

STATE OF NEW YORK

1356--A

2017-2018 Regular Sessions

IN SENATE

January 9, 2017

Introduced by Sens. FUNKE, DeFRANCISCO, GALLIVAN, GRIFFO, LARKIN, ORTT, RANZENHOFER, ROBACH -- read twice and ordered printed, and when printed to be committed 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:

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 athletic trainers who are defined as health care professionals who engage in the prevention, recognition, examination, evaluation, assessment, management, treatment and rehabilitation of neuromusculoskeletal injuries that occur in active individuals with treatment in accordance with the supervising physician. These active individuals engage in

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

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activities that require a high degree of physical exertion, that involves training and where injury occurs during such training or athletic endeavor, including but not limited to athletic individuals, performing artists and individuals involved in public protection or emergency services or individuals involved in adaptive athletics. Athletic trainers recognize, evaluate, and assist in the management of sport-related illnesses and medical conditions. The practice of athletic training may include use of various clinically appropriate therapeutic modalities and techniques. Supervision 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 in this section shall not be construed as authorizing the management and treatment of acute, subacute, or chronic neurological pathologies and comorbidities or neurological disease processes with the exceptions of management and treatment of emergent neurological conditions such as potential concussions, spinal cord injuries or nerve injuries resulting from participation in an athletic endeavor, while training, or in individuals involved in adaptive athletics.

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

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

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

~~[The scope of work described herein shall not be construed as authorizing the reconditioning of neurologic injuries, conditions or disease.]~~

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

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

§ 4. Section 8354 of the education law, as added by chapter 798 of the 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

1 of the profession. The committee shall assist the state board for medi-
2 cine in athletic training matters. Nominations and terms of office of
3 the members of the state committee for athletic trainers shall conform
4 to the corresponding provisions relating thereto for state boards under
5 article one hundred thirty of this chapter. [~~Notwithstanding the forego-~~
6 ~~ing, the members of the first committee need not be certified prior to~~
7 ~~their appointment to the committee.~~]

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

10 § 8355. Requirements and procedure for professional [~~certification~~]
11 licensure. [~~For certification as a certified~~] To qualify for a license
12 as an athletic trainer under this article, an applicant shall fulfill
13 the following requirements:

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

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

30 § 8356. [~~Special provisions. A person shall be certified without exam-~~
31 ~~ination provided that, within three years from the effective date of~~
32 ~~regulations implementing the provisions of this article, the individual:~~
33 ~~1. files an application and pays the appropriate fees to the depart-~~
34 ~~ment; and~~

35 ~~2. meets the requirements of subdivisions two and five of section~~
36 ~~eight thousand three hundred fifty five of this article and who in addi-~~
37 ~~tion:~~

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

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

44 (a) the practice of athletic training that is an integral part of a
45 program of study by students enrolled in an athletic training program
46 approved by the department. Students enrolled in an approved athletic
47 training program shall be identified as "athletic training students" and
48 shall only practice athletic training under the direction and immediate
49 supervision of an athletic trainer currently licensed under this arti-
50 cle. An athletic training student shall not hold himself or herself out
51 as a licensed athletic trainer; or

52 (b) the practice of athletic training by any person who is licensed
53 and in good standing to practice athletic training in another state from
54 acting as an athletic trainer without a New York state license solely
55 for the following purposes: (i) clinical education, practice demon-
56 strations or clinical research that is within the practice of athletic

