

STATE OF NEW YORK

2783--B

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. LAVINE, ZEBROWSKI, GRAF, WALTER, MONTESANO, LIFTON, SKOUFIS, BARRETT, SKARTADOS, SOLAGES, STIRPE, OTIS, RAIA, BRABENEC, MURRAY, JAFFEE, D'URSO, RA, LUPINACCI, MOYA, NORRIS, STECK, WALLACE -- Multi-Sponsored by -- M. of A. COOK, FITZPATRICK, GALEF, HYNDMAN, KEARNS, LUPARDO, McDONOUGH, ORTIZ, PAULIN, SIMON, WOERNER -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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:

Section 1. Section 8351 of the education law, as amended by chapter 658 of the laws of 1993, is amended to read as follows:

§ 8351. ~~[Definition]~~ Definitions. 1. As used in this article "athletic trainer" means any person who is duly ~~[certified]~~ licensed in accordance with this article to perform athletic training under the supervision of a physician ~~[and limits his or her practice to secondary schools, institutions of postsecondary education, professional athletic organizations, or a person who, under the supervision of a physician, carries out comparable functions on orthopedic athletic injuries, excluding spinal cord injuries, in a health care organization. Supervision of an athletic trainer by a physician shall be continuous but shall not be construed as requiring the physical presence of the supervising physician at the time and place where such services are performed.]~~

~~The scope of work described herein shall not be construed as authorizing the reconditioning of neurologic injuries, conditions or disease].~~
The practice of the profession of athletic training is performed by

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

LBD04222-08-7

1 athletic trainers who are defined as health care professionals who
2 engage in the prevention, recognition, examination, evaluation, assess-
3 ment, management, treatment and rehabilitation of neuromusculoskeletal
4 injuries that occur in active individuals with treatment in accordance
5 with the supervising physician pursuant to standard written protocol.
6 These active individuals engage in activities that require a high degree
7 of physical exertion, that involves training and where injury occurs
8 during such training or athletic endeavor, including but not limited to
9 athletic individuals, performing artists and individuals involved in
10 public protection or emergency services or individuals involved in adap-
11 tive athletics. Athletic trainers recognize, evaluate, and assist in the
12 management of sport-related illnesses and medical conditions. The prac-
13 tice of athletic training may include use of various clinically appro-
14 priate therapeutic modalities and techniques. Supervision by a physician
15 shall be continuous but shall not be construed as requiring the physical
16 presence of the supervising physician at the time and place where such
17 services are performed.

18 The scope of work described in this section shall not be construed as
19 authorizing the management and treatment of acute, subacute, or chronic
20 neurological pathologies and comorbidities or neurological disease proc-
21 esses with the exception of initial evaluation and triage of emergent
22 neurological conditions such as potential concussions, spinal cord inju-
23 ries or nerve injuries resulting from participation in an athletic
24 endeavor, while training, or during adaptive athletics. Further,
25 athletic trainers shall work with individuals pursuant to standard writ-
26 ten protocol to manage, monitor and treat such injuries after an indi-
27 vidual has been cleared by a supervising physician to begin rehabili-
28 tation for participation in an athletic endeavor, training, or adaptive
29 athletics.

30 2. As used in this article "emergent" means a serious, unexpected and
31 often dangerous situation requiring immediate action.

32 § 2. Section 8352 of the education law, as amended by chapter 658 of
33 the laws of 1993, is amended to read as follows:

34 § 8352. Definition of practice of athletic training. [~~The practice of~~
35 ~~the profession of athletic training is defined as the application of~~
36 ~~principles, methods and procedures for managing athletic injuries, which~~
37 ~~shall include the preconditioning, conditioning and reconditioning of an~~
38 ~~individual who has suffered an athletic injury through the use of appro-~~
39 ~~priate preventative and supportive devices, under the supervision of a~~
40 ~~physician and recognizing illness and referring to the appropriate~~
41 ~~medical professional with implementation of treatment pursuant to physi-~~
42 ~~cian's orders.~~] Athletic training includes instruction to coaches,
43 athletes, active individuals, parents, medical personnel and communities
44 in the area of care and prevention of [~~athletic~~] neuromusculoskeletal
45 injuries. Supervision by a physician shall include specific or standing
46 orders for athletic training services.

