

3632--A

2015-2016 Regular Sessions

I N S E N A T E

February 13, 2015

Introduced by Sen. PANEPINTO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to certification of athletic trainers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 8351 of the education law, as amended by chapter  
2 658 of the laws of 1993, is amended to read as follows:  
3 S 8351. Definition. As used in this article "athletic trainer" means  
4 any person who is duly [certified] LICENSED in accordance with this  
5 article to perform athletic training under the supervision of a physi-  
6 cian [and limits his or her practice to secondary schools, institutions  
7 of postsecondary education, professional athletic organizations, or a  
8 person who, under the supervision of a physician, carries out comparable  
9 functions on orthopedic athletic injuries, excluding spinal cord inju-  
10 ries, in a health care organization] AND CARRIES OUT THE PRACTICE OF  
11 PREVENTION, RECOGNITION, EVALUATION, MANAGEMENT, DISPOSITION, TREATMENT  
12 AND REHABILITATION OF INJURIES. Supervision of an athletic trainer by a  
13 physician shall be continuous but shall not be construed as requiring  
14 the physical presence of the supervising physician at the time and place  
15 where such services are performed.  
16 [The scope of work described herein shall not be construed as author-  
17 izing the reconditioning of neurologic injuries, conditions or disease.]  
18 S 2. Section 8352 of the education law, as amended by chapter 658 of  
19 the laws of 1993, is amended to read as follows:  
20 S 8352. Definition of practice of athletic training. The practice of  
21 the profession of athletic training is defined as the [application of  
22 principles, methods and procedures for managing athletic injuries, which

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 shall include the preconditioning, conditioning and reconditioning of an  
2 individual who has suffered an athletic injury through the use of appro-  
3 priate preventative and supportive devices, under the supervision of a  
4 physician and recognizing illness and referring to the appropriate  
5 medical professional with implementation of treatment pursuant to physi-  
6 cian's orders. Athletic training includes instruction to coaches,  
7 athletes, parents, medical personnel and communities in the area of care  
8 and prevention of athletic injuries.

9 The scope of work described herein shall not be construed as authoriz-  
10 ing the reconditioning of neurologic injuries, conditions or disease]  
11 PREVENTION, RECOGNITION, EXAMINATION, EVALUATION, AND REHABILITATION OF  
12 INJURIES, ATHLETIC INJURIES, ILLNESSES, OR CONDITIONS RELATED TO ACTIV-  
13 ITY THAT REQUIRES PHYSICAL SKILL AND UTILIZES STRENGTH, POWER, ENDUR-  
14 ANCE, SPEED, FLEXIBILITY, RANGE OF MOTION OR AGILITY, INCLUDING USE OF  
15 VARIOUS THERAPEUTIC MODALITIES AND TECHNIQUES, WITHOUT RESPECT TO WHERE  
16 OR HOW THE ILLNESS, INJURY, OR CONDITION OCCURRED. NOTHING IN THIS  
17 SECTION SHALL BE CONSTRUED TO EXPAND THE SCOPE OF PRACTICE OF AN ATHLET-  
18 IC TRAINER BEYOND THE DETERMINATION OF THE ADVISING AND CONSENTING  
19 PHYSICIAN.

20 ATHLETIC INJURY IS DEFINED AS ANY INJURY SUSTAINED BY AN INDIVIDUAL  
21 THAT AFFECTS THE INDIVIDUAL'S PARTICIPATION OR PERFORMANCE IN SPORTS,  
22 GAMES, RECREATION, EXERCISE, OR OTHER ACTIVITY THAT REQUIRES PHYSICAL  
23 STRENGTH, AGILITY, FLEXIBILITY, SPEED, STAMINA OR RANGE OF MOTION.

24 S 3. Section 8353 of the education law, as added by chapter 798 of the  
25 laws of 1992, is amended to read as follows:

26 S 8353. Use of the title "[certified] athletic trainer". Only a  
27 person [certified] LICENSED or otherwise authorized under this article  
28 shall PRACTICE OR use the title "[certified] athletic trainer".

