

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 541 Athletic Trainers
SPONSOR(S): Health Quality Subcommittee; Plasencia
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	11 Y, 0 N, As CS	Guzzo	O'Callaghan
2) Health & Human Services Committee		Guzzo	Calamas

SUMMARY ANALYSIS

Athletic trainers are regulated by the Department of Health (DOH), and the Board of Athletic Training (Board), within DOH. Athletic training is the recognition, prevention, and treatment of an injury sustained during an athletic activity which affects the athlete's ability to participate or perform.

Athletic trainers are required to practice within a written protocol established with a supervising physician. The written protocol must require the athletic trainer to notify the supervising physician of a new injury as soon as possible. Practicing athletic training without a license constitutes a misdemeanor of the first degree.

The bill revises the requirements to become licensed as an athletic trainer by removing the requirement that the applicant must be at least 21 years of age. An applicant who graduated college prior to 2004 must hold a current certification from the Board of Certification. The bill requires the college or university from which the applicant holds a degree to be accredited by the Commission on Accreditation of Athletic Training Education. The degree must be from a professional athletic training degree program. The bill requires an applicant, who applies on or after July 1, 2016, to undergo a criminal background check. Applicants must also be certified in both cardiopulmonary resuscitation and the use of an automated external defibrillator.

The bill removes the requirement for athletic trainers to practice within the written protocol of a physician, as determined by the Board. Instead, the bill requires athletic trainers to practice under the direction of a physician. The physician must communicate his or her direction through oral or written prescription or protocols as deemed appropriate by the physician, and the athletic trainer must provide service or care in the manner dictated by the physician. The bill authorizes the Board to adopt rules for mandatory requirements and guidelines for communication between the athletic trainer and a physician.

The bill adds certain acts committed by an athletic trainer to a list of punishable acts, which constitute misdemeanors of the first degree, and prohibits sexual misconduct in the practice of athletic training in accordance with current law under s. 456.063, F.S. The bill removes the DOH's disciplinary authority for certain advertising acts.

The bill clarifies that when an athletic training student is acting under the direct supervision of a licensed athletic trainer, the athletic trainer must be physically present.

The bill also states that nothing in the athletic training practice act prevents or restricts third party payors from reimbursing employers of athletic trainers for covered services rendered by a licensed athletic trainer.

There is an insignificant negative fiscal impact on the DOH, to the extent rulemaking is required to conform to the provisions of the bill. There is no fiscal impact on local governments.

The bill provides an effective date of January 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Athletic Trainers

Athletic Trainers are regulated by the Florida Department of Health (DOH), and the Board of Athletic Training (Board), within DOH.¹ Athletic training is the recognition, prevention, and treatment of an injury sustained during an athletic activity which affects the athlete's ability to participate or perform.² An athletic activity includes the participation in an event that is conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina.³

In 1994, the Legislature began fully regulating and licensing the practice of athletic training to protect the public and ensure that athletes are assisted by individuals adequately trained to recognize, prevent, and treat physical injuries sustained during athletic activities.⁴

As of June 30, 2014, there were 1,935 active licensed athletic trainers. During FY 2013-14, DOH received 356 applications from individuals seeking initial licensure as an athletic trainer.⁵

Applicants seeking licensure as an athletic trainer must: complete the application form and remit the required fees;⁶ be at least 21 years of age; possess a baccalaureate degree from a college or university accredited by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or a program approved by the Board; complete an approved athletic training curriculum from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the Board; be certified in cardiovascular pulmonary resuscitation from the American Red Cross, the American Heart Association, or an equivalent certification entity as determined by the Board; submit proof of taking a two-hour course on the prevention of medical errors; and submit a certified copy of the National Athletic Trainers Association Board of Certification certificate or a notarized copy of examination results.⁷

Licensed athletic trainers are required to complete 24 hours of continuing education courses biennially. The courses must focus on the prevention of athletic injuries; the recognition, evaluation, and immediate care of athletic injuries; rehabilitation and reconditioning of athletic injuries; health care administration; or professional development and responsibility of athletic trainers.⁸

An athletic trainer is required to practice within a written protocol⁹ established with a supervising physician.¹⁰ The athletic trainer and the supervising physician must review the protocol prior to the

¹ Part XIII, ch. 468, F.S. and Rule 64B33, F.A.C.

² S. 468.701(3) and (5), F.S.

