

1266--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 8, 2015

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Introduced by M. of A. LAVINE, GRAF, ZEBROWSKI, WALTER, MONTESANO, LIFTON, SKOUFIS, BARRETT, SKARTADOS, SOLAGES -- Multi-Sponsored by -- M. of A. GALEF, KEARNS, LUPINACCI, McDONOUGH, PAULIN, SALADINO -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the licensure 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, EXAMINATION, EVALUATION, MANAGEMENT, TREATMENT  
12    AND REHABILITATION OF INJURIES AND SPORTS RELATED MEDICAL CONDITIONS.  
13    [Supervision of an athletic trainer] ATHLETIC TRAINERS ARE HEALTH CARE  
14    PROFESSIONALS, WHOSE SUPERVISION by a physician shall be continuous but  
15    shall not be construed as requiring the physical presence of the super-  
16    vising physician at the time and place where such services are  
17    performed.  
18    [The scope of work described herein shall not be construed as author-  
19    izing the reconditioning of neurologic injuries, conditions or disease.]  
20    S 2. Section 8352 of the education law, as amended by chapter 658 of  
21    the laws of 1993, is amended to read as follows:

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

LBD03316-06-5

1 S 8352. Definition of practice of athletic training. The practice of  
2 the profession of athletic training is defined as HEALTH CARE PROFES-  
3 SIONALS, WHO, UNDER THE SUPERVISION OF A PHYSICIAN ENGAGE IN the [appli-  
4 cation of principles, methods and procedures for managing athletic inju-  
5 ries, which shall include the preconditioning, conditioning and  
6 reconditioning of an individual who has suffered an athletic injury  
7 through the use of appropriate preventative and supportive devices,  
8 under the supervision of a physician and recognizing illness and refer-  
9 ring to the appropriate medical professional with implementation of  
10 treatment pursuant to physician's orders. Athletic training includes  
11 instruction to coaches, athletes, parents, medical personnel and commu-  
12 nities in the area of care and prevention of athletic injuries.

13 The scope of work described herein shall not be construed as authoriz-  
14 ing the reconditioning of neurologic injuries, conditions or disease]  
15 PREVENTION, RECOGNITION, EXAMINATION, EVALUATION, MANAGEMENT, TREATMENT  
16 AND REHABILITATION OF EMERGENT, ACUTE, SUBACUTE, AND CHRONIC NEUROMUSCU-  
17 LOSKELETAL INJURIES, ATHLETIC INJURIES, ILLNESSES, OR CONDITIONS THAT  
18 ARE WITHIN THE PROFESSIONAL PREPARATION AND EDUCATION OF A LICENSED  
19 ATHLETIC TRAINER AND ARE RELATED TO ACTIVITY THAT REQUIRES PHYSICAL  
20 SKILL AND UTILIZES STRENGTH, POWER, ENDURANCE, SPEED, FLEXIBILITY, RANGE  
21 OF MOTION OR AGILITY. THE PRACTICE OF ATHLETIC TRAINING MAY INCLUDE USE  
22 OF VARIOUS THERAPEUTIC MODALITIES AND TECHNIQUES.

23 THE SCOPE OF WORK DESCRIBED HEREIN SHALL NOT BE CONSTRUED AS AUTHORIZ-  
24 ING THE MANAGEMENT AND TREATMENT OF ACUTE, SUBACUTE OR CHRONIC NEUROLOG-  
25 ICAL PATHOLOGIES AND COMORBIDITIES OR NEUROLOGICAL DISEASE PROCESSES  
26 WITH THE EXCEPTIONS OF MANAGEMENT AND TREATMENT OF EMERGENT NEUROLOGICAL  
27 CONDITIONS SUCH AS CONCUSSIONS, SPINAL CORD INJURIES OR NERVE INJURIES  
28 RESULTING FROM PARTICIPATION IN ATHLETIC EVENTS OR IN INDIVIDUALS  
29 INVOLVED IN ADAPTIVE ATHLETICS.

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

32 S 8353. Use of the title "[certified] athletic trainer". Only a  
33 person [certified] LICENSED or otherwise authorized under this article  
34 shall PRACTICE ATHLETIC TRAINING OR use the title "[certified] athletic  
35 trainer" OR THE ABBREVIATION "AT".

