

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 957 Session of
2011

INTRODUCED BY TOMLINSON, ARGALL, ALLOWAY, M. WHITE, FARNESE,
BOSCOLA AND FERLO, MAY 3, 2011

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, AS AMENDED, MAY 24, 2011

AN ACT

1 Amending the act of October 5, 1978 (P.L.1109, No.261), entitled
2 "An act requiring the licensing of practitioners of
3 osteopathic medicine and surgery; regulating their practice;
4 providing for certain funds and penalties for violations and
5 repeals," further providing for definitions, for State Board
6 of Osteopathic Medicine, for athletic trainers and for
7 reasons for refusal, revocation or suspension of license.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The definitions of "athletic training services,"
11 "board-regulated practitioner," "certified athletic trainer,"
12 "direction," ~~"physically active person,"~~ "referral" and "written ←
13 protocol" in section 2 of the act of October 5, 1978 (P.L.1109,
14 No.261), known as the Osteopathic Medical Practice Act, amended
15 or added December 10, 2001 (P.L.863, No.93) and July 4, 2008
16 (P.L.589, No.46), are amended and the section is amended by
17 adding a definition to read:

18 Section 2. Definitions.

19 The following words and phrases when used in this act shall
20 have, unless the context clearly indicates otherwise, the

1 meanings given to them in this section:

2 * * *

3 "Athletic training services." The management and provision
4 of care of injuries to a physically active person as defined in
5 this act with the direction of a licensed physician. The term
6 includes the rendering of emergency care, development of injury
7 prevention programs and providing appropriate preventative and
8 supporting devices for the physically active person. The term
9 also includes the assessment, management, treatment,
10 rehabilitation and reconditioning of the physically active
11 person whose conditions are within the professional preparation
12 and education of a [certified] licensed athletic trainer. The
13 term also includes the use of modalities such as mechanical
14 stimulation, heat, cold, light, air, water, electricity, sound,
15 massage and the use of therapeutic exercises, reconditioning
16 exercise and fitness programs. Athletic training services shall
17 not include surgery, invasive procedures or prescription of any
18 controlled substance.

19 * * *

20 "Board-regulated practitioner." An osteopathic physician,
21 physician assistant, respiratory therapist or [certified]
22 licensed athletic trainer or an applicant for a license or
23 certificate issued by the board.

24 * * *

25 ["Certified athletic trainer." A person who is certified to
26 perform athletic training services by the State Board of
27 Medicine or the State Board of Osteopathic Medicine.]

28 * * *

29 "Direction." Supervision over the actions of a [certified]
30 licensed athletic trainer via referral by prescription to treat

1 conditions for a physically active person from a licensed
2 physician, dentist or podiatrist or written protocol approved by
3 a supervising physician, dentist or podiatrist, except that the
4 physical presence of the supervising physician, dentist or
5 podiatrist is not required if the supervising physician, dentist
6 or podiatrist is readily available for consultation by direct
7 communication, radio, telephone, facsimile, telecommunications
8 or via other electronic means.

9 * * *

10 "Licensed athletic trainer." A person who is licensed to
11 perform athletic training services by the State Board of
12 Medicine or the State Board of Osteopathic Medicine.

13 * * *

14 ~~"Physically active person." An individual designated by a~~ ←
15 ~~physician as physically active, including an individual who~~
16 ~~participates in organized, individual or team sports, athletic~~
17 ~~games or recreational sport activity or an individual who the~~
18 ~~physician believes would benefit from athletic training~~
19 ~~services.~~

20 * * *

21 "Referral." An order from a licensed physician, dentist or
22 podiatrist to a [certified] licensed athletic trainer for
23 athletic training services. An order may be written or oral,
24 except that an oral order must be reduced to writing within 72
25 hours of issuance.