47 [~~The scope of work described herein shall not be construed as author-~~
48 ~~izing the reconditioning of neurologic injuries, conditions or disease.~~]

49 § 3. Section 8353 of the education law, as added by chapter 798 of the
50 laws of 1992, is amended to read as follows:

51 § 8353. Use of the title "[~~certified~~] athletic trainer". Only a
52 person [~~certified~~] licensed or otherwise authorized under this article
53 shall practice athletic training or use the title "[~~certified~~] athletic
54 trainer" or the abbreviation "AT".

55 § 4. Section 8354 of the education law, as added by chapter 798 of the
56 laws of 1992, is amended to read as follows:

§ 8354. State committee for athletic trainers. A state committee for athletic trainers shall be appointed by the board of regents, upon the recommendation of the commissioner and shall assist on matters of ~~[certification]~~ professional licensing and professional conduct in accordance with section six thousand five hundred eight of this title. The committee shall consist of ~~[five]~~ seven members, five who are athletic trainers ~~[certified]~~ licensed in this state, one practicing physician who is licensed in this state to practice as an orthopedic surgeon, a primary care/family practice physician, a sports medicine practitioner, or a neurologist and one public member that is a consumer of the profession. The committee shall assist the state board for medicine in athletic training matters. Nominations and terms of office of the members of the state committee for athletic trainers shall conform to the corresponding provisions relating thereto for state boards under article one hundred thirty of this chapter. ~~[Notwithstanding the foregoing, the members of the first committee need not be certified prior to their appointment to the committee.]~~

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

§ 8355. Requirements and procedure for professional ~~[certification]~~ licensure. ~~[For certification as a certified]~~ To qualify for a license as an athletic trainer under this article, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;
2. Education: have received an education including a bachelor's, its equivalent or higher degree in accordance with the commissioner's regulations, provided however, as of December thirty-first, two thousand twenty-six, applicants must have received a master's degree, its equivalent or higher in accordance with the commissioner's regulations;
3. Experience: have experience in accordance with the commissioner's regulations;
4. Examination: pass an examination in accordance with the commissioner's regulations;
5. Age: be at least twenty-one years of age; and
6. Fees: pay a fee for an initial ~~[certificate]~~ license of one hundred dollars to the department; and a fee of fifty dollars for each triennial registration period.

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

§ 8356. ~~[Special provisions. A person shall be certified without examination provided that, within three years from the effective date of regulations implementing the provisions of this article, the individual:~~

~~1. files an application and pays the appropriate fees to the department; and~~

~~2. meets the requirements of subdivisions two and five of section eight thousand three hundred fifty-five of this article and who in addition:~~

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

~~(b) is certified by a United States certifying body acceptable to the department.]~~ Exempt persons. 1. Nothing contained in this article shall prohibit:

(a) the practice of athletic training that is an integral part of a program of study by students enrolled in an athletic training program approved by the department. Students enrolled in an approved athletic

1 training program shall be identified as "athletic training students" and
2 shall only practice athletic training under the direction and immediate
3 supervision of an athletic trainer currently licensed under this arti-
4 cle. An athletic training student shall not hold himself or herself out
5 as a licensed athletic trainer; or

