

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Kansen Chu, Chair

AB 1592 (Bonta) – As Amended March 28, 2019

SUBJECT: Athletic trainers.

SUMMARY: Would enact, until January 1, 2028, the Athletic Training Practice Act for the purpose of licensing persons engaged in the profession of Athletic Trainer. Specifically, **this bill:**

- 1) Establishes, until January 1, 2028, the Athletic Training Practice Act and the 7 member California Board of Athletic Training within the Department of Consumer Affairs, comprised of:
 - a) three licensed athletic trainers appointed by the Governor;
 - b) three public members, one each appointed by the Governor, Senate Committee on Rules and Speaker of the Assembly, and;
 - c) one physician and surgeon licensed by the Medical Board of California (MBC) or one osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California (OMBC) appointed by the Governor.
- 2) Requires the Board to adopt, repeal, and amend regulations as may be necessary and authorizes the Board, prior to adopting regulations, to consult the professional standards issued by the National Athletic Trainers' Association (NATA), the Board of Certification, Inc. (BOC), the Commission on Accreditation of Athletic Training Education (CAATE), or any other nationally recognized professional athletic training organization.
- 3) Specifies that the Board shall give protection of the public the highest priority and whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
- 4) States that except as otherwise provided in this chapter, the board shall issue an athletic training license to an applicant who meets all of the following requirements:
 - a) At the time of application, the applicant is over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of a license under Section 480.
 - b) The applicant has submitted an application developed by the board.
 - c) The applicant passed an athletic training certification examination offered by the Board of Certification, Inc., its predecessors or successors, or another nationally accredited athletic trainer certification agency approved and recognized by the board.

- d) The applicant has passed a criminal background check.
 - e) The applicant has paid the application fee established by the board.
- 5) Provides that a license issued is valid for two years and thereafter is subject to the following renewal requirements: the applicant pays the renewal fee; demonstrates satisfactory completion of necessary continuing education, and; has a current athletic training certification from a certification body approved by the board, including, but not limited to, the Board of Certification, Inc., or its predecessors or successors.
- 6) States that the board may deny a license for any of the following reasons. The applicant:
- a) does not meet the requirements of this chapter;
 - b) has had an athletic training license, certification, or registration revoked or suspended by an accredited organization or another state or country;
 - c) has been convicted of a crime that is substantially related to the functions or duties of an athletic trainer, or;
 - d) has committed unprofessional conduct, as described.
- 7) Provides that the board may order any of the following actions regarding an athletic training license after notice and a hearing, as specified, to determine unprofessional conduct:
- a) Placing the license on probation with terms and conditions.
 - b) Suspending the license and the ability to practice athletic training for a period not to exceed one year.
 - c) Revoking the license.
 - d) Suspending or staying the disciplinary order, or portions of it, with or without conditions.
 - e) Issuing an initial license on probation, with specific terms and conditions, to an applicant who has violated this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.
 - f) Taking any other action as the board, in its discretion, deems proper to protect the public health and safety, as provided.
- 8) Provides, for the purposes of this chapter, the following definitions apply:
- a) “Board” means the California Board of Athletic Training.
 - b) “Director” means the Director of Consumer Affairs.
 - c) “Athlete” means a person who participates in an athletic activity.

- d) “Athletic activity” means participation in exercise, sport, game, recreation, wellness, fitness, performing arts, or employment activities that requires physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility.
- e) “Athletic trainer” means a person who meets the requirements of this chapter, is licensed by the board, and practices under the supervision of a licensed physician or surgeon.

States that an athletic trainer is a healing arts licensee.

- 9) Requires that a person shall not practice athletic training or hold themselves out as an athletic trainer or as being able to practice athletic training, or to render athletic training services in this state unless that person is licensed pursuant to this chapter.
- 10) Further requires, that no person may use the title “athletic trainer,” “licensed athletic trainer,” “certified athletic trainer,” “athletic trainer certified,” “a.t.,” “a.t.l.,” “l.a.t.,” “c.a.t.,” “a.t.c.,” or any other variation of these terms, or any other similar terms indicating that the person is an athletic trainer unless that person is licensed pursuant to this chapter.
- 11) Allows a person who is currently using one of the titles listed under (10) above, and is covered under a collective bargaining agreement is not subject to the requirements of subdivision (10) until the parties to that bargaining agreement renew that agreement. At that time, a person shall not use the titles listed in subdivision (10) if the individual does not meet the requirements of this section. Those individuals may choose a different title to describe their positions under the new collective bargaining agreement.
- 12) States that no employee whose title is changed in order to comply with this section shall suffer any loss of employment status as a result of the title change, including, but not limited to, layoff, demotion, termination, reclassification, or loss of pay, seniority, benefits, or any other status or compensation related to the position.
- 13) Defines “athletic training” as:
 - a) Risk management and injury or illness prevention through pre-participation screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks.
 - b) The clinical evaluation and assessment of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, for which the athletic trainer has had formal training during his or her professional education program or advanced post-professional study and falls within the practice standards of athletic training, by obtaining a history of the injury or condition, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury.
 - c) The immediate care of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, for which the athletic trainer has had formal training during his or her professional education program

or advanced post-professional study and falls within the practice standards of athletic training, by the application of first aid, and emergency procedures, techniques, and equipment for nonlife-threatening or life-threatening injuries or conditions.