29 S 4. Section 8354 of the education law, as added by chapter 798 of the  
30 laws of 1992, is amended to read as follows:

31 S 8354. State [committee] BOARD for athletic trainers. A state  
32 [committee] BOARD for athletic trainers shall be appointed by the board  
33 of regents, upon the recommendation of the commissioner and shall assist  
34 on matters of [certification] PROFESSIONAL LICENSING and professional  
35 conduct in accordance with section six thousand five hundred eight of  
36 this title. The [committee] BOARD shall consist of five members who are  
37 athletic trainers [certified] LICENSED in this state AND ONE PUBLIC  
38 MEMBER THAT IS A CONSUMER OF THE PROFESSION. AN EXECUTIVE SECRETARY TO  
39 THE BOARD SHALL BE APPOINTED BY THE BOARD OF REGENTS ON RECOMMENDATION  
40 OF THE COMMISSIONER. [The committee shall assist the state board for  
41 medicine in athletic training matters. Nominations and terms of office  
42 of the members of the state committee for athletic trainers shall  
43 conform to the corresponding provisions relating thereto for state  
44 boards under article one hundred thirty of this chapter. Notwithstanding  
45 the foregoing, the members of the first committee need not be certified  
46 prior to their appointment to the committee.]

47 S 5. Section 8355 of the education law, as added by chapter 798 of the  
48 laws of 1992, is amended to read as follows:

49 S 8355. Requirements and procedure for professional [certification]  
50 LICENSURE. [For certification as a certified] TO QUALIFY FOR A LICENSE  
51 AS AN athletic trainer under this article, an applicant shall fulfill  
52 the following requirements:

- 53 1. Application: file an application with the department;
- 54 2. Education: have received an education including a bachelor's, its  
55 equivalent or higher degree in accordance with the commissioner's regu-  
56 lations;

1 3. Experience: have experience in accordance with the commissioner's  
2 regulations;

3 4. Examination: pass an examination in accordance with the commission-  
4 er's regulations;

5 5. Age: be at least twenty-one years of age; and

6 6. Fees: pay a fee for an initial [certificate] LICENSE of one hundred  
7 dollars to the department; and a fee of fifty dollars for each triennial  
8 registration period.

9 S 6. Section 8356 of the education law, as amended by chapter 658 of  
10 the laws of 1993, is amended to read as follows:

11 S 8356. [Special provisions. A person shall be certified without exam-  
12 ination provided that, within three years from the effective date of  
13 regulations implementing the provisions of this article, the individual:

14 1. files an application and pays the appropriate fees to the depart-  
15 ment; and

16 2. meets the requirements of subdivisions two and five of section  
17 eight thousand three hundred fifty-five of this article and who in addi-  
18 tion:

19 (a) has been actively engaged in the profession of athletic training  
20 for a minimum of four years during the seven years immediately preceding  
21 the effective date of this article; or

22 (b) is certified by a United States certifying body acceptable to the  
23 department.] EXEMPT PERSONS. 1. NOTHING CONTAINED IN THIS ARTICLE SHALL  
24 PROHIBIT:

25 (A) THE PRACTICE OF ATHLETIC TRAINING THAT IS AN INTEGRAL PART OF A  
26 PROGRAM OF STUDY BY STUDENTS ENROLLED IN AN ACCREDITED ATHLETIC TRAINING  
27 PROGRAM. STUDENTS ENROLLED IN AN ACCREDITED ATHLETIC TRAINING PROGRAM  
28 SHALL BE IDENTIFIED AS "ATHLETIC TRAINING STUDENTS" AND SHALL ONLY PRAC-  
29 TICE ATHLETIC TRAINING UNDER THE DIRECTION AND IMMEDIATE SUPERVISION OF  
30 AN ATHLETIC TRAINER CURRENTLY LICENSED UNDER THIS ARTICLE. AN ATHLETIC  
31 TRAINING STUDENT SHALL NOT HOLD HIMSELF OR HERSELF OUT AS A LICENSED  
32 ATHLETIC TRAINER; OR