26 * * *

27 "Written protocol." A written agreement developed in
28 conjunction with one or more supervising physicians which
29 identifies and is signed by the supervising physician and the
30 [certified] licensed athletic trainer. It describes the manner

1 and frequency in which the [certified] licensed athletic trainer
2 regularly communicates with the supervising physician. It
3 includes standard operating procedures developed in agreement
4 with the supervising physician and [certified] licensed athletic
5 trainer that the [certified] licensed athletic trainer follows
6 when not directly supervised on site by the supervising
7 physician.

8 Section 2. Section 2.1(a) of the act, amended July 4, 2008
9 (P.L.589, No.46), is amended to read:

10 Section 2.1. State Board of Osteopathic Medicine.

11 (a) The State Board of Osteopathic Medicine shall consist of
12 the Commissioner of Professional and Occupational Affairs or his
13 designee; the Secretary of Health or his designee; two members
14 appointed by the Governor who shall be persons representing the
15 public at large; one member appointed by the Governor who shall
16 be a respiratory therapist, a perfusionist, a physician
17 assistant or a [certified] licensed athletic trainer; and six
18 members appointed by the Governor who shall be graduates of a
19 legally incorporated and reputable college of osteopathic
20 medicine and shall have been licensed to practice osteopathic
21 medicine under the laws of this Commonwealth and shall have been
22 engaged in the practice of osteopathy in this Commonwealth for a
23 period of at least five years. All professional and public
24 members of the board shall be appointed by the Governor with the
25 advice and consent of a majority of the members elected to the
26 Senate. The Governor shall assure that respiratory therapists,
27 perfusionists, physician assistants and [certified] licensed
28 athletic trainers are appointed to four-year terms on a rotating
29 basis.

30 Section 3. Section 7.1 of the act, added December 10, 2001

1 (P.L.863, No.93), is amended to read:

2 Section 7.1. Athletic trainers.

3 (a) An athletic trainer [certified] licensed by the board
4 may, under the direction of a physician, podiatrist or dentist,
5 provide athletic training services to a physically active person
6 under the care of a physician, dentist or podiatrist. An
7 athletic trainer [certified] licensed under this section shall
8 refer a physically active person with conditions outside the
9 scope of athletic training services to a physician, dentist or
10 podiatrist.

11 (b) Any athletic trainer who holds a valid certificate
12 issued by the State Board of Physical Therapy under the act of
13 October 10, 1975 (P.L.383, No.110), known as the "Physical
14 Therapy Practice Act," relating to the practice of athletic
15 training, prior to the effective date of this act shall, on and
16 after the effective date hereof, be deemed to be [certified]
17 licensed by the State Board of Medicine or State Board of
18 Osteopathic Medicine as provided for in this act.

19 (B.1) APPLICABILITY.--SUBSECTION (B) SHALL NOT APPLY IN THE ←
20 CASE OF A CERTIFICATION THAT HAS EXPIRED OR BEEN REVOKED PRIOR
21 TO THE EFFECTIVE DATE OF THE SUBSECTION.

22 (c) An athletic trainer who meets the requirements of this
23 section shall be certified, may use the title "athletic trainer"
24 or the abbreviation for the title, ["A.T.C.,"] "A.T.L.," and may
25 perform athletic training services. A person who is not
26 [certified] licensed under this section may not use the
27 designation of [certified] licensed athletic trainer, athletic
28 trainer or any of the listed abbreviations for that title,
29 including ["C.A.T." or "A.T.C.,"] "L.A.T." or "A.T.L.," or any
30 similar designation. This section shall not prohibit any person

1 trained and licensed or certified under any other law from
2 engaging in the licensed or certified practice in which the
3 person is trained.

4 (d) The State Board of Osteopathic Medicine and the State
5 Board of Medicine shall jointly promulgate regulations which:

6 (1) establish approved education and training programs
7 for [certification] licensure; and

8 (2) define the circumstances and protocol under which a
9 [certified] licensed athletic trainer may perform athletic
10 training services.