- d) The rehabilitation and reconditioning from an injury sustained or exacerbated while participating in athletic activity and reconditioning from a condition, for which the athletic trainer has had formal training during his or her professional education program or advanced post-professional study and falls within the practice standards of athletic training, including, but not limited to, the application of physical agents and modalities, therapeutic exercise, manual therapy and massage, standard reassessment techniques and procedures, commercial products and durable medical equipment, and educational programs, under the supervision of a physician and surgeon as described in subdivision (c) of Section 2697.5.
- 14) States that the practice of athletic training does not include grade 5 spinal manipulations, the diagnosis of disease, or the practice of medicine.
- 15) Limits athletic training services to only those provided under the supervision of a physician and surgeon licensed by the MBC or OMBC.
- 16) Defines “supervision” to mean services are provided either under a verbal order by a physician and surgeon who is present when the services are provided or, if the physician is not present, under a written order, telecommunication, or an athletic training treatment plan or protocol that meets all of the following:
- a) The plan or protocol specifies the athletic training services, and referral requirements specific to the athletic trainer’s individual training and competence.
 - b) The plan or protocol is established with and approved by the supervising physician and surgeon or osteopathic physician and surgeon.
 - c) The plan or protocol accounts for the supervising physician and surgeon’s availability to the athletic trainer as determined by the supervising physician and surgeon.
- 17) Declares that the practice of athletic training does not include any of the following:
- a) The practice of occupational therapy;
 - b) The practice of physical therapy;
 - c) The practice of physician assistants.
 - d) The practice of medicine, as defined.
 - e) The practice of nursing.
 - f) The practice of chiropractic.

18) Exempts from its provisions:

- a) An athletic trainer licensed, certified, or registered in another state or country who is invited by a sponsoring organization, such as the United States Olympic Committee, to temporarily provide athletic training services under the other state or country's scope of practice for athletic training.
- b) A student enrolled in an athletic training education program, while participating in educational activities during the course of educational rotations under the supervision and guidance of an athletic trainer licensed under this chapter, a physician and surgeon licensed by the Medical Board of California, an osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California, or any other healing arts licensee, when the student's title clearly indicates student status.
- c) A member or employee of the United States Armed Forces, licensed, certified, or registered in another state as an athletic trainer, as part of temporary federal deployment or employment in California for a limited time.
- d) An individual who provides instruction to an individual or group to improve physical conditioning, for the use of exercise equipment, or on the mechanics of activities of cycling, running, free weights, calisthenics, or other technical aspects of exercise is not engaging in athletic training.

19) Clarifies that this chapter does not limit, impair, or otherwise apply to the practice of any person licensed and regulated under any other chapter of this division nor require new or additional reimbursement by a health care service plan, health insurer, workers' compensation insurance plan, employer, or state program for services rendered by an individual licensed under this chapter.

20) Establishes the Athletic Trainers Fund in the State Treasury, as specified, and provides that all fees collected pursuant to this chapter shall be paid into the fund and shall be available to the board, upon appropriation by the Legislature, for expenditure by the board to defray its expenses for administering this chapter.

21) Makes violation of this chapter a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

FISCAL EFFECT: Unknown. This measure has been keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) *Author's statement of need: Risk of harm posed by lack of authentication of trained practitioners, California is the only state in the union which does not recognize this profession. According to the Author, "the profession of athletic training is unregulated in California under existing law. There is an urgent and compelling need to regulate the profession of athletic training to protect the public, protect employers of athletic trainers and protect athletic trainers."*

The Author states that “Athletic trainers are health care professionals who are often charged with managing serious medical conditions such as concussions, heat illness, sudden cardiac arrest as well as a myriad of musculoskeletal issues like dislocations and fractures. Athletic trainers are required to complete an accredited athletic training education program at a college or university that culminates in at least a bachelor's degree in athletic training and achieve national athletic training certification through the Board of Certification, Inc...California is the only state that does not regulate the profession of athletic training. Currently anyone can call themselves an athletic trainer, regardless of whether they have any education or are nationally certified. A recent CIF survey of athletic directors with an approximately 90% response rate, and other verification indicate that there are at least 150 high schools currently employing an unqualified, non-certified individual who is practicing as an athletic trainer without the requisite education and training. This means hundreds of thousands of young athletes are unknowingly exposed to unqualified individuals purporting to be a health care professional and are managing injuries and conditions and giving medical advice to vulnerable athletes and their parents.