33 (B) THE PRACTICE OF ATHLETIC TRAINING BY ANY PERSON WHO IS AN ATHLETIC  
34 TRAINER FROM ANOTHER NATION, STATE, OR TERRITORY ACTING AS AN ATHLETIC  
35 TRAINER WHILE FOR PURPOSES OF CONTINUING EDUCATION, OR PERFORMING HIS OR  
36 HER DUTIES FOR HIS OR HER RESPECTIVE NON-NEW YORK STATE BASED TEAM OR  
37 ORGANIZATION, SO LONG AS HE OR SHE RESTRICTS HIS OR HER DUTIES TO HIS OR  
38 HER TEAM OR ORGANIZATION DURING THE COURSE OF HIS OR HER TEAM'S OR  
39 ORGANIZATION'S STAY IN THIS STATE FOR NO MORE THAN SIXTY DAYS IN A  
40 CALENDAR YEAR.

41 2. THIS ARTICLE SHALL NOT BE CONSTRUED TO AFFECT OR PREVENT THE ADMIN-  
42 ISTRATION OF THERAPEUTIC MANAGEMENT OR THE USE OF MODALITIES BY A PERSON  
43 WHO IS OTHERWISE AUTHORIZED TO PERFORM SUCH DUTIES.

44 S 7. The education law is amended by adding a new section 8356-a to  
45 read as follows:

46 S 8356-A. MANDATORY CONTINUING EDUCATION. 1. (A) EACH LICENSED ATHLET-  
47 IC TRAINER REQUIRED UNDER THIS ARTICLE TO REGISTER TRIENNIALLY WITH THE  
48 DEPARTMENT TO PRACTICE IN THE STATE SHALL COMPLY WITH THE PROVISIONS OF  
49 THE MANDATORY CONTINUING EDUCATION REQUIREMENTS PRESCRIBED IN SUBDIVI-  
50 SION TWO OF THIS SECTION EXCEPT AS SET FORTH IN PARAGRAPHS (B) AND (C)  
51 OF THIS SUBDIVISION. LICENSED ATHLETIC TRAINERS WHO DO NOT SATISFY THE  
52 MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT PRACTICE UNTIL  
53 THEY HAVE MET SUCH REQUIREMENTS, AND THEY HAVE BEEN ISSUED A REGISTRA-  
54 TION CERTIFICATE, EXCEPT THAT A LICENSED ATHLETIC TRAINER MAY PRACTICE  
55 WITHOUT HAVING MET SUCH REQUIREMENTS IF HE OR SHE IS ISSUED A CONDI-

1 TIONAL REGISTRATION CERTIFICATE PURSUANT TO SUBDIVISION THREE OF THIS  
2 SECTION.

3 (B) EACH LICENSED ATHLETIC TRAINER SHALL BE EXEMPT FROM THE MANDATORY  
4 CONTINUING EDUCATION REQUIREMENT FOR THE TRIENNIAL REGISTRATION PERIOD  
5 DURING WHICH HE OR SHE IS FIRST LICENSED. IN ACCORDANCE WITH THE INTENT  
6 OF THIS SECTION, ADJUSTMENT TO THE MANDATORY CONTINUING EDUCATION  
7 REQUIREMENT MAY BE GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH  
8 CERTIFIED BY AN APPROPRIATE HEALTH CARE PROFESSIONAL, FOR EXTENDED  
9 ACTIVE DUTY WITH THE ARMED FORCES OF THE UNITED STATES, OR FOR OTHER  
10 GOOD CAUSE ACCEPTABLE TO THE DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

