

Date of Hearing: April 11, 2023

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, AND TOURISM

Sharon Quirk-Silva, Chair

AB 796 (Weber) – As Amended March 30, 2023

SUBJECT: Athletic trainers

SUMMARY: Enacts 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 seven member Athletic Trainer Licensing Committee within the California Board of Occupational Therapy, 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 Committee to adopt, repeal, and amend regulations as may be necessary and authorizes the Committee, 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 Committee 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., or its predecessors or successors.
 - 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; submits proof of 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 Occupational Therapy.
 - b) “Committee” means the Athletic Trainer Licensing Committee.
 - c) “Director” means the Director of Consumer Affairs
 - d) “Athletic trainer” means a person who meets the requirements of this chapter, is licensed by the committee, and practices under the direction of a licensed physician or surgeon.

- i) The term “athletic trainer” shall not include any teacher, coach, or other individual for an institution or organization, either public or private, within this state, who does not hold themselves out to the public as athletic trainers.
 - ii) Nothing in this chapter shall be construed to prevent any person from serving as an athletic training student, assistant athletic trainer, teacher athletic trainer, or any similar volunteer position if such service is not primarily for compensation and is carried out under the supervision of a physician or a licensed athletic trainer.
 - iii) The term “athletic trainer” shall not include any person who serves as a first responder or other layman position providing basic first aid within this state but who does not perform the duties of an athletic trainer or hold themselves out as an athletic trainer. For purposes of this chapter basic first aid includes the initial steps taken to stabilize an injury or illness situation until more advanced or professionally trained personnel can assume treatment measures. This care generally consists of simple, life-saving or injury-stabilizing techniques that a non-physician or layperson can be easily trained to perform with minimal equipment, and is generally recognized as such by national organizations such as the American Red Cross, National Safety Council, American Heart Association, or other similar organization.
- e) “Athletic training” means the performance of those services that require the education, training, and experience required by this chapter for licensure as an athletic trainer pursuant to this chapter. “Athletic training” includes services appropriate for the prevention, recognition, assessment, management, treatment, rehabilitation, and reconditioning of injuries and illnesses sustained by an athlete:
- i) Who is engaged in sports, games, recreation, or exercise requiring physical strength, flexibility, range of motion, speed, stamina, or agility; or
 - ii) That affect an athlete’s participation or performance in sports, games, recreation, or exercise.
- f) “Athletic training” includes:
- i) Planning, administering, evaluating, and modifying methods for prevention and risk management of injuries and illnesses;
 - ii) Identifying an athlete’s medical conditions and disabilities and appropriately caring for or referring an athlete as appropriate;
 - iii) Recognizing, assessing, treating, managing, preventing, rehabilitating, reconditioning, and appropriately referring to another health care provider to treat injuries and illnesses;
 - iv) Using therapeutic modalities for which the athletic trainer has received appropriate training and education;
 - v) Using conditioning and rehabilitative exercise;

- vi) Using topical pharmacological agents, in conjunction with the administration of therapeutic modalities and pursuant to prescriptions issued in accordance with the laws of this state, for which the athletic trainer has received appropriate training and education;
 - vii) Educating and counseling athletes concerning the prevention and care of injuries and illnesses;
 - viii) Educating and counseling the general public with respect to athletic training services;
 - ix) Referring an athlete receiving athletic training services to appropriate health care personnel as needed; and
 - x) Planning, organizing, administering, and evaluating the practice of athletic training.
- g) “Supervising physician” or “supervising physician and surgeon” means a physician or surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of California who supervises one or more athletic trainers, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation prohibiting the employment or supervision of a physician assistant.
- h) “Supervision” means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by an athletic trainer. Supervision, as defined in this subdivision, shall not be construed to require the physical presence of the physician or surgeon, but does require the following:
- i) Adherence to adequate supervision as agreed to in the practice agreement.
 - ii) The physician or surgeon being available by telephone or other electronic communication method.
- 9) Requires, that no person may use the title “athletic trainer” or “licensed athletic trainer,” the letters “A.T.” or “A.T.C.” as a title, or any other generally accepted terms, letters, or figures that indicate that the person is an athletic trainer unless that person is licensed pursuant to this chapter.
- 10) Declares that nothing in this chapter authorizes an athletic trainer to practice:
- a) Medicine, as defined;
 - b) Physical therapy, as defined;
 - c) Chiropractic, as defined;
 - d) Occupational therapy, as defined; or
 - e) Any other regulated form of healing except as authorized by this chapter.

- 11) Declares that nothing in this chapter authorizes an athletic trainer to treat a disease or condition that is not related to a person's participation in sports, games, recreation, or exercise, but the athletic trainer shall take a person's disease or condition into account in providing athletic training services and shall consult with a physician as appropriate regarding the disease or condition.
- 12) Declares that nothing in this chapter prohibits a person from recommending weight management or exercise to improve strength, conditioning, flexibility, and cardiovascular performance to a person in normal health as long as the person recommending the weight management or exercise does not represent themselves as an athletic trainer and the person does not engage in athletic training as defined in this chapter.
- 13) Establishes the Athletic Trainers Fund in the State Treasury. All fees collected pursuant to this chapter shall be paid into the fund. Moneys in the fund shall be available to the board, upon appropriation by the Legislature, for expenditure by the board to defray its expenses for administering this chapter.
- 14) Makes violation of this chapter a misdemeanor.

