

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 CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
SEPTEMBER 19, 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," "referral" and "written protocol" in section 2 of
13 the act of October 5, 1978 (P.L.1109, No.261), known as the
14 Osteopathic Medical Practice Act, amended or added December 10,
15 2001 (P.L.863, No.93) and July 4, 2008 (P.L.589, No.46), are
16 amended and the section is amended by adding a definition to
17 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 "Referral." An order from a licensed physician, dentist or
15 podiatrist to a [certified] licensed athletic trainer for
16 athletic training services. An order may be written or oral,
17 except that an oral order must be reduced to writing within 72
18 hours of issuance.

19 * * *

20 "Written protocol." A written agreement developed in
21 conjunction with one or more supervising physicians which
22 identifies and is signed by the supervising physician and the
23 [certified] licensed athletic trainer. It describes the manner
24 and frequency in which the [certified] licensed athletic trainer
25 regularly communicates with the supervising physician. It
26 includes standard operating procedures developed in agreement
27 with the supervising physician and [certified] licensed athletic
28 trainer that the [certified] licensed athletic trainer follows
29 when not directly supervised on site by the supervising
30 physician.

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

3 Section 2.1. State Board of Osteopathic Medicine.

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

23 Section 3. Section 7.1 of the act, added December 10, 2001
24 (P.L.863, No.93), is amended to read:

25 Section 7.1. Athletic trainers.

26 (a) An athletic trainer [certified] licensed by the board
27 may, under the direction of a physician, podiatrist or dentist,
28 provide athletic training services to a physically active person
29 under the care of a physician, dentist or podiatrist. An
30 athletic trainer [certified] licensed under this section shall

1 refer a physically active person with conditions outside the
2 scope of athletic training services to a physician, dentist or
3 podiatrist.

4 [(b) Any athletic trainer who holds a valid certificate ←
5 issued by the State Board of Physical Therapy under the act of
6 October 10, 1975 (P.L.383, No.110), known as the "Physical
7 Therapy Practice Act," relating to the practice of athletic
8 training, prior to the effective date of this act shall, on and
9 after the effective date hereof, be deemed to be ~~{certified}~~ ←
10 ~~licensed~~ by the State Board of Medicine or State Board of
11 Osteopathic Medicine as provided for in this act.] ←

12 ~~(b.1) Applicability. Subsection (b) shall not apply in the ←
13 case of a certification that has expired or been revoked prior
14 to the effective date of the subsection.~~ ←

15 (B.1) TRANSITIONAL RULE.-- ←

16 (1) ANY ATHLETIC TRAINER WHO HOLDS A VALID CERTIFICATE
17 ISSUED BY THE BOARD OR THE STATE BOARD OF MEDICINE, RELATING
18 TO THE PRACTICE OF ATHLETIC TRAINING, PRIOR TO THE EFFECTIVE
19 DATE OF THIS SUBSECTION SHALL, ON OR AFTER THE EFFECTIVE DATE
20 OF THIS SUBSECTION, BE DEEMED TO BE LICENSED BY THE BOARD OR
21 THE STATE BOARD OF MEDICINE AS PROVIDED IN THIS ACT.

22 (2) PARAGRAPH (1) SHALL NOT APPLY IN THE CASE OF A
23 CERTIFICATION THAT WAS EXPIRED OR REVOKED PRIOR TO THE
24 EFFECTIVE DATE OF THIS SUBSECTION.

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

1 trainer or any of the listed abbreviations for that title,
2 including ["C.A.T." or "A.T.C.,"] "L.A.T." or "A.T.L.," or any
3 similar designation. This section shall not prohibit any person
4 trained and licensed or certified under any other law from
5 engaging in the licensed or certified practice in which the
6 person is trained.

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

9 (1) establish approved education and training programs
10 for [certification] licensure; and

11 (2) define the circumstances and protocol under which a
12 [certified] licensed athletic trainer may perform athletic
13 training services.

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

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

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

1 jurisdiction of the State Board of Osteopathic Medicine.

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

4 Section 15. Reasons for refusal, revocation or suspension of
5 license.

6 * * *

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

11 (1) Failing to demonstrate the qualification for
12 licensure or certification contained in this act or
13 regulations of the board.

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

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

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

1 (5) Being unable to serve as a physician assistant with
2 reasonable skill and safety to the physician's patients by
3 reason of illness, drunkenness, excessive use of drugs,
4 narcotics, chemicals, or any other type of material, or as a
5 result of any mental or physical condition.

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

20 (7) Violating a lawful regulation promulgated by the
21 board or violating a lawful order of the board, previously
22 entered by the board in a disciplinary proceeding.

23 (8) Knowingly rendering medical care and services except
24 under the supervision and direction of the supervising
25 physician.

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

1 * * *

2 ~~Section 5. References in the current regulations to~~ ←
3 ~~certification or certified athletic trainers shall be deemed to~~
4 ~~be references to licensure of athletic trainers or licensed~~
5 ~~athletic trainers after the effective date of this act.~~

6 SECTION 5. REFERENCES TO CERTIFICATION OR CERTIFIED ATHLETIC ←
7 TRAINERS CONTAINED IN REGULATIONS PROMULGATED UNDER THIS ACT AND
8 IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED
9 TO BE REFERENCES TO LICENSURE OR LICENSED ATHLETIC TRAINERS
10 AFTER THE EFFECTIVE DATE OF THIS SECTION.

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