In California, because there is no entity that regulates athletic trainers, there is no accurate, systemic way for the public to report evidence of harm against athletic trainers or those posing as athletic trainers, and have those reports investigated or even tracked. There is mostly only anecdotal evidence. In the last two years, the CATA has fielded 80 complaints broken down as follows:

- Non-BOC certified person employed/volunteering as an Athletic Trainer – 50
- Unsupervised athletic training students – 15
- Harm to Patient – 8
- Licensed health-care professional claiming to be an Athletic Trainer – 6
- Other - (violation of patient privacy via social media) - 1

The Author states that there is proof of harm in other states including suspended/revoked licenses, suspended/revoked certifications and lawsuits against athletic trainers. The public in those states have recourse to a board or committee with investigative and true disciplinary power.

The Author also notes that “Currently athletic trainers practice in a legal grey area. Employers of athletic trainers in sectors such as education, healthcare, professional sports and industry are concerned that there is no state sanctioned scope of practice to delineate what athletic trainers can and cannot do. In health care settings, athletic trainers are often the only professionals these employers hire that aren't regulated. This creates a lack of uncertainty that increases the employers' risk of liability. Athletic trainers in some settings, especially in collegiate and professional sports and performing arts, are required to travel outside of the state as part of their job. In an increasing number of states, when an athletic trainer travels with their team or group and is performing his/her duties, they are practicing outside of that state's law solely because they aren't regulated. This puts employers in the untenable situation of having to choose between continuing to use their athletic trainer and

increasing their liability or having to contract an athletic trainer who is regulated in that state to provide care but is unfamiliar with their athletes or performers and management and is unable to provide any continuum of care.”

- 2) *Recognition of the profession of Athletic Trainer by other States.* Athletic trainers have some form of regulatory recognition in every state but California. 45 states (Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming) license athletic trainers, requiring that individuals graduate from a bachelor’s degree program accredited by Commission on Accreditation of Athletic Training Education (CAATE), pass the comprehensive test administered by BOC, and meet ongoing educational requirements in order to stay licensed. These states provide that it is illegal to practice as an athletic trainer without obtaining a license. Only 2 states, Oregon and Hawaii require registration whereby an individual submits information (name, address, qualifications) in order to practice as an athletic trainer. Two states (New York and South Carolina) have a certification/title protection model under which an individual meets predetermined standards to be able to use the title of athletic trainer and where uncertified individuals can perform athletic trainer duties but cannot use the title of AT.
- 3) *Sunrise process and athletic training.* As noted below, the regulation of athletic trainers has come before this committee and the Legislature numerous times. The following is taken from the excellent Senate Business and Professions analysis of AB 3110 (Mullin) of 2018, which also aspired to regulate athletic trainers.

The Legislature uses a “Sunrise Model” for the purpose of assessing requests for new or increased occupational regulation, including the creation of any new licensing scheme or licensing entity within the DCA. Pursuant to the Government Code Sections 91488 et. seq. provisions and the Rules of this Committee, the CATA submitted a completed “Sunrise Regulatory Request Questionnaire” (Sunrise Questionnaire) in November, 2017 in support of its proposal for licensure (at the time, a bill proposing licensure was moving through the Legislative process).

According to information contained in the sunrise questionnaire, athletic training is listed by the American Medical Association, Health Resources Services Administration, the Department of Health and Human Services, and Centers for Medicare and Medicaid Services as an allied health profession. Athletic trainers work in collaboration with a physician and their education is predicated upon a formalized relationship with a physician, working under established guidelines. According to the sunrise questionnaire, athletic trainers evaluate injuries and determine a patient’s disposition, respond to emergencies and make “split second decisions” regarding the management of an injury as well as making decisions regarding the course of rehabilitation. Athletic trainers also make “immediate decisions regarding serious conditions such as concussion, spinal cord injury, heat illness and sudden cardiac arrest without the intervention or advice of other health care professionals” in situations where an incorrect decision could lead to a catastrophic or fatal outcome.

An individual can become an athletic trainer by graduating with a minimum of a bachelor's degree from an accredited athletic training education program and by passing a national certification examination offered by Board of Certification, Inc. (BOC). According to the sunrise questionnaire, 70 percent of athletic trainers practicing today hold a master's degree or higher. Athletic trainers, like other health care professionals, take science based courses in anatomy, physiology, chemistry and physics and must understand all systems of the body and their normal and pathological functions, including biochemical functions. Athletic training education also includes didactic instruction and clinical training in risk management and injury prevention, orthopedic clinical assessment and diagnosis, medical conditions and disabilities, acute care of injuries and illness, therapeutic modalities and conditioning and rehabilitative exercise, psychosocial intervention and referral, nutritional aspects of injuries and illness, health care administration and professional development.

