State Board of Athletic Training shall have the ~~following~~ powers and duties to:

(1) ~~To receive~~ Receive and maintain all records of board proceedings;

(2) ~~To adopt~~ Adopt minimum curriculum ~~and internship~~ requirements for qualification for an Arkansas athletic trainer's license;

(3) ~~To issue~~ Issue licenses;

(4) ~~To keep~~ Keep a complete record of all licensed athletic

trainers, including:

(A) Preparing annually a roster showing the names and addresses of all licensed athletic trainers; and

(B) Making available a copy of ~~such a~~ the roster to any person requesting it on payment of a fee as established by the board to cover the cost of the roster;

(5) ~~To adopt~~ Adopt rules and regulations consistent with this subchapter which are necessary for the performance of its duties, including, but not limited to, the imposing of fees adequate to carry out the purposes of this subchapter;

(6) ~~To collect~~ Collect fees adequate to carry out the purposes of this subchapter;

(7) ~~To keep~~ Keep records of fees collected and costs incurred for operations of the board and licensing of athletic trainers; and

(8) ~~To file~~ File an annual report of its activities, including the activities of the board, with the Department of Finance and Administration.

(b) In addition to the powers and duties set forth in this subchapter, the board shall investigate reported violations of this subchapter and take necessary steps to enforce this subchapter.

SECTION 3. Arkansas Code § 17-93-407(b), concerning exceptions to licensure as an athletic trainer, is amended to read as follows:

(b) ~~Nothing in this~~ This subchapter ~~shall be construed to~~ does not:

(1) Authorize the practice of medicine or physical therapy by any person not so licensed by the state;

(2) Prohibit the lawful practice of a licensed health care professional under the scope of his or her license;

(3) Prohibit the lawful practice of a licensed athletic trainer from another state who accompanies his or her team, athlete, or representatives to the State of Arkansas for limited competition; or

(4) Prohibit ~~designated interns from university academic programs preparing athletic trainers from performing acts of athletic training incidental to their courses of study~~ a person in an entry-level professional education program that is approved by the Arkansas State Board of Athletic Training from performing acts of athletic training to satisfy

supervised clinical education requirements related to the education of the person.

SECTION 4. Arkansas Code §§ 17-93-409 – 17-93-413 are amended to read as follows:

17-93-409. Qualification – Athletic trainer.

~~(a) For the purpose of this subchapter, a person is actively engaged as an athletic trainer if the person has performed such duties as a principal part of his or her full-time employment under the direction of a licensed physician for three (3) of the past five (5) years preceding the application.~~

~~(b)~~(a) An applicant for an Arkansas athletic trainer's license ~~must~~ is required to:

(1) Possess at least a bachelor's degree from an accredited college or university;

(2) Meet ~~other~~ athletic training curriculum and internship requirements as ~~specified~~ established by the Arkansas State Board of Athletic Training;

(3) Pass an examination for licensure as designated by the board which is a reliable, valid, legally defensible examination for determining minimum competency in athletic training;

(4) Submit appropriate application forms to the board; and

(5) Pay all appropriate fees.

~~(c) Notarized proof of employment, performance of duties, and supervision shall accompany the person's application.~~

~~(d)~~(b)(1) ~~Anyone~~ A person who meets the qualifications prescribed in subsection ~~(b)~~ (a) of this section, except for the examination requirement under subdivision ~~(b)(3)~~ (a)(3) of this section, shall be issued a temporary nonrenewable athletic trainer's permit license which shall expire ~~one (1)~~ year thirty (30) days after the date of ~~application therefor~~ issuance.

(2) The board may revoke the temporary license upon notification of a failure to pass the examination described in subdivision (a)(3) of this section.

17-93-410. Expiration and renewal.

(a) A license issued under this subchapter expires ~~one (1) year after the date of issuance~~ on June 30th of each calendar year.

(b)(1) ~~Licenses~~ A license shall be renewed according to procedures established by the Arkansas State Board of Athletic Training.

