STATE OF NEW YORK

942--A

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sens. BAILEY, GALLIVAN, MURRAY, SKOUFIS, WEBB -- 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 requiring licensure of athletic trainers; and to amend the social services law, in relation to making athletic trainers mandatory reporters of suspected child abuse or maltreatment

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. **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, amateur athletic organizations, non-profit** 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~~] **dance organizations, military academies and facilities of the United States, fire training programs or academies, and police training schools and academies. An athletic trainer may also, under the supervision of a physician in a health care organization or a physician's private practice, carry out comparable functions on orthopedic athletic injuries**.

2. 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**, provided however, that such supervision shall include a signed written agreement or protocol created collaboratively between the**

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

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supervising physician and licensed athletic trainer. The written agreement or protocol shall address and describe the nature and scope of athletic training services to be performed by such licensed athletic trainer, in accordance with this title. Such written agreement or protocol shall be reviewed at least once a year by the supervising physician and athletic trainer and revised if necessary. No physician shall supervise more than four athletic trainers, except that such limitation shall not apply for athletic trainers practicing in secondary schools, and institutions of postsecondary education, who are practicing under the supervision of a physician who serves as the medical director for such school or institution.

3. An athletic trainer shall make a written or oral referral to a physician of any individual being treated for an orthopedic athletic injury whose symptoms have not improved for a period of four days from the day of onset. An individual treated for an orthopedic athletic injury by an athletic trainer in a healthcare organization or a physician's private practice shall receive a medical evaluation or reevaluation if treatment by the athletic trainer exceeds two weeks.

4. The scope of work described herein shall not be construed as authorizing [~~the reconditioning of neurologic injuries, conditions or disease~~] the management and treatment of neurological injuries, conditions, or diseases, except for initial evaluation and triage of emergent neurological conditions.

§ 2. Section 8352 of the education law, as amended 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, parents, medical personnel and communities in the area of care and prevention of athletic injuries.~~

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

1. The prevention, recognition, examination, evaluation, assessment, management, treatment and rehabilitation of athletic injuries;

2. The recognition of illness and referral to the appropriate medical professional with implementation of treatment pursuant to physician's orders;

3. Instruction to coaches, athletes, parents, medical personnel, and communities in the area of care and prevention of athletic injuries; and

4. The use of clinically appropriate therapeutic modalities and techniques, including the use of:

(a) Physical, chemical, and mechanical means including the use of heat, cold, light, air, water, sound, electricity, massage, mobilization as it relates to athletic training, including non-thrust mobilization, and exercise; and

(b) Appropriate preventative and supportive devices and temporary splinting or bracing.

§ 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~~] **licensed** athletic trainer". Only a person [~~certified~~] **licensed** or otherwise authorized under this article shall use the title "[~~certified~~] **licensed** athletic trainer"**, "athletic trainer", or the abbreviation "AT" or "LAT" in connection with his or her name or with any trade name in the conduct of his or her profession. Only a person licensed or otherwise authorized under this article shall practice athletic training**.

§ 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 [~~who~~]**, five of whom** are athletic trainers [~~certified~~] **licensed** in this state**, one physician who is licensed in the state and certified by a physician specialty certification organization acceptable to the department in the specialties of orthopedic surgery, primary care, family practice, sports medicine, or neurology, 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 title eight** 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;

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 **fifty-eight** dollars to the department; and a fee of [~~fifty~~] **fifty-eight** dollars for each triennial registration period[~~.~~]**; and**

7. Character: be of good moral character as determined by the department.

§ 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. This article shall not be construed to affect or prevent:

1. Qualified members of other licensed or legally recognized professions from performing work incidental to the practice of their profession, except that such persons may not hold themselves out under the title athletic trainer or as performing athletic training.

2. An athletic training student from engaging in clinical practice under the supervision of a licensed athletic trainer as part of a program of study approved by the department.

3. An athletic trainer licensed in another state or country from conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or post-graduate education in an approved school of athletic training, or in a clinical facility, or a health care agency.

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

§ 8356-a. Mandatory continuing education. 1. (a) Each licensed athletic trainer, licensed pursuant to this article, shall be required to register triennially with the department to practice in the state and 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 such mandatory continuing education requirements shall not practice until they have met such requirements, and 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, provided that no more than fifteen hours of such continuing education shall consist of self-study cours-

es. Any licensed athletic trainer whose first registration date following the effective date of this section occurs less than three years from such effective date shall complete continuing education hours on a prorated basis, as determined by the department, beginning on such effective date until his or her first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium shall not be transferred to a subsequent triennium.

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

4. For purposes of this section: (a) "Acceptable learning activities" shall include, but not be limited to, formal courses of learning which contribute to professional practice in athletic training and/or self-study activities; independent study; formal mentoring activities; publication in professional journals; or lectures, which meet the standards prescribed by regulations of the commissioner; and

(b) "Formal courses of learning" shall include, but not be limited to, collegiate level credit and non-credit courses, professional development programs and technical sessions offered by national, state and local professional associations and any other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. Formal courses shall be taken from a sponsor approved by the department, based upon an application and fee, pursuant to the regulations of the commissioner.

5. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education credits in specific subjects to fulfill the mandatory continuing education requirement under this section.

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

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

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

§ 8357. Non-liability of [~~certified~~] licensed athletic trainers for first aid or emergency treatment. Notwithstanding any inconsistent

provision of any general, special or local law, any [~~certified~~] **licensed** athletic trainer who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary athletic training equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such athletic trainer. Nothing in this section shall be deemed or construed to relieve a [~~certified~~] **licensed** athletic trainer from liability for damages for injuries or death caused by an act or omission on the part of an athletic trainer while rendering professional services in the normal and ordinary course of his or her practice.

§ 9. Section 8358 of the education law is renumbered section 8360 and two new sections 8358 and 8359 are added to read as follows:

§ 8358. Limited permits. 1. The department may issue a limited permit to an applicant who meets all qualifications for licensure, except the examination, in accordance with regulations promulgated therefor.

2. Limited permits shall be valid for one year, and such limited permits may be renewed, at the discretion of the department, for one additional year.

3. The fee for each limited permit and for each renewal shall be seventy dollars.

4. A limited permit holder shall practice only under the supervision of a physician as determined in accordance with the commissioner's regulations.

§ 8359. Special provisions. Any person who is certified as an athletic trainer on the effective date of this article shall be licensed as an athletic trainer without meeting any additional requirements.

§ 10. Paragraph a of subdivision 3 of section 6507 of the education law, as amended by chapter 479 of the laws of 2022, is amended to read as follows:

a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each profession. Notwithstanding any other provision of law, the commissioner shall establish standards requiring that all persons applying, on or after January first, nineteen hundred ninety-one, initially, or for the renewal of, a license, registration or limited permit to be a physician, chiropractor, dentist, registered nurse, podiatrist, optometrist, psychiatrist, psychologist, licensed master social worker, licensed clinical social worker, licensed creative arts therapist, licensed marriage and family therapist, licensed mental health counselor, licensed psychoanalyst, dental hygienist, licensed behavior analyst, [~~or~~] certified behavior analyst assistant**, or athletic trainer** shall, in addition to all the other licensure, certification or permit requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social

services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Such coursework or training may also include information regarding the physical and behavioral indicators of the abuse of individuals with developmental disabilities and voluntary reporting of abused or neglected adults to the office for people with developmental disabilities or the local adult protective services unit. Each applicant shall provide the department with documentation showing that he or she has completed the required training. The department shall provide an exemption from the child abuse and maltreatment training requirements to any applicant who requests such an exemption and who shows, to the department's satisfaction, that there would be no need because of the nature of his or her practice for him or her to complete such training;

§ 11. Section 6505-b of the education law, as amended by chapter 10 of the laws of 2018, is amended to read as follows:

§ 6505-b. Course work or training in infection control practices. Every dentist, registered nurse, licensed practical nurse, podiatrist, optometrist**, athletic trainer,** and dental hygienist practicing in the state shall, on or before July first, nineteen hundred ninety-four and every four years thereafter, complete course work or training appropriate to the professional's practice approved by the department regarding infection control, which shall include sepsis, and barrier precautions, including engineering and work practice controls, in accordance with regulatory standards promulgated by the department, in consultation with the department of health, which shall be consistent, as far as appropriate, with such standards adopted by the department of health pursuant to section two hundred thirty-nine of the public health law to prevent the transmission of HIV, HBV, HCV and infections that could lead to sepsis in the course of professional practice. Each such professional shall document to the department at the time of registration commencing with the first registration after July first, nineteen hundred ninety-four that the professional has completed course work or training in accordance with this section, provided, however that a professional subject to the provisions of paragraph (f) of subdivision one of section twenty-eight hundred five-k of the public health law shall not be required to so document. The department shall provide an exemption from this requirement to anyone who requests such an exemption and who (i) clearly demonstrates to the department's satisfaction that there would be no need for him or her to complete such course work or training because of the nature of his or her practice or (ii) that he or she has completed course work or training deemed by the department to be equivalent to the course work or training approved by the department pursuant to this section. The department shall consult with organizations representative of professions, institutions and those with expertise in infection control and HIV, HBV, HCV and infections that could lead to sepsis with respect to the regulatory standards promulgated pursuant to this section.

§ 12. Paragraph (a) of subdivision 1 of section 413 of the social services law, as amended by section 7 of part C of chapter 57 of the laws of 2018, is amended to read as follows:

(a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or

maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; **athletic trainer;** psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate; social services worker; employee of a publicly-funded emergency shelter for families with children; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section thirteen hundred ninety-two of the public health law; day care center worker; school-age child care worker; provider of family or group family day care; employee or volunteer in a residential care facility for children that is licensed, certified or operated by the office of children and family services; or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of alcoholism and substance abuse services; employees, who are expected to have regular and substantial contact with children, of a health home or health home care management agency contracting with a health home as designated by the department of health and authorized under section three hundred sixty-five-l of this chapter or such employees who provide home and community based services under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act who are expected to have regular and substantial contact with children; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.

§ 13. This act shall take effect two years after it shall have become a law; provided, however, that section seven of this act shall take effect five years after this act shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.