The questionnaire highlights that according to the U.S. Department of Labor, athletic trainers are classified as "learned professionals." In the Code of Regulations under FLSA Section 213 exemption provision, athletic trainers have advanced and specialized knowledge through academic instruction which puts the athletic training profession in the same classification as professions of law, medicine, theology, accounting, actuarial computation, engineering, and architecture, most of which require state licensure and codes of professional ethics to practice. Athletic trainers are assigned National Provider Identifier (NPI) numbers like other health care professionals. According to the sunrise questionnaire, Department of Labor's classification of certified athletic trainers as learned professionals "is significant because it affirms that athletic trainers have 'advanced knowledge . . . in a field of science or learning . . . customarily acquired by prolonged course of specialized knowledge through academic instruction', as outlined in 29 C.F.R. § 541.301(a)–(d).

According to the sunrise questionnaire, currently there are over 3,300 BOC-certified individuals who would qualify for the practices and registration outlined in this bill, who are using the titles this bill would protect. The questionnaire also highlights that the United States Department of Labor, Bureau of Labor Statistics states in the 2016-17 edition of the *Occupational Outlook Handbook* "Employment of athletic trainers is projected to grow 21 percent from 2014 to 2024, much faster than the average for all occupations. As people become more aware of sports-related injuries at a young age, demand for athletic trainers is expected to increase." According to the questionnaire, citing data provided by the California Interscholastic Federation, over 151 such individuals are currently practicing and/or holding themselves out to be an athletic trainer in secondary schools without the requisite education and qualifications. Included among the individuals who purport to practice athletic training in California secondary schools are administrators, custodians, teachers, coaches, etc.

According to the BOC, approximately 60 percent of certified athletic trainers in California work with athletes in an educational or specific professional setting. Over a third of clinically practicing athletic trainers in California (35 percent) work with in a non-traditional setting with physically active people or "non-athletes." This is consistent with the national average of over 36 percent of athletic trainers who work with "non-athletes."

Athletic trainers serve a wide variety of consumers who have sustained injuries or have other medical conditions exacerbated by participation in physical activity. This includes individuals across the lifespan, from young adolescent athletes to adults injured on the job to geriatric individuals post joint replacement procedures. Athletic trainers are typically

employed by organizations such as professional sports teams, colleges and universities, high schools, out-patient rehabilitation clinics, hospitals, industry/ corporations, performing arts groups, physicians, the military, and health clubs. In the course of their employment, athletic trainers serve individual consumers associated with these organizations and/or employers.

Clients typically access athletic training practitioners directly. For example, an injured athlete, soldier, police officer or assembly line worker will be directed by a supervisor or “self-refer” to the institution’s athletic trainer for services such as injury prevention, evaluation, treatment, or rehabilitation. In cases of acute injury, the athletic trainer responds to the patient when notified of the injury. These are not referrals in the traditional sense, as no other health care professional is involved. This differs from “direct access” as athletic trainers are required to work under the direction of a physician and will collaborate with them on patient care.

Other health care practitioners may refer patients to athletic trainers for services. Physicians and physical therapists refer their patients to athletic trainers for rehabilitation programs and/or return to activity progression. Athletic training is not a stand-alone profession as certified athletic trainers work under the direction of and in collaboration with physicians. The sunrise questionnaire notes that athletic trainers are responsible for making a myriad of medical decisions, including life or death decisions regarding acute injuries and conditions in the course of their duties. As they are often the only health care provider present in the crucial minutes that will make the difference between survival or a tragic outcome, they must use sound clinical decision making skills and the entirety of their knowledge and training. They also make regular decisions regarding return to activity, referral and treatment. Over the last 2 and a half years, the CATA has received 93 complaints from the public regarding actions by both certified and non-certified individuals practicing athletic training, including, as the questionnaire notes, “harm to the public with patients asking the association to initiate disciplinary action against athletic trainers.”

The sunrise document also highlights the potential harm to young athletes who receive services from “unqualified and non-certified individuals” holding themselves out as athletic trainers. This includes giving medical advice to parents who incorrectly assume that the “athletic trainer” their school has hired is qualified to give such advice. Hundreds of thousands of student athletes come in contact with these individuals and unfortunately, albeit predictably, there are hundreds of documented cases of harm resulting to athletes under the care of these unqualified individuals. According to the questionnaire, citing data from the US Department of Labor Division of Practitioner Data Banks, a voluntary repository of malpractice claims in 2000- 2014 indicated that there were cases of athletic trainers successfully sued for “failure to diagnose” or “failure/delay in hospital admission” that resulted in “significant permanent injury” or “major temporary injury.” The questionnaire notes that in addition to malpractice claims there are documented cases of sexual misconduct by practitioners, including rape, child abuse and inappropriate sexual contact with patients. Information in the sunrise questionnaire from the US Department of Labor Division of Practitioner Data Banks noted 590 reports of sanctions to athletic trainers between 2000 and 2014, including sanctions for incompetent practice/harm, practicing beyond the scope of practice and sexual misconduct.