³ S. 468.701(2), F.S.

⁴ Ch. 94-119, L.O.F. and s. 468.70, F.S.

⁵ Florida Department of Health, Division of Medical Quality Assurance: *Annual Report July 1, 2009 to June 30, 2010*, at 13 and 17, available at: <http://mgawebteam.com/annualreports/1314/#14> (last viewed March 13, 2015).

⁶ The application fee is \$100 and the initial licensure fee for even years is \$125 and in odd years is \$75. Rule 64B33-3.001, F.A.C. The license for the profession of athletic training is renewed September 30 of each even year. Rule 64B-9.001, F.A.C.

⁷ S. 468.707, F.S., and Rule 64B33-2.001, F.A.C.

⁸ Rule 64B33-2.005, F.A.C.

⁹ The written protocol must include: the athletic trainer's name, license number, and curriculum vitae; the supervising physician's name, license number, and curriculum vitae; method of contacting the supervising physician, specifically delineating the method to report new injuries as soon as practicable; the patient population to be treated (e.g., specific scholastic athletic programs, patients of a specific clinic, patients with specific physician referral); the method of assessment of a patient's status and treatment; delineation of the items considered within the scope of practice for the athletic trainer to include the use of modalities/equipment that may be initiated by the

athletic trainer renewing his or her license.¹¹ Licensure renewal for athletic trainers is required biennially.¹²

The Board considers the following principles, methods, and procedures within the scope of a licensed athletic trainer's practice: injury prevention; injury recognition and evaluation; first aid; emergency care; injury management/treatment and disposition; rehabilitation through the use of safe and appropriate physical rehabilitation practices, including those techniques and procedures following injury and recovery that restore and maintain normal function status; conditioning; performance of tests and measurements to prevent, evaluate, and monitor acute and chronic injuries; selection of preventive and supportive devices, temporary splinting and bracing, protective equipment, strapping, and other immobilization devices and techniques to protect an injured structure, facilitate ambulation and restore normal functioning; organization and administration of facilities within the scope of the profession; and education and counseling to the public regarding the care and prevention of athletic injuries.¹³

In the course of treatment and rehabilitation of muscle skeletal injuries, a licensed athletic trainer may administer: therapeutic exercise; massage; mechanical devices; cryotherapy (e.g., ice, cold packs, cold water immersion, spray coolants); thermotherapy (e.g., topical analgesics, moist/dry hot packs, heating pads, paraffin bath); and other therapeutic agents with the properties of water (e.g., whirlpool), electricity (e.g., electrical stimulation, diathermy¹⁴), light (e.g., infrared, ultraviolet), or sound (e.g., ultrasound); and topical prescription medications (e.g., steroid preparation for phonophoresis¹⁵) only at the direction of a physician.¹⁶

Effect of Proposed Changes

The bill clarifies and strengthens the practice requirements for athletic trainers by expressly prohibiting athletic trainers from providing, offering to provide, or representing that he or she is qualified to provide any care or services that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing. The bill also provides that the service and care provided by an athletic trainer must relate to the prevention, recognition, evaluation, management, disposition, treatment, or rehabilitation of a physically active person who sustained an injury involving exercise, sports, recreation, or a related physical activity. In providing such care and services, the bill authorizes athletic trainers to use physical modalities, such as heat, light, sound, cold, electricity, and mechanical devices.

The bill revises the requirements to become licensed as an athletic trainer by removing the requirement that the applicant must be at least 21 years of age. An applicant who graduated college prior to 2004 must hold a current certification from the Board of Certification. The bill requires the college or university from which the applicant holds a degree to be accredited by the Commission on Accreditation of Athletic Training Education. The degree must be from a professional athletic degree program. The bill requires an applicant, who applies on or after July 1, 2016, to undergo a criminal background check. Applicants must also be certified in both cardiopulmonary resuscitation and the use of an AED.

The bill removes the requirement for athletic trainers to practice within the written protocol of a physician, as determined by the Board. Instead, the bill requires athletic trainers to practice under the direction of a physician. The physician must communicate his or her direction through oral or written

athletic trainer or require a physician's order; and identification of resources for emergency patient care (e.g., nearest hospital with emergency services, ambulance service). Rule 64B33-4.001(1), F.A.C.