11 [Until such regulations are promulgated by the State Board of
12 Osteopathic Medicine and the State Board of Medicine, the
13 athletic trainer shall be regulated by the regulations, duly
14 promulgated by the State Board of Physical Therapy prior to the
15 enactment of this amendatory act governing the activities of
16 certified athletic trainers, which are not inconsistent with
17 this act.]

18 (e) Notwithstanding any provision of this act to the
19 contrary, doctors of medicine may supervise and direct the
20 activities of athletic trainers to the same extent as physicians
21 regulated by this act.

22 (f) The State Board of Osteopathic Medicine shall be
23 responsible for the [certification] licensure of athletic
24 trainers. Jurisdiction will be determined by the type of
25 physician who supervises and directs the [certified] licensed
26 athletic trainer. [Certified] Licensed athletic trainers
27 supervised by a doctor of osteopathy shall fall within the
28 jurisdiction of the State Board of Osteopathic Medicine.

29 Section 4. Section 15(b) of the act, amended July 4, 2008
30 (P.L.589, No.46), is amended to read:

1 Section 15. Reasons for refusal, revocation or suspension of
2 license.

3 * * *

4 (b) The board shall have authority to refuse, revoke or
5 suspend the license of a physician assistant [or], respiratory
6 therapist, or [the certification of a certified] athletic
7 trainer for any or all of the following reasons:

8 (1) Failing to demonstrate the qualification for
9 licensure or certification contained in this act or
10 regulations of the board.

11 (2) Making misleading, deceptive, untrue or fraudulent
12 representations in his serving as a physician assistant;
13 practicing fraud or deceit in obtaining a license to serve as
14 a physician assistant; or making a false or deceptive
15 biennial registration with the board.

16 (3) Conviction of a felony in this Commonwealth or any
17 other state, territory or country. Conviction as used in this
18 paragraph shall include a finding or verdict of guilt, an
19 admission of guilt or a plea of nolo contendere, or receiving
20 probation without verdict, disposition in lieu of trial, or
21 an Accelerated Rehabilitative Disposition in the disposition
22 of felony charges.

23 (4) Having his license to serve as a physician assistant
24 revoked or suspended or having other disciplinary action
25 taken, or his application for licensure refused, revoked or
26 suspended by the proper certifying authority of another
27 state, territory or country.

28 (5) Being unable to serve as a physician assistant with
29 reasonable skill and safety to the physician's patients by
30 reason of illness, drunkenness, excessive use of drugs,

1 narcotics, chemicals, or any other type of material, or as a
2 result of any mental or physical condition.

3 (6) In enforcing paragraph (5), the board shall, upon
4 probable cause, have authority to compel a physician
5 assistant to submit to a mental or physical examination by
6 physicians designated by it. Failure of a physician assistant
7 to submit to such examination shall constitute an admission
8 of the allegations against him unless the failure is due to
9 circumstances beyond his control, consequent upon which a
10 default and final order may be entered without the taking of
11 testimony or presentation of evidence. A physician assistant
12 affected under this paragraph shall at reasonable intervals
13 be afforded an opportunity to demonstrate that he can resume
14 the competent assistance of a physician in the physician's
15 practice of medicine, with reasonable skill and safety to the
16 physician's patients.

17 (7) Violating a lawful regulation promulgated by the
18 board or violating a lawful order of the board, previously
19 entered by the board in a disciplinary proceeding.

20 (8) Knowingly rendering medical care and services except
21 under the supervision and direction of the supervising
22 physician.

23 (9) Being guilty of immoral or unprofessional conduct
24 shall include any departure from, or the failure to conform
25 to, the standards of acceptable and prevailing practice for
26 physician assistants, in which proceeding actual injury to a
27 patient need not be established.

28 * * *

29 Section 5. References in the current regulations to
30 certification or certified athletic trainers shall be deemed to

1 be references to licensure of athletic trainers or licensed
2 athletic trainers after the effective date of this act.

3 Section 6. This act shall take effect in 60 days.