The BOC has documented cases and reports of athletic trainers practicing incompetently or unethically in California. Since 2014, the BOC has closed close to 1,831 cases nationally,

including 178 disciplinary cases against athletic trainers with a California address. The causes of disciplinary action in the California cases range from recertification violations and practicing without a license in other states to sexual misconduct/criminal convictions. Currently there are 9 athletic trainers residing in California who have had their BOC certification suspended, but there is no way the BOC can determine if they are still practicing in California. Of note, the BOC has limited ability to investigate complaints against certified practitioners and no statutory authority to limit practice of offenders. In addition, the BOC has no authority to investigate or discipline non-certified individuals posing as athletic trainers.

As all states that regulate athletic training are mandated to report their disciplinary actions and malpractice settlements, the sunrise questionnaire notes that without a regulatory board in California there is no mechanism for consumers and employers to ensure athlete trainers coming in from other states to practice have not been sanctioned and more importantly there is no mechanism for California consumers to report harm. Cases exist where athletic trainers from other states have had their licenses revoked and came to California because they were able to continue practicing despite disciplinary action they faced.

- 4) *Board of Certification.* According to their website, BOC was incorporated in 1989 to provide a certification program for entry-level athletic trainers. BOC establishes and regularly reviews both the standards for the practice of athletic training and the continuing education requirements for BOC certified athletic trainers. BOC asserts that it has the only accredited certification program for athletic trainers in the U.S. Additionally, BOC cites accreditation by the National Commission for Certifying Agencies (NCCA) and requirements that it undergo review and re-accreditation every five years through the NCCA. NCCA is the accreditation body of Institute for Credentialing Excellence, a non-profit organization that provides educational, networking, and advocacy resources to the credentialing community, and is charged with evaluating certification organization for compliance with the NCCA *Standards for the Accreditation of Certification Programs*.

BOC's website further asserts that they have been responsible for the certification of athletic trainers since 1969. BOC was the certification arm of the professional membership organization of the National Athletic Trainers' Association until 1989 when BOC became an independent non-profit organization. Athletic trainers currently have the option for certification through BOC. For BOC certification, athletic trainers must have received a minimum of a bachelor's degree from a National Athletic Training Association (NATA) accredited institution and pass a comprehensive exam. All states currently regulating athletic trainers utilize the BOC examination which is based on the Commission on Accreditation of Athletic Training Education (CAATE). To retain certification, credential holders must continue taking medical-related courses and adhere to the BOC standards of practice.

According to the BOC there are currently 3,413 BOC Certified Athletic Trainers residing in California and over 53,000 across the United States.

- 5) *Arguments in support: California is the only state in the union which does not recognize this profession which creates risk of harm to the public, our schools are training thousands of Athletic Trainers annually who cannot be licensed in their own state, and professional and college teams which use athletic trainers fear liability when traveling out of state.*

The author has articulated the predominant themes of the many support letters received by the Committee, that California is the only state in the union which does not recognize the AT profession, and that our lack of oversight creates risk of harm to the public. In addition to this line of justification, a few other issues have been brought forward as demonstrating need for AT regulation.

The Los Angeles Rams organization writes the Committee in support, with another common theme, stating, “A number of states we travel to require athletic trainers to be licensed in their home states when they travel to care for their athletes when travelling to their state. The unintended consequence of being the only state in which licensure of athletic trainers is not required is that our athletic trainers can’t meet this standard. This increases the liability of our organization and our athletic trainers.”

A coalition letter signed by 15 organizations including the NCAA, National Athletic Trainers Association, the California Coaches Association and 128 high schools, also stresses the need for teams that travel to have licensed ATs, saying, “As a part of their job, many California athletic trainers travel to different states providing care to athletic teams, performing arts groups, or other similar organizations. Due to licensing requirements of many state athletic training practice acts, athletic trainers traveling with them from California are breaking state law. The unintended consequence of being the only state that does not require licensure for athletic trainers is that they simply cannot meet the legal standard of the states to which they must travel. This places employers in the untenable situation of choosing between compromising the care of their athletes/performers or increasing their liability by sending their unlicensed athletic trainer to practice health care in a state that requires licensure. The increased liability in these situations extends beyond the employer to the athletic trainers themselves. Without licensure, the legal grey area that surrounds the employment of athletic trainers increases the athletic trainer’s personal liability. The lack of licensure also impedes the ability of athletic trainers to fully provide the care that they are qualified to provide.”