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

COMMENTS:

- 1) Author's statement. According to the author, "AB 796 will establish the California Board of Athletic Training within the Occupational Therapy Board at the California Department of Consumer Affairs. This bill would also explicitly prohibit an individual from practicing as an athletic trainer without being licensed by the board. Athletic trainers are an integral part of the health care team. As a parent of two young athletes, I want to ensure that the person caring for my injured child is educated in the proper techniques to minimize injury and work with physicians, physical therapists and other health professionals on follow up care. A formalized licensure for athletic trainers is necessary to ensure the safety of all California athletes.
- 2) Background. Athletic trainers have some form of regulatory recognition in every state, including Washington D.C., except for California. 46 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, Oregon, 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 the Board of Certification (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 Hawaii requires 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 athletic trainer.

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.

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 BOC. 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.

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.

- 3) Arguments in support. According to the California Athletic Trainers' Association, "Athletic trainers are board certified health care professionals. The profession requires a master's level degree for entry. Athletic training encompasses the prevention, diagnosis, and intervention of emergency, acute and chronic medical conditions involving impairment, functional limitations, and disabilities. Athletic trainers work with a variety of patients in schools,

colleges/universities, and professional sports, industrial, police and fire departments, performing arts, military, and healthcare facilities. Athletic training is classified under the allied health professions category, as defined by the U.S. Department of Health and Human Services (HHS) and are assigned National Provider Identifier numbers (NPIs). The American Medical Association also recognizes athletic training as an allied health care profession. Currently, there are more than 3,400 certified athletic trainers working in California.

“In all other states and the District of Columbia, the athletic training profession has statutorily outlined education and training standards, a defined scope of practice, an oversight board, and a formal adjudication process. Because California does not regulate the profession, this framework does not exist in the state. There are at least 130 individuals claiming to be athletic trainers and performing athletic training services in high schools who are unqualified to practice. Tens of thousands of student athletes encounter these individuals daily, and there are documented cases of harm resulting from the care of these unqualified individuals.

“Additionally, this lack of regulation many times impedes the ability of athletic trainers to fully execute their job duties. Due to their non-licensed health care provider status, in some institutions in California, athletic trainers are barred from reviewing, or entering into, patient medical records, compromising the care that they and other members of the healthcare team provide.”

- 4) Arguments in opposition. A coalition of groups in opposition to the bill, including members of the California Physical Therapy Association (CPTA), the Occupational Therapy Association of California (OTAC), the California Nurses Association (CNA), and the United Nurses Association of California/United Health Care Professionals (UNAC/UHCP), provided a list of concerns about the bill that include the following:
 - a) Lack of necessity – “While many other states have in place a title protection or licensing scheme for athletic trainers, there is NO current crisis in California due to not having a new bureaucracy in place for athletic trainers... Another oft-repeated argument is that anyone in California can call themselves an “athletic trainer” without having appropriate credentials. This could be easily addressed through a title protection/certification requirement.”
 - b) The supervision of an athletic trainer as outlined in the bill – “[AB 796] concerningly allows physicians to supervise an unspecified number of athletic trainers and does not require physician supervision of athletic trainers to be in person or synchronous, which further endangers the patients receiving care from an athletic trainer.”
 - c) Placing a committee for athletic trainers under the California Board of Occupational Therapy for regulation – “Licensing boards are supported through fees on the professionals regulated. In this case, there is no real nexus between athletic trainers and occupational therapists. Further, the bill specifies that physicians are responsible for supervising athletic trainers. Therefore, a committee dedicated to athletic trainers should be placed under the Medical Board of California, which regulates the physicians responsible in the bill for supervising athletic trainers.”
- 5) Committee Comments. This concept has come before the Committee numerous times in different forms, from title protection to regulation to full licensure. An analysis of one of

those previous bills noted 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.”

- 6) Double-referral. Should this bill pass out of this committee, it will be re-referred to the Assembly Committee on Business and Professions.
- 7) Prior and related legislation:
 - a) AB 2410 (Cunningham), of 2020, would have established title protection for athletic trainers. (Status: Held in Senate Business, Professions, and Economic Development Committee)
 - b) AB 1665 (Bonta), of 2020, would have enacted, until January 1, 2028, the Athletic Training Practice Act for the purpose of licensing persons engaged in the profession of Athletic Trainer. (Status: Held in Senate Business, Professions, and Economic Development Committee)
 - c) AB 1592 (Bonta), of 2019, would have enacted, until January 1, 2028, the Athletic Training Practice Act for the purpose of licensing persons engaged in the profession of Athletic Trainer. (Status: Held in Assembly Business and Professions Committee)
 - d) 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.)
 - e) 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.)
 - f) 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.)

- g) AB 1890 (Chau) of 2014 was substantially similar to AB 161. (Status: The bill was vetoed by Governor Brown.)
- h) 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.)
- i) SB 1273 (Lowenthal) of 2012 was substantially similar to AB 864. (Status: The bill failed passage in Senate Business and Professions Committee.)
- j) 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.)
- k) 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.)
- l) 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.)
- m) 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.)
- n) 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.)
- o) 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 by the Assembly Committee on Appropriations.)

REGISTERED SUPPORT / OPPOSITION:

Support

Azusa Pacific University

Board of Certification, INC.
Breg, INC.
California Athletic Trainers Association
California Coaches Association
California Interscholastic Federation
California Orthopedic Association
California State University, Fullerton
Citrus Community College District
Commission on Accreditation of Athletic Training Education
Cypress College
Gavilan College
Korey Stringer Institute
Los Angeles Rams
National Athletic Trainers' Association
National Football League
San Joaquin Delta College Athletics
Santa Barbara City College
Sierra College
Turlock Unified School District
University of California - San Francisco Orthotic and Prosthetic Centers
University of California, San Francisco
West Coast Sports Medicine Foundation
87 Individuals

Opposition

California Physical Therapy Association
Occupational Therapy Association of California (OTAC)
United Nurses Associations of California/union of Health Care Professionals

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