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

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

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

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

5 1. Application: file an application with the department;

6 2. Education: have received an education including a bachelor's, its  
7 equivalent or higher degree in accordance with the commissioner's regu-  
8 lations;

9 3. Experience: have experience in accordance with the commissioner's  
10 regulations;

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

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

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

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

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

22 1. files an application and pays the appropriate fees to the depart-  
23 ment; and

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

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

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

33 (A) THE PRACTICE OF ATHLETIC TRAINING THAT IS AN INTEGRAL PART OF A  
34 PROGRAM OF STUDY BY STUDENTS ENROLLED IN AN ATHLETIC TRAINING PROGRAM  
35 APPROVED BY THE DEPARTMENT. STUDENTS ENROLLED IN AN APPROVED ATHLETIC  
36 TRAINING PROGRAM SHALL BE IDENTIFIED AS "ATHLETIC TRAINING STUDENTS" AND  
37 SHALL ONLY PRACTICE ATHLETIC TRAINING UNDER THE DIRECTION AND IMMEDIATE  
38 SUPERVISION OF AN ATHLETIC TRAINER CURRENTLY LICENSED UNDER THIS ARTI-  
39 CLE. AN ATHLETIC TRAINING STUDENT SHALL NOT HOLD HIMSELF OR HERSELF OUT  
40 AS A LICENSED ATHLETIC TRAINER; OR

41 (B) THE PRACTICE OF ATHLETIC TRAINING BY ANY PERSON WHO IS LICENSED  
42 AND IN GOOD STANDING TO PRACTICE ATHLETIC TRAINING IN ANOTHER STATE FROM  
43 ACTING AS AN ATHLETIC TRAINER WITHOUT A NEW YORK STATE LICENSE SOLELY  
44 FOR THE FOLLOWING PURPOSES: (I) CLINICAL EDUCATION, PRACTICE DEMON-  
45 STRATIONS OR CLINICAL RESEARCH THAT IS WITHIN THE PRACTICE OF ATHLETIC  
46 TRAINING IN CONNECTION WITH A PROGRAM OF BASIC CLINICAL EDUCATION, GRAD-  
47 UATE EDUCATION, OR POST-GRADUATE EDUCATION IN AN APPROVED SCHOOL OF  
48 ATHLETIC TRAINING, OR IN A CLINICAL FACILITY, OR A HEALTH CARE AGENCY,  
49 OR CONTINUING EDUCATION; OR (II) PERFORMING DUTIES WITH HIS OR HER TEAM  
50 OR ORGANIZATION, SO LONG AS DUTIES ARE RESTRICTED TO THAT TEAM OR ORGAN-  
51 IZATION DURING THE COURSE OF THAT TEAM'S OR ORGANIZATION'S STAY IN NEW  
52 YORK STATE FOR NO MORE THAN SIXTY DAYS IN A CALENDAR YEAR; OR (III)  
53 APPROVED TO ASSIST IN THE CARE OF ATHLETES IN A SPECIFIC SANCTIONED  
54 ATHLETIC EVENT; OR (IV) ASSISTING A NEW YORK STATE LICENSED ATHLETIC  
55 TRAINER IN THE CASE OF AN EMERGENCY SITUATION TO ANOTHER TEAM'S PLAYER.  
56 ANY PERSON PRACTICING ATHLETIC TRAINING IN NEW YORK STATE PURSUANT TO

THIS SUBDIVISION SHALL BE SUBJECT TO PERSONAL AND SUBJECT MATTER JURISDICTION AND THE DISCIPLINARY AND REGULATORY AUTHORITY OF THE BOARD OF REGENTS AS IF HE OR SHE IS A LICENSEE AND AS IF THE EXEMPTION PURSUANT TO THIS SUBDIVISION IS A LICENSE. SUCH INDIVIDUALS SHALL COMPLY WITH THE PROVISIONS OF THIS ARTICLE, THE RULES OF THE BOARD OF REGENTS AND THE REGULATIONS OF THE COMMISSIONER RELATING TO PROFESSIONAL MISCONDUCT, DISCIPLINARY PROCEEDINGS AND PENALTIES FOR PROFESSIONAL MISCONDUCT; OR

(C) THE PRACTICE OF ATHLETIC TRAINING BY ANY PERSON WHO IS OTHERWISE AUTHORIZED AND IN GOOD STANDING TO PRACTICE ATHLETIC TRAINING OR ATHLETIC THERAPY IN ANOTHER COUNTRY, STATE, OR TERRITORY THAT IMPOSES THE SAME REQUIREMENTS SET FORTH IN SECTION EIGHT THOUSAND THREE HUNDRED FIFTY-FIVE OF THIS ARTICLE.