The Commission on Accreditation of Athletic Training Education (CAATE), is the sole accreditor for the nearly 400 professional, post-professional, and residency athletic training programs in the U.S. and is recognized by the Council for Higher Education Accreditation (CHEA). They support AB 1592 and assert that lack of licensure poses several issues for students studying to become ATs in California, including the fact “that the lack of licensure in California undercuts this often tax payer supported education as anyone can call themselves an athletic trainer and take jobs away from graduates of an accredited athletic training program.” They add that California trained ATs are forced to work out of state once they graduate if they wish to be licensed. In looking at how many students this impacts, the CCCATA (California Community College Athletic Trainers Association), who also support, point out that “Fifteen California universities, including seven CSUs, have accredited majors in athletic training. The California Community College Chancellors Office also recognizes Athletic Training and Sports Medicine (Top Code 1228.00) as program curriculum.”

The California Athletic Trainers Association (CATA), are sponsors of AB 1592. They assert, that “Licensure of athletic trainers is the sole remedy to these concerns. Title protection is not sufficient to protect the public, employers of athletic trainers and athletic trainers themselves. Only licensure can provide the scope of practice necessary to remove the legal grey area that athletic trainers work under in California and increases liability to athletic trainers and their employers. Only licensure can provide the regulatory framework required of California

athletic trainers traveling to other states to practice in accordance with their state law. Only licensure can give other licensed healthcare providers the clear, legal protection necessary to interact with athletic trainers, allowing safe, quality care. Only licensure can create statutory guidelines that prevent unqualified individuals from providing medical care to young athletes. Only licensure can create a board to investigate and discipline /remove individuals who have committed harm to the public.”

- 6) *Arguments in opposition: The bill allows Athletic Trainers to treat patients beyond “athletes” with too little supervision which is dangerous and beyond the scope of stated need.* The leading voice of opposition comes from the California Physical Therapy Association (CPTA), which has numerous concerns with this legislation, including their belief that the definitions of athletic activity in Section 2697.1(b) is overly broad, saying, “It allows one licensed under this act to work with nearly anyone for nearly any physical condition. Athletic Trainers are specifically educated and trained to work with athletes who have undergone a pre-participation screening by a physician and are participating in an organized sports activity. The broadness of this definition puts public safety at risk because it allows Athletic Trainers to work with all in our population with no pre-participation screen and to provide care to the generalized population instead of that for which they are known to treat---athletes participating in athletic settings with an individualized protocol tailored to an athlete’s specific needs.”

In addition, CPTA is concerned that the supervision of an athletic trainer as outlined in the bill is insufficient, writing to add, “AB 1592 allows athletic trainers to work under verbal or written orders OR follow written protocols established by a physician or surgeon who need not be present AND that are not specific to the presentation of each individual athlete. This would allow an athletic trainer to work with essentially unlimited direct access to patients, without the patient ever having to see a licensed healthcare practitioner, so long as the Athletic Trainer (and not the patient/no longer ‘athlete’) has some sort of relationship with a physician somewhere.

The conditions of this bill would allow the athletic trainer to ‘assess and evaluate’ a patient’s condition, then offer ‘treatment.’ Working under the direction of a protocol when no physician is present would effectively require the athletic trainer to diagnose a patient’s condition to correctly apply the proper treatment protocol. The ability to diagnose is well outside of the education and training of an athletic trainer.” (Committee note: the bill states that an AT may not diagnose disease.)

Finally, they posit that, “The argument that other states prohibit California Athletic Trainers from traveling with their sports teams unless there is a licensing scheme in this state has not, to our knowledge, affected any single California sports team. If this were the case, however, title protection and a requirement for Athletic Trainers to be certified would meet the requirements of other states, just as do the certification requirements used by many other states currently.”

The United Nurses Associations of California/Union of Health Care Professionals (UNAC/UHCP) share the concern that AB 1592 would establish an overly broad scope of practice for treating patients in the health care arena that exceeds their training and expertise. They write the Committee to say, “In its current form, the bill would license ‘athletic trainers’ and would allow them to treat any ‘injury or illness’ that was ‘sustained or

exacerbated' in virtually any activity 'that requires physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility.' In other words, virtually any injury or illness would be treatable by athletic trainers so long as the injury occurred or was exacerbated while the patient was moving, or was engaged in an activity that required movement.

“By licensing a new healthcare provider with such a broad scope, consumers will be misled into thinking that athletic trainers are actually capable of providing treatment in areas for which it is inappropriate for them to do so. Moreover, the level of doctor supervision is very minimal. The bill does not require doctors to even see the patients that athletic trainers are treating, nor does it require patient-specific protocols.”

They close by sharing their faith, “that there is a pathway for athletic trainers to obtain title protection, registration, or even licensure, so long as they do not purport to have a scope of practice for which they are not qualified.”