¹⁰ S. 468.713, F.S., "...the physician must be licensed under chapter 458 (allopathic physician), 459 (osteopathic physician), or 460 (chiropractic physician)."

¹¹ Rule 64B33-4.001(2), F.A.C.

¹² Rule 64B33-3.001(3), F.A.C.

¹³ Rule 64B33-3.001(3), F.A.C.

¹⁴ Diathermy is a method of physical therapy that involves using high-frequency electric current, ultrasound, or microwaves to deliver heat to muscles and ligaments.

¹⁵ Phonophoresis has been used in an effort to enhance the absorption of topically applied analgesics and anti-inflammatory agents through the therapeutic application of ultrasound.

¹⁶ Rule 64B33-3.001(4), F.A.C.

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prescription or protocols as deemed appropriate by the physician, and the athletic trainer must provide service or care in the manner dictated by the physician. The bill authorizes the Board to adopt rules for mandatory requirements and guidelines for communication between the athletic trainer and a physician, including reporting new or recurring injuries or conditions to the physician.

The bill prohibits acts of sexual misconduct under s. 456.063, F.S., instead of including such prohibition within the athletic training practice act.

The bill adds certain acts committed by an athletic trainer to the list of punishable acts, which constitute misdemeanors of the first degree. Specifically, the bill prohibits unlicensed persons from practicing athletic training; representing themselves as an athletic trainer; using the title "athletic trainer" or "licensed athletic trainer;" or using the abbreviation "AT" or "LAT," or any other abbreviation that suggests licensure as an athletic trainer.

The bill clarifies that when an athletic training student is acting under the direct supervision of a licensed athletic trainer, the athletic trainer must be physically present.

The bill removes the DOH's authority to discipline an athletic trainer for failing to include the athletic trainer's name and license number in advertising.

The bill also states that the athletic training practice act does not prevent or restrict third party payors from reimbursing employers of athletic trainers for covered services rendered by a licensed athletic trainer.

The bill removes an outdated provision which requires initial appointees to the Board to be appointed in a manner to provide for staggered terms.

The bill provides an effective date of January 1, 2016.

B. SECTION DIRECTORY:

Section 1: Amends s. 468.70, F.S., relating to legislative intent.

Section 2: Amends s. 468.701, F.S., relating to definitions.

Section 3: Amends s. 468.703, F.S., relating to the Board of Athletic Training.

Section 4: Amends s. 468.705, F.S., relating to rulemaking authority.

Section 5: Amends s. 468.707, F.S., relating to licensure requirements.

Section 6: Amends s. 468.709, F.S., relating to fees.

Section 7: Amends s. 468.711, F.S., relating to renewal of license; continuing education.

Section 8: Amends s. 468.713, F.S., relating to responsibilities of athletic trainers.

Section 9: Amends s. 468.715, F.S., relating to sexual misconduct.

Section 10: Amends s. 468.717, F.S., relating to violations and penalties.

Section 11: Amends s. 468.719, F.S., relating to disciplinary actions.

Section 12: Amends s. 468.723, F.S., relating to exemptions.

Section 13: Amends s. 456.0135, F.S., relating to general background screening provisions.

Section 14: Provides an effective date of January 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

To the extent the DOH will have to adopt rules to conform to the new requirements of this bill, the DOH may incur insignificant costs associated with rulemaking, which may be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rule-making authority is necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 16, 2015, the Health Quality Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Authorized an athletic trainer to provide certain care or services only related to certain specified activities.
- Removed an outdated provision which requires initial appointees to the Board of Athletic Training (Board) to be appointed in a manner to provide for staggered terms.
- Authorized the Board to adopt rules for mandatory requirements and guidelines for communication between the athletic trainer and a physician, including reporting new or recurring injuries or conditions to the physician.
- Revised the background screening requirements of the bill by requiring the current background screening requirements for health care practitioners under s. 456.0135, F.S., to apply to athletic trainer applicants and makes those requirements effective on or after July 1, 2016, instead of July 1, 2015.
- Required a baccalaureate degree or higher obtained from a college or university to be from a professional athletic degree program as a condition of licensure.
- Clarified that applicants who graduated before 2004, must hold a current certification rather than credential from the Board of Certification.
- Removed language authorizing a physician to communicate his or her direction to an athletic trainer through advice and referral.
- Replaced the term client with the term patient where applicable.
- Changed the effective date of the bill to January 1, 2016.

The analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.