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

S 7. The education law is amended by adding two new sections 8356-a and 8356-b to read as follows:

S 8356-A. MANDATORY CONTINUING EDUCATION. 1. (A) EACH LICENSED ATHLETIC TRAINER REQUIRED UNDER THIS ARTICLE TO REGISTER TRIENNIALLY WITH THE DEPARTMENT TO PRACTICE IN THE STATE SHALL COMPLY WITH THE PROVISIONS OF THE MANDATORY CONTINUING EDUCATION REQUIREMENTS PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION EXCEPT AS SET FORTH IN PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION. LICENSED ATHLETIC TRAINERS WHO DO NOT SATISFY THE MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT PRACTICE UNTIL THEY HAVE MET SUCH REQUIREMENTS, AND THEY HAVE BEEN ISSUED A REGISTRATION CERTIFICATE, EXCEPT THAT A LICENSED ATHLETIC TRAINER MAY PRACTICE WITHOUT HAVING MET SUCH REQUIREMENTS IF HE OR SHE IS ISSUED A CONDITIONAL REGISTRATION CERTIFICATE PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

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

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

2. DURING EACH TRIENNIAL REGISTRATION PERIOD, AN APPLICANT FOR REGISTRATION AS A LICENSED ATHLETIC TRAINER SHALL COMPLETE A MINIMUM OF FORTY-FIVE HOURS OF ACCEPTABLE FORMAL CONTINUING EDUCATION, AS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION. ANY LICENSED ATHLETIC TRAINER WHOSE FIRST REGISTRATION DATE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION OCCURS LESS THAN THREE YEARS FROM SUCH EFFECTIVE DATE, BUT ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, SHALL COMPLETE CONTINUING EDUCATION HOURS ON A PRORATED BASIS AT THE RATE OF ONE HOUR PER MONTH FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND SIXTEEN AND THEN FIFTEEN HOURS PER YEAR UNTIL HIS OR HER FIRST REGISTRATION DATE THEREAFTER. A LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTINUING EDUCATION

1 REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRATION CERTIFICATE BY  
2 THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A CONDITIONAL  
3 REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED FOR IN SUBDIVISION THREE  
4 OF THIS SECTION. CONTINUING EDUCATION HOURS TAKEN DURING ONE TRIENNIUM  
5 MAY NOT BE TRANSFERRED TO A SUBSEQUENT TRIENNIUM.

6 3. THE DEPARTMENT, IN ITS DISCRETION, MAY ISSUE A CONDITIONAL REGIS-  
7 TRATION TO A LICENSEE WHO FAILS TO MEET THE CONTINUING EDUCATION  
8 REQUIREMENTS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION BUT WHO  
9 AGREES TO MAKE UP ANY DEFICIENCIES AND COMPLETE ANY ADDITIONAL EDUCATION  
10 WHICH THE DEPARTMENT MAY REQUIRE. THE FEE FOR SUCH A CONDITIONAL REGIS-  
11 TRATION SHALL BE THE SAME AS, AND IN ADDITION TO, THE FEE FOR THE TRIEN-  
12 NIAL REGISTRATION. THE DURATION OF SUCH CONDITIONAL REGISTRATION SHALL  
13 BE DETERMINED BY THE DEPARTMENT BUT SHALL NOT EXCEED ONE YEAR. ANY  
14 LICENSEE WHO IS NOTIFIED OF THE DENIAL OF REGISTRATION FOR FAILURE TO  
15 SUBMIT EVIDENCE, SATISFACTORY TO THE DEPARTMENT, OF REQUIRED CONTINUING  
16 EDUCATION AND WHO PRACTICES WITHOUT SUCH REGISTRATION MAY BE SUBJECT TO  
17 DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF  
18 THIS TITLE.