The Occupational Therapy Association of California (OTAC) and the American Occupational Therapy Association (AOTA), each have an “oppose unless amended” position on AB 1592. They share the concerns detailed above, “that extending ‘athletic activity’ to settings beyond organized sports is overly broad and should be amended to focus on sports settings. They offer, “in the last year’s legislative session on AB 3110, the AT licensure bill, OTAC agreed with the amendments that came out of Assembly Business & Professions Committee, which defined ‘Athletic activity’ as an activity involving an athlete that requires physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility that is related to the following:

- (1) An activity or event conducted by any of the following:
 - (A) An intercollegiate athletic association or interscholastic athletic association.
 - (B) A professional athletic organization.
 - (C) An amateur athletic organization.
- (2) A professional or recreational activity that meets all of the following:
 - (A) Has officially designated coaches or trainers.
 - (B) Conducts regularly scheduled practices or workouts that are supervised by coaches or trainers.
 - (C) Has established schedules for performances, competitive events, or exhibitions.

This language defining the settings for athletic training is consistent with the education and training received by athletic trainers and is very similar to what most other states with AT licensure schemes define as “athletic activity.”

- 7) *Committee comment: we should have regulation of Athletic Trainers with sufficient oversight and a well-defined scope of practice, whether it is through license, certification or registration.* As noted above and below, this concept has come before the Committee numerous times in different forms, from title protection to regulation to full licensure, each of which has passed out of our Committee and then either died for lack of consensus elsewhere in the Legislature or was vetoed. While there seems to be a current agreement that some form of regulatory scheme is needed for ATs, the devil, as always, is in the details. This current proposal has a very strong license scheme, with a fairly broad scope of practice detailed for the Athletic Trainers that is not confined to sports injuries, including treatment in

employment settings. The measure also contains autonomy for the licensed ATs to act under “supervision,” which could be as little as following a written plan or protocol, and would allow treatment of patients in preventive care, clinical evaluation and assessment of injuries or conditions, and rehabilitation of prior injury. The Committee recognizes that a certain amount of autonomy should be given in respect to the training ATs must obtain in order to be certified, however, as the nature of the scope of their proposed practice grows, so too should the amount of oversight a supervising physician and surgeon must exert. As this bill moves forward, a balance must be struck. The Author notes that this is the first policy hearing of a bill that is still a work in progress. He has committed to the Committee that should the bill pass out he will work with stakeholders to ensure this concern is addressed.

- 8) *Double-referral.* Should this bill pass out of this committee, it will be re-referred to the Assembly Committee on Business and Professions.
- 9) *Prior related legislation.*
 - a) AB 3110 (Mullin), of 2018, would have established a registration program under a new Athletic Training Board (Board) within the Department of Consumer Affairs (DCA) and prohibited a person from practicing athletic training, as defined, or holding himself or herself out as an athletic trainer, unless they are registered with the Board. (Status: Held in the Senate Appropriations Committee.)
 - b) AB 1510 (Dababneh), of 2017, would have established a registration program under a new Athletic Training Board (Board) within the Department of Consumer Affairs (DCA) and prohibited a person from practicing athletic training, as defined, or holding himself or herself out as an athletic trainer, unless they are registered with the Board. (Status: Held in Assembly Business and Professions Committee for procedural reasons.)
 - c) AB 161 (Chau) of 2015 would have established certification and training requirements for athletic trainers and prohibit individuals from calling themselves athletic trainers unless they meet those requirements. (Status: The bill was vetoed by Governor Brown.)
 - d) AB 1890 (Chau) of 2014 was substantially similar to AB 161. (Status: The bill was vetoed by Governor Brown.)
 - e) AB 864 (Skinner) of 2013 would have established the licensure and regulation of athletic trainers through the creation of an Athletic Trainer Licensing Committee under the Physical Therapy Board of California. (Status: The bill was held in the Assembly Committee on Appropriations.)
 - f) SB 1273 (Lowenthal) of 2012 was substantially similar to AB 864. (Status: The bill failed passage in Senate Business and Professions Committee.)
 - g) AB 374 (Hayashi) of 2011 as introduced would have established the Athletic Trainer Licensing Committee within the Medical Board of California to license and regulate athletic trainers commencing January 1, 2013, with a sunset date of January 1, 2018. The bill was later amended to provide title protection for athletic trainers. (Status: The bill was later amended to become a bill by Assemblymember Hill that dealt with funeral embalmers and signed by the Governor.)