6 (b) the practice of athletic training by any person who is licensed
7 and in good standing to practice athletic training in another state from
8 acting as an athletic trainer without a New York state license solely
9 for the following purposes: (i) clinical education, practice demon-
10 strations or clinical research that is within the practice of athletic
11 training in connection with a program of basic clinical education, grad-
12 uate education, or post-graduate education in an approved school of
13 athletic training, or in a clinical facility, or a health care agency,
14 or continuing education; or (ii) performing duties with his or her team
15 or organization, so long as duties are restricted to that team or organ-
16 ization during the course of that team's or organization's stay in New
17 York state for no more than sixty days in a calendar year; or (iii)
18 assisting in the care of athletes in a specific sanctioned athletic
19 event; or (iv) assisting a New York state licensed athletic trainer in
20 the case of an emergency situation to another team's player. Any person
21 practicing athletic training in New York state pursuant to this subdivi-
22 sion shall be subject to personal and subject matter jurisdiction and
23 the disciplinary and regulatory authority of the board of regents as if
24 he or she is a licensee and as if the exemption pursuant to this subdivi-
25 sion is a license. Such individuals shall consent to the appointment
26 of the secretary of state or other public official acceptable to the
27 department, in such athletic trainers' states of licensure as the
28 athletic trainers' agents upon whom process may be served in any actions
29 or proceedings by the department against such athletic trainers. Such
30 individuals shall comply with the provisions of this article, the rules
31 of the board of regents and the regulations of the commissioner relating
32 to professional misconduct, disciplinary proceedings and penalties for
33 professional misconduct; or

34 (c) the practice of athletic training by any person who is otherwise
35 authorized and in good standing to practice athletic training or athlet-
36 ic therapy in another country, state, or territory that imposes the same
37 requirements set forth in section eighty-three hundred fifty-five of
38 this article. Any person practicing athletic training in New York state
39 pursuant to this subdivision shall be subject to personal and subject
40 matter jurisdiction and the disciplinary and regulatory authority of the
41 board of regents as if he or she is a licensee and as if the exemption
42 pursuant to this subdivision is a license. Such individuals shall
43 consent to the appointment of the secretary of state or other public
44 official acceptable to the department, in such athletic trainers' states
45 of licensure as the athletic trainers' agents upon whom process may be
46 served in any actions or proceedings by the department against such
47 athletic trainers. Such individuals shall comply with the provisions of
48 this article, the rules of the board of regents and the regulations of
49 the commissioner relating to professional misconduct, disciplinary
50 proceedings and penalties for professional misconduct.

51 2. This article shall not be construed to prohibit qualified members
52 of other licensed or legally recognized professions from performing work
53 incidental to the practice of their profession, except that such persons
54 may not hold themselves out under the title athletic trainer or as
55 performing athletic training.

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

3 § 8356-a. Mandatory continuing education. 1. (a) Each licensed athletic
4 trainer required under this article to register triennially with the
5 department to practice in the state shall comply with the provisions of
6 the mandatory continuing education requirements prescribed in subdivi-
7 sion two of this section except as set forth in paragraphs (b) and (c)
8 of this subdivision. Licensed athletic trainers who do not satisfy the
9 mandatory continuing education requirements shall not practice until
10 they have met such requirements, and they have been issued a registra-
11 tion certificate, except that a licensed athletic trainer may practice
12 without having met such requirements if he or she is issued a condi-
13 tional registration certificate pursuant to subdivision three of this
14 section.

15 (b) Each licensed athletic trainer shall be exempt from the mandatory
16 continuing education requirement for the triennial registration period
17 during which he or she is first licensed. In accordance with the intent
18 of this section, adjustment to the mandatory continuing education
19 requirement may be granted by the department for reasons of health
20 certified by an appropriate health care professional, for extended
21 active duty with the armed forces of the United States, or for other
22 good cause acceptable to the department which may prevent compliance.

23 (c) A licensed athletic trainer not engaged in practice, as determined
24 by the department, shall be exempt from the mandatory continuing educa-
25 tion requirement upon the filing of a statement with the department
26 declaring such status. Any licensee who returns to the practice of
27 athletic training during the triennial registration period shall notify
28 the department prior to reentering the profession and shall meet such
29 mandatory education requirements as shall be prescribed by regulations
30 of the commissioner.