19 4. AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE FORMAL  
20 EDUCATION" SHALL MEAN FORMAL COURSES OF LEARNING WHICH CONTRIBUTE TO  
21 PROFESSIONAL PRACTICE IN ATHLETIC TRAINING AND WHICH MEET THE STANDARDS  
22 PRESCRIBED BY REGULATIONS OF THE COMMISSIONER. SUCH FORMAL COURSES OF  
23 LEARNING SHALL INCLUDE, BUT NOT BE LIMITED TO, COLLEGIATE LEVEL CREDIT  
24 AND NON-CREDIT COURSES, PROFESSIONAL DEVELOPMENT PROGRAMS AND TECHNICAL  
25 SESSIONS OFFERED BY NATIONAL, STATE AND LOCAL PROFESSIONAL ASSOCIATIONS  
26 AND OTHER ORGANIZATIONS ACCEPTABLE TO THE DEPARTMENT, AND ANY OTHER  
27 ORGANIZED EDUCATIONAL AND TECHNICAL PROGRAMS ACCEPTABLE TO THE DEPART-  
28 MENT. THE DEPARTMENT MAY, IN ITS DISCRETION AND AS NEEDED TO CONTRIBUTE  
29 TO THE HEALTH AND WELFARE OF THE PUBLIC, REQUIRE THE COMPLETION OF  
30 CONTINUING EDUCATION COURSES IN SPECIFIC SUBJECTS TO FULFILL THIS MANDA-  
31 TORY CONTINUING EDUCATION REQUIREMENT. COURSES MUST BE TAKEN FROM A  
32 SPONSOR APPROVED BY THE DEPARTMENT, PURSUANT TO THE REGULATIONS OF THE  
33 COMMISSIONER.

34 5. A LICENSED ATHLETIC TRAINER SHALL MAINTAIN ADEQUATE DOCUMENTATION  
35 OF COMPLETION OF ACCEPTABLE FORMAL CONTINUING EDUCATION AND SHALL  
36 PROVIDE SUCH DOCUMENTATION AT THE REQUEST OF THE DEPARTMENT. FAILURE TO  
37 PROVIDE SUCH DOCUMENTATION UPON THE REQUEST OF THE DEPARTMENT SHALL BE  
38 AN ACT OF MISCONDUCT SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO  
39 SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

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

44 S 8356-B. SPECIAL PROVISIONS. ANY PERSON WHO IS CERTIFIED AS AN  
45 ATHLETIC TRAINER BY THE DEPARTMENT ON THE EFFECTIVE DATE OF THIS SECTION  
46 SHALL BE LICENSED AS AN ATHLETIC TRAINER WITHOUT MEETING ANY ADDITIONAL  
47 REQUIREMENTS. PROVIDED, HOWEVER, THAT SUCH PERSON SHALL BE SUBJECT TO  
48 THE CONTINUING EDUCATION REQUIREMENTS UNDER SECTION EIGHT THOUSAND  
49 FIFTY-SIX-A OF THIS ARTICLE.

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

52 S 8357. Non-liability of [certified] LICENSED athletic trainers for  
53 first aid or emergency treatment. Notwithstanding any inconsistent  
54 provision of any general, special or local law, any [certified] LICENSED  
55 athletic trainer who voluntarily and without the expectation of monetary  
56 compensation renders first aid or emergency treatment at the scene of an

1 accident or other emergency, outside a hospital, doctor's office or any  
2 other place having proper and necessary athletic training equipment, to  
3 a person who is unconscious, ill or injured, shall not be liable for  
4 damages for injuries alleged to have been sustained by such person or  
5 for damages for the death of such person alleged to have occurred by  
6 reason of an act or omission in the rendering of such first aid or emer-  
7 gency treatment unless it is established that such injuries were or such  
8 death was caused by gross negligence on the part of such LICENSED  
9 athletic trainer. Nothing in this section shall be deemed or construed  
10 to relieve a [certified] LICENSED athletic trainer from liability for  
11 damages for injuries or death caused by an act or omission on the part  
12 of an athletic trainer while rendering professional services in the  
13 normal and ordinary course of his or her practice.  
14 S 9. This act shall take effect on the first of January next succeed-  
15 ing the date on which it shall have become a law.