- h) AB 1647 (Hayashi) of 2010 would have established certification and training requirements for athletic trainers and prohibited individuals from calling themselves athletic trainers unless they meet those requirements. (Status: The bill was vetoed by Governor Schwarzenegger.)
- i) SB 284 (Lowenthal) of 2007 would have enacted the Athletic Trainers Registration Act prohibiting a person from representing himself or herself as a “certified athletic trainer,” unless he or she is registered by an athletic training organization. (Status: The bill was vetoed by Governor Schwarzenegger.)
- j) SB 1397 (Lowenthal) of 2006 would have enacted the Athletic Trainers Certification Act, prohibiting a person from representing him or herself as an athletic trainer unless he or she is certified as an athletic trainer by an athletic training organization, as defined. (Status: The bill was vetoed by Governor Schwarzenegger.)
- k) AB 614 (Lowenthal) of 2003 would have required the DCA to submit a recommendation to the Legislature as to whether the state should license and regulate athletic trainers by January 1, 2006, if the DCA is provided with an occupational analysis of persons providing athletic trainer services by July 1, 2005. (Status: This bill was held in Senate Business and Professions Committee to allow JCBCCP to examine whether athletic trainers should be licensed as part of the "sunrise" process.)
- l) AB 2789 (Lowenthal) of 2002 would have required the Department of Consumer Affairs to review the need for licensing of athletic trainers and undertake an occupational analysis. (Status: This bill was held under submission in the Assembly Committee on Appropriations.)

REGISTERED SUPPORT / OPPOSITION:

Support

American Medical Society for Sports Medicine
 Biola University
 Board of Certification, Inc.
 California Athletic Trainers Association
 California Coaches Association
 California Community College Athletic Trainers Association
 California Interscholastic Federation
 Commission on Accreditation of Athletic Training Education
 Concussion Legacy Foundation
 Eric Paredes Save A Live Foundation
 Far West Athletic Trainers' Association
 Los Angeles Rams
 Meticulous Medical, Inc
 Modesto City Schools District
 National Athletic Trainers' Association
 National Collegiate Athletic Association
 National Federation of State High School Associations
 Pacific Union College

Pivot Physical Therapy/Onsite Innovations
 Preventixc
 Southern California Intercollegiate Athletic Conference
 Travis R. Roy Sudden Cardiac Arrest Fund
 Via Heart Project
 547 Individuals

High Schools in Support

A.A. Stagg High School	Irvine High School
Agoura High School	Jewish Community of the Bay
Bella Vista High School	JW North High School
Belmont High School	Kearny High School
Bolsa Grande High School	Kennedy High School
Branham High School	King/Drew Magnet High School
Buhach Colony High School	La Costa Canyon High School
Calabasas High School	La Reina High School
California Lutheran High School	La Sierra Academy
Camarillo High School	La Sierra High School
Canoga Park High School	Laguna Beach High School
Canyon Crest Academy	Laguna Creek High School
Central Valley High School	Liberty Ranch High School
Cesar E. Chavez High School	Livingston High School
Charter Oak High School	Lodi High School
Chowchilla Union High School	Los Banos High School
Colton High School	Madera South High School
Convent & Sacred Heart	Manteca High School
Costa Mesa High School	Marin Academy
Davis Senior High School	Mariposa County High School
East Union High School	Martin Luther King High School
Edison High School	Marysville High School
El Capitan	Merced High School
El Dorado High School	Mesa Verde High School
Encinas Prep High school	Milpitas High School
Exeter High School	Mission Prep
Fairmont Preparatory Academy	Monterey Trail
Flintridge Prep School	Nevada Union High School
Folsom High School	North Salinas High School
Francis Parker School	Notre Dame High School
Gahr High School	Oakdale High School
George Washington High School	Oakmont High School
Golden Valley High School	Oaks Christian School
Granite Hills High School	Oceanview High School
Granite Hills High School	Oxnard High School
Half Moon Bay High School	Pacific High School
Hamilton High School	Palma High School
Head-Royce School	Patrick Henry High School
Henry M. Gunn High School	Patterson High School
Hoover Senior High School	Pitman High School

Ponderosa High School
Rancho Bernardo High School
Rancho Dominguez Preparatory
Rio Linda High School
Rio Mesa High School
River Valley High School
Roseville High School
Rowland High School
Sacramento Adventist Academy
Sacramento High School
Sacred Heart Cathedral Preparatory
Sacred Heart Preparatory
San Benito High School
San Dieguito Academy
San Mateo High School
San Pasqual High School
Santa Fe Christian High School
Santa Paula High School
Shadow Hills
Sierra Pacific High School
Simi Valley High School
St. Anthony High School
St. Augustine High School
St. Francis Catholic High School

St. Joseph Notre Dame High School
St. Mary's Academy
St. Paul High School
Sunny Hills High School
Sunnyside High School
Sweetwater High School
Taft Union High School
Tahquitz High School
The Athenian School
The College Preparatory School
Tokay High School
Tri-City Christian High School
Tulare Union
Tulare Western
Turlock High School
Union Mine
Vista del Lago High School
West High School
West Hills High School
Woodcreek High School
Woodrow Wilson High School
Yula Girls High School

Opposition

California Nurses Association
California Physical Therapy Association
Occupational Therapy Association of California
The American Occupational Therapy Association, Inc.
United Nurses Associations of California/Union of Health Care Professionals
28 individuals

Analysis Prepared by: Dana Mitchell / A.,E.,S.,T., & I.M. / (916) 319-3450