1 training in connection with a program of basic clinical education, grad-
2 uate education, or post-graduate education in an approved school of
3 athletic training, or in a clinical facility, or a health care agency,
4 or continuing education; or (ii) performing duties with his or her team
5 or organization, so long as duties are restricted to that team or organ-
6 ization during the course of that team's or organization's stay in New
7 York state for no more than sixty days in a calendar year; or (iii)
8 assisting in the care of athletes in a specific sanctioned athletic
9 event; or (iv) assisting a New York state licensed athletic trainer in
10 the case of an emergency situation to another team's player. Any person
11 practicing athletic training in New York state pursuant to this subdivi-
12 sion shall be subject to personal and subject matter jurisdiction and
13 the disciplinary and regulatory authority of the board of regents as if
14 he or she is a licensee and as if the exemption pursuant to this subdivi-
15 vision is a license. Such individuals shall consent to the appointment
16 of the secretary of state or other public official acceptable to the
17 department, in such athletic trainers' states of licensure as the
18 athletic trainers' agents upon whom process may be served in any actions
19 or proceedings by the department against such athletic trainers. Such
20 individuals shall comply with the provisions of this article, the rules
21 of the board of regents and the regulations of the commissioner relating
22 to professional misconduct, disciplinary proceedings and penalties for
23 professional misconduct; or

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

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

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

48 § 8356-a. Mandatory continuing education. 1. (a) Each licensed athlet-
49 ic trainer required under this article to register triennially with the
50 department to practice in the state shall comply with the provisions of
51 the mandatory continuing education requirements prescribed in subdivi-
52 sion two of this section except as set forth in paragraphs (b) and (c)
53 of this subdivision. Licensed athletic trainers who do not satisfy the
54 mandatory continuing education requirements shall not practice until
55 they have met such requirements, and they have been issued a registra-
56 tion certificate, except that a licensed athletic trainer may practice

1 without having met such requirements if he or she is issued a condi-
2 tional registration certificate pursuant to subdivision three of this
3 section.

4 (b) Each licensed athletic trainer shall be exempt from the mandatory
5 continuing education requirement for the triennial registration period
6 during which he or she is first licensed. In accordance with the intent
7 of this section, adjustment to the mandatory continuing education
8 requirement may be granted by the department for reasons of health
9 certified by an appropriate health care professional, for extended
10 active duty with the armed forces of the United States, or for other
11 good cause acceptable to the department which may prevent compliance.

12 (c) A licensed athletic trainer not engaged in practice, as determined
13 by the department, shall be exempt from the mandatory continuing educa-
14 tion requirement upon the filing of a statement with the department
15 declaring such status. Any licensee who returns to the practice of
16 athletic training during the triennial registration period shall notify
17 the department prior to reentering the profession and shall meet such
18 mandatory education requirements as shall be prescribed by regulations
19 of the commissioner.

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

36 3. The department, in its discretion, may issue a conditional regis-
37 tration to a licensee who fails to meet the continuing education
38 requirements established in subdivision two of this section but who
39 agrees to make up any deficiencies and complete any additional education
40 which the department may require. The fee for such a conditional regis-
41 tration shall be the same as, and in addition to, the fee for the trien-
42 ennial registration. The duration of such conditional registration shall
43 be determined by the department but shall not exceed one year. Any
44 licensee who is notified of the denial of registration for failure to
45 submit evidence, satisfactory to the department, of required continuing
46 education and who practices without such registration may be subject to
47 disciplinary proceedings pursuant to section sixty-five hundred ten of
48 this title.

49 4. As used in subdivision two of this section, "acceptable formal
50 education" shall mean formal courses of learning which contribute to
51 professional practice in athletic training and which meet the standards
52 prescribed by regulations of the commissioner. Such formal courses of
53 learning shall include, but not be limited to, collegiate level credit
54 and non-credit courses, professional development programs and technical
55 sessions offered by national, state and local professional associations,
56 and any other organized educational and technical programs acceptable to

1 the 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. Continuing
5 education courses must be taken from a provider approved by the depart-
6 ment, based upon an application and fee pursuant to the regulations of
7 the commissioner.

8 5. A licensed athletic trainer shall maintain adequate documentation
9 of completion of acceptable formal continuing education and shall
10 provide such documentation at the request of the department. Failure to
11 provide such documentation upon the request of the department shall be
12 an act of misconduct subject to disciplinary proceedings pursuant to
13 section sixty-five hundred ten of this title.

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

18 § 8356-b. Special provisions. Any person who is licensed as a certi-
19 fied athletic trainer by the department on the effective date of this
20 section shall be licensed as an athletic trainer without meeting any
21 additional requirements.

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

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

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