(2) The board shall renew a license upon proof of recertification as a certified athletic trainer provided by the athletic trainers' national governing entity which shall include:

(A) Compliance with the standard of professional practice;

(B) Emergency cardiac care certification;

(C) Maintenance of fees; and

(D) Successful completion of continuing education

requirements as determined by the board.

~~17-93-411. Direction and supervision~~ Physician supervision.

~~(a) In a nonclinical setting, an~~ An athletic trainer may practice the art and science of athletic training under the ~~direction supervision~~ of a physician licensed in the State of Arkansas.

~~(b) The athletic trainer may practice athletic training in a hospital or outpatient clinic under the direct supervision of a physical therapist and upon the referral of a physician licensed in the State of Arkansas~~ In a nonclinical setting, an athletic trainer shall practice the art and science of athletic training under the indirect supervision of a physician who is licensed in the State of Arkansas.

(c)(1) In a clinical setting, an athletic trainer shall practice the art and science of athletic training under the direct supervision of:

(A) A physician; or

(B) A physical therapist when the athletic trainer is working in a physical therapy clinic.

(2) An athletic trainer shall practice athletic training in a clinical setting upon the referral of a physician.

17-93-412. Revocation, suspension, or denial – Grounds.

(a) The Arkansas State Board of Athletic Training may refuse to issue or renew a license or may suspend or revoke a license if an applicant or licensee has:

(1) Been convicted of a felony or misdemeanor involving moral turpitude, the record of conviction being conclusive evidence of conviction if the board determines after investigation that the person has not been

sufficiently rehabilitated to warrant the public trust;

(2) Secured a license under this subchapter by fraud or deceit;

~~or~~

(3) Violated or conspired to violate this subchapter or rules ~~or~~ ~~regulations~~ issued ~~pursuant to~~ under this subchapter;

(4) Been found guilty of unethical or unprofessional conduct, as determined by the board;

(5) Been convicted of a violation of any state or federal narcotics laws;

(6) Been habitually intoxicated or has been addicted to the use of narcotic drugs;

(7) Been found guilty of gross negligence in his or her practice, as determined by the board;

(8) Been convicted of sexual abuse or sexual misconduct; or

(9) Been declared incompetent by a court and has not thereafter been lawfully declared competent.

(b)(1) On application, the board may reissue a license to a person whose license has been revoked, but the application may not be made ~~prior to~~ before the expiration of a period of one (1) year after the order of revocation has become final.

(2) ~~Such~~ The application shall be made in the manner and form required by the board.

17-93-413. Revocation, suspension, or denial – Proceedings.

(a) Any person whose application for a license or for renewal of a license is denied is entitled to a hearing, which shall be conducted ~~pursuant to~~ under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b)(1) Proceedings for revocation or suspension of a license shall be commenced by filing charges with the Arkansas State Board of Athletic Training in writing.

(2) The charge may be brought by any person against a person having a license to practice as an athletic trainer in this state charging that the person has committed a violation under § 17-93-412.

(3)(A) The board shall send an advisory notice to the person who allegedly committed a violation once the complaint has been received by the board.

(B) The advisory notice shall include a statement notifying the person who allegedly committed a violation that the person shall reply to the notice.

(c) The board shall fix the time and place of the hearing and shall provide a written copy of the charges or reason for the denial of the license or for the refusal to renew the license, together with a notice of the time and place fixed for the hearing, to be served on the applicant requesting the hearing or license against whom the charges have been filed at least thirty (30) days ~~prior to~~ before the date set for the hearing.

SECTION 5. Arkansas Code Title 17, Chapter 93, Subchapter 4, is amended to add an additional section to read as follows:

17-93-415. Notice of malpractice claim or suit.

(a) An athletic trainer shall notify the Arkansas State Board of Athletic Training within ten (10) days after receipt of notification of a claim or a lawsuit against the athletic trainer for malpractice.

(b) The board shall prepare and adopt rules as necessary to ensure compliance with this section.

/s/J. Hutchinson