31 2. During each triennial registration period, an applicant for regis-
32 tration as a licensed athletic trainer shall complete a minimum of
33 forty-five hours of acceptable formal continuing education, as specified
34 in subdivision four of this section. Any licensed athletic trainer whose
35 first registration date following the effective date of this section
36 occurs less than three years from such effective date, but on or after
37 January first, two thousand nineteen, shall complete continuing educa-
38 tion hours on a prorated basis at the rate of one hour per month for the
39 period beginning January first, two thousand nineteen and then fifteen
40 hours per year until his or her first registration date thereafter. A
41 licensee who has not satisfied the mandatory continuing education
42 requirements shall not be issued a triennial registration certificate by
43 the department and shall not practice unless and until a conditional
44 registration certificate is issued as provided for in subdivision three
45 of this section. Continuing education hours taken during one triennium
46 may not be transferred to a subsequent triennium.

47 3. The department, in its discretion, may issue a conditional regis-
48 tration to a licensee who fails to meet the continuing education
49 requirements established in subdivision two of this section but who
50 agrees to make up any deficiencies and complete any additional education
51 which the department may require. The fee for such a conditional regis-
52 tration shall be the same as, and in addition to, the fee for the trien-
53 ennial registration. The duration of such conditional registration shall
54 be determined by the department but shall not exceed one year. Any
55 licensee who is notified of the denial of registration for failure to
56 submit evidence, satisfactory to the department, of required continuing

1 education and who practices without such registration may be subject to
2 disciplinary proceedings pursuant to section sixty-five hundred ten of
3 this title.

4 4. As used in subdivision two of this section, "acceptable formal
5 education" shall mean formal courses of learning which contribute to
6 professional practice in athletic training and which meet the standards
7 prescribed by regulations of the commissioner. Such formal courses of
8 learning shall include, but not be limited to, collegiate level credit
9 and non-credit courses, professional development programs and technical
10 sessions offered by national, state and local professional associations,
11 and any other organized educational and technical programs acceptable to
12 the department. The department may, in its discretion and as needed to
13 contribute to the health and welfare of the public, require the
14 completion of continuing education courses in specific subjects to
15 fulfill this mandatory continuing education requirement. Continuing
16 education courses must be taken from a provider approved by the depart-
17 ment, based upon an application and fee pursuant to the regulations of
18 the commissioner.

19 5. A licensed athletic trainer shall maintain adequate documentation
20 of completion of acceptable formal continuing education and shall
21 provide such documentation at the request of the department. Failure to
22 provide such documentation upon the request of the department shall be
23 an act of misconduct subject to disciplinary proceedings pursuant to
24 section sixty-five hundred ten of this title.

25 6. The mandatory continuing education fee shall be payable on or
26 before the first day of each triennial registration period, and shall be
27 paid in addition to the triennial registration fee required by section
28 eighty-three hundred fifty-five of this article.

29 § 8356-b. Special provisions. Any person who is licensed as a certi-
30 fied athletic trainer by the department on the effective date of this
31 section shall be licensed as an athletic trainer without meeting any
32 additional requirements.

33 § 8. Section 8357 of the education law, as added by chapter 798 of the
34 laws of 1992, is amended to read as follows:

35 § 8357. Non-liability of [~~certified~~] licensed athletic trainers for
36 first aid or emergency treatment. Notwithstanding any inconsistent
37 provision of any general, special or local law, any [~~certified~~] licensed
38 athletic trainer who voluntarily and without the expectation of monetary
39 compensation renders first aid or emergency treatment at the scene of an
40 accident or other emergency, outside a hospital, doctor's office or any
41 other place having proper and necessary athletic training equipment, to
42 a person who is unconscious, ill or injured, shall not be liable for
43 damages for injuries alleged to have been sustained by such person or
44 for damages for the death of such person alleged to have occurred by
45 reason of an act or omission in the rendering of such first aid or emer-
46 gency treatment unless it is established that such injuries were or such
47 death was caused by gross negligence on the part of such licensed
48 athletic trainer. Nothing in this section shall be deemed or construed
49 to relieve a [~~certified~~] licensed athletic trainer from liability for
50 damages for injuries or death caused by an act or omission on the part
51 of an athletic trainer while rendering professional services in the
52 normal and ordinary course of his or her practice.

53 § 9. This act shall take effect on the first of January next succeed-
54 ing the date on which it shall have become a law.