11 (C) A LICENSED ATHLETIC TRAINER NOT ENGAGED IN PRACTICE, AS DETERMINED  
12 BY THE DEPARTMENT, SHALL BE EXEMPT FROM THE MANDATORY CONTINUING EDUCA-  
13 TION REQUIREMENT UPON THE FILING OF A STATEMENT WITH THE DEPARTMENT  
14 DECLARING SUCH STATUS. ANY LICENSEE WHO RETURNS TO THE PRACTICE OF  
15 ATHLETIC TRAINING DURING THE TRIENNIAL REGISTRATION PERIOD SHALL NOTIFY  
16 THE DEPARTMENT PRIOR TO REENTERING THE PROFESSION AND SHALL MEET SUCH  
17 MANDATORY EDUCATION REQUIREMENTS AS SHALL BE PRESCRIBED BY REGULATIONS  
18 OF THE COMMISSIONER.

19 2. DURING EACH TRIENNIAL REGISTRATION PERIOD, AN APPLICANT FOR REGIS-  
20 TRATION AS A LICENSED ATHLETIC TRAINER SHALL COMPLETE A MINIMUM OF  
21 FORTY-FIVE HOURS OF ACCEPTABLE FORMAL CONTINUING EDUCATION, AS SPECIFIED  
22 IN SUBDIVISION FOUR OF THIS SECTION. ANY LICENSED ATHLETIC TRAINER WHOSE  
23 FIRST REGISTRATION DATE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION  
24 OCCURS LESS THAN THREE YEARS FROM SUCH EFFECTIVE DATE, BUT ON OR AFTER  
25 JANUARY FIRST, TWO THOUSAND SEVENTEEN, SHALL COMPLETE CONTINUING EDUCA-  
26 TION HOURS ON A PRORATED BASIS AT THE RATE OF ONE HOUR PER MONTH FOR THE  
27 PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND SEVENTEEN AND THEN FIFTEEN  
28 HOURS PER YEAR UNTIL HIS OR HER FIRST REGISTRATION DATE THEREAFTER. A  
29 LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTINUING EDUCATION  
30 REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRATION CERTIFICATE BY  
31 THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A CONDITIONAL  
32 REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED FOR IN SUBDIVISION THREE  
33 OF THIS SECTION. CONTINUING EDUCATION HOURS TAKEN DURING ONE TRIENNIUM  
34 MAY NOT BE TRANSFERRED TO A SUBSEQUENT TRIENNIUM.

35 3. THE DEPARTMENT, IN ITS DISCRETION, MAY ISSUE A CONDITIONAL REGIS-  
36 TRATION TO A LICENSEE WHO FAILS TO MEET THE CONTINUING EDUCATION  
37 REQUIREMENTS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION BUT WHO  
38 AGREES TO MAKE UP ANY DEFICIENCIES AND COMPLETE ANY ADDITIONAL EDUCATION  
39 WHICH THE DEPARTMENT MAY REQUIRE. THE FEE FOR SUCH A CONDITIONAL REGIS-  
40 TRATION SHALL BE THE SAME AS, AND IN ADDITION TO, THE FEE FOR THE TRIEN-  
41 NIAL REGISTRATION. THE DURATION OF SUCH CONDITIONAL REGISTRATION SHALL  
42 BE DETERMINED BY THE DEPARTMENT BUT SHALL NOT EXCEED ONE YEAR. ANY  
43 LICENSEE WHO IS NOTIFIED OF THE DENIAL OF REGISTRATION FOR FAILURE TO  
44 SUBMIT EVIDENCE, SATISFACTORY TO THE DEPARTMENT, OF REQUIRED CONTINUING  
45 EDUCATION AND WHO PRACTICES WITHOUT SUCH REGISTRATION MAY BE SUBJECT TO  
46 DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF  
47 THIS TITLE.

48 4. AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE FORMAL  
49 CONTINUING EDUCATION" SHALL MEAN FORMAL COURSES OF LEARNING WHICH  
50 CONTRIBUTE TO PROFESSIONAL PRACTICE IN ATHLETIC TRAINING AND WHICH MEET  
51 THE STANDARDS PRESCRIBED BY REGULATIONS OF THE COMMISSIONER. SUCH FORMAL  
52 COURSES OF LEARNING SHALL INCLUDE, BUT NOT BE LIMITED TO, COLLEGIATE  
53 LEVEL CREDIT AND NON-CREDIT COURSES, PROFESSIONAL DEVELOPMENT PROGRAMS  
54 AND TECHNICAL SESSIONS OFFERED BY NATIONAL, STATE AND LOCAL PROFESSIONAL  
55 ASSOCIATIONS AND OTHER ORGANIZATIONS ACCEPTABLE TO THE DEPARTMENT, AND  
56 ANY OTHER ORGANIZED EDUCATIONAL AND TECHNICAL PROGRAMS ACCEPTABLE TO THE

1 DEPARTMENT. THE DEPARTMENT MAY, IN ITS DISCRETION AND AS NEEDED TO  
2 CONTRIBUTE TO THE HEALTH AND WELFARE OF THE PUBLIC, REQUIRE THE  
3 COMPLETION OF CONTINUING EDUCATION COURSES IN SPECIFIC SUBJECTS TO  
4 FULFILL THIS MANDATORY CONTINUING EDUCATION REQUIREMENT. COURSES MUST BE  
5 TAKEN FROM A SPONSOR APPROVED BY THE DEPARTMENT, PURSUANT TO THE REGU-  
6 LATIONS OF THE COMMISSIONER.

7 5. A LICENSED ATHLETIC TRAINER SHALL MAINTAIN ADEQUATE DOCUMENTATION  
8 OF COMPLETION OF ACCEPTABLE FORMAL CONTINUING EDUCATION AND SHALL  
9 PROVIDE SUCH DOCUMENTATION AT THE REQUEST OF THE DEPARTMENT. FAILURE TO  
10 PROVIDE SUCH DOCUMENTATION UPON THE REQUEST OF THE DEPARTMENT SHALL BE  
11 AN ACT OF MISCONDUCT SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO  
12 SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

13 6. THE MANDATORY CONTINUING EDUCATION FEE SHALL BE FORTY-FIVE DOLLARS,  
14 SHALL BE PAYABLE ON OR BEFORE THE FIRST DAY OF EACH TRIENNIAL REGISTRA-  
15 TION PERIOD, AND SHALL BE PAID IN ADDITION TO THE TRIENNIAL REGISTRATION  
16 FEE REQUIRED BY SECTION EIGHTY-THREE HUNDRED FIFTY-FIVE OF THIS ARTICLE.

17 S 8. Section 8357 of the education law, as added by chapter 798 of the  
18 laws of 1992, is amended to read as follows:

19 S 8357. Non-liability of [certified] LICENSED athletic trainers for  
20 first aid or emergency treatment. Notwithstanding any inconsistent  
21 provision of any general, special or local law, any [certified] LICENSED  
22 athletic trainer who voluntarily and without the expectation of monetary  
23 compensation renders first aid or emergency treatment at the scene of an  
24 accident or other emergency, outside a hospital, doctor's office or any  
25 other place having proper and necessary athletic training equipment, to  
26 a person who is unconscious, ill or injured, shall not be liable for  
27 damages for injuries alleged to have been sustained by such person or  
28 for damages for the death of such person alleged to have occurred by  
29 reason of an act or omission in the rendering of such first aid or emer-  
30 gency treatment unless it is established that such injuries were or such  
31 death was caused by gross negligence on the part of such LICENSED  
32 athletic trainer. Nothing in this section shall be deemed or construed  
33 to relieve a [certified] LICENSED athletic trainer from liability for  
34 damages for injuries or death caused by an act or omission on the part  
35 of an athletic trainer while rendering professional services in the  
36 normal and ordinary course of his or her practice.

37 S 9. This act shall take effect on the first of January next succeed-  
38 ing the date on which it shall have become a law.