

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

SENATE BILL 109

5 By: Senator J. Hutchinson
6

For An Act To Be Entitled

8 AN ACT TO AMEND AND UPDATE THE ARKANSAS ATHLETIC
9 TRAINERS ACT; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO AMEND AND UPDATE THE ARKANSAS ATHLETIC
12 TRAINERS ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code §§ 17-93-402 and 17-93-403 are amended to
20 read as follows:

21 17-93-402. Definitions.

22 As used in this subchapter:

23 (1) "Athlete" means ~~an individual~~ a patient who is participating
24 in ~~organized athletic or team~~ activities at the interscholastic, intramural,
25 intercollegiate, or professional level, ~~or sanctioned~~ recreational sports
26 activities, industrial activities, or military activities;

27 (2) "Athletic injury or illness" means an injury or illness
28 sustained by the athlete as a result of participation in ~~those organized~~
29 ~~athletic or team~~ activities which require physical strength, agility,
30 flexibility, range of motion, speed, or stamina, or any comparable injury or
31 illness to an athlete which prevents the person from participating in
32 activities described in subdivision (1) of this section;

33 (3) "Athletic trainer" means ~~a person licensed by the state to~~
34 ~~engage in athletic training~~ an allied healthcare professional licensed by the
35 state who, under the supervision of a licensed physician, engages in the
36 practice of athletic training;



1 (4) "Athletic training" means the prevention, recognition,
2 evaluation, treatment, and rehabilitation of, and emergency care and
3 appropriate preventative and supportive devices for, an athletic injury or
4 illness ~~and the organization and administration of exercise, conditioning,~~
5 ~~and athletic training programs; and~~

6 ~~(5) "Board" means the Arkansas State Board of Athletic Training;~~

7 ~~(6) "Direct supervision" means supervision of the athletic~~
8 ~~trainer in a clinical setting in which the supervising physical therapist~~
9 ~~must be readily available for consultation for the care of the athlete but~~
10 ~~not necessarily on the premises;~~

11 ~~(7)(5) "License" means the document issued by the board to a~~
12 ~~qualified person to practice athletic training; and~~

13 ~~(8) "Sanctioned recreational sports activities" means any~~
14 ~~athletic or team activity which requires physical strength, agility,~~
15 ~~flexibility, range of motion, speed, or stamina and meets one (1) or more of~~
16 ~~the following:~~

17 ~~(A) Has officially designated coaches who have the~~
18 ~~responsibility for athletic activities of the organization;~~

19 ~~(B) Has a regular schedule of practices or workouts which~~
20 ~~are supervised by the officially designated coaches;~~

21 ~~(C) Is an activity generally recognized as having an~~
22 ~~established schedule of competitive events or exhibitions; and~~

23 ~~(D) Has a policy requiring documentation of having passed~~
24 ~~a preparticipation medical examination conducted by a licensed physician as a~~
25 ~~condition for participation for the athletic activities of the organization.~~

26
27 17-93-403. Penalties.

28 (a)(1) ~~Any~~ A person who violates a provision of this subchapter is
29 guilty of a misdemeanor punishable by a fine of not less than one hundred
30 dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment
31 for not less than thirty (30) days nor more than one hundred eighty (180)
32 days, or both.

33 (2) Each day of a violation constitutes a separate offense.

34 (b)(1) After notice and hearing, the Arkansas State Board of Athletic
35 Training ~~is also authorized to~~ may levy a civil penalty against any:

36 (A) person Person licensed under the provisions of this

1 subchapter after a finding that the person has violated any of the provisions
 2 of this subchapter or any ~~regulations~~ rule promulgated by the board; and
 3 (B) Unlicensed person practicing or offering to practice
 4 any actions requiring licensure pursuant to the provisions of this
 5 subchapter.

6 (2) Each day a violation occurs shall constitute a separate
 7 offense.

8 (c) ~~Civil penalties~~ A civil penalty assessed by the board shall be no
 9 more than one thousand dollars (\$1,000) per incident.

10 ~~(d) In addition to any other sanctions authorized by this subchapter,~~
 11 ~~the board may impose a civil penalty as provided in this section against any~~
 12 ~~unlicensed person practicing or offering to practice any actions requiring~~
 13 ~~licensure pursuant to the provisions of this subchapter.~~

14
 15 SECTION 2. Arkansas Code § 17-93-406 is amended to read as follows:
 16 17-93-406. Powers and duties of the board.

17 (a) The Arkansas State Board of Athletic Training shall have the
 18 ~~following~~ powers and duties to:

19 (1) ~~To receive~~ Receive and maintain all records of board
 20 proceedings;

21 (2) ~~To adopt~~ Adopt minimum curriculum ~~and internship~~
 22 requirements for qualification for an Arkansas athletic trainer's license;

23 (3) ~~To issue~~ Issue licenses;

24 (4) ~~To keep~~ Keep a complete record of all licensed athletic
 25 trainers, including:

26 (A) Preparing annually a roster showing the names and
 27 addresses of all licensed athletic trainers; and

28 (B) Making available a copy of ~~such a~~ the roster to any
 29 person requesting it on payment of a fee as established by the board to cover
 30 the cost of the roster;

31 (5) ~~To adopt~~ Adopt rules ~~and regulations~~ consistent with this
 32 subchapter which are necessary for the performance of its duties, including,
 33 but not limited to, the imposing of fees adequate to carry out the purposes
 34 of this subchapter;

35 (6) ~~To collect~~ Collect fees adequate to carry out the purposes
 36 of this subchapter;

1 (7) ~~To keep~~ Keep records of fees collected and costs incurred
2 for operations of the board and licensing of athletic trainers; and

3 (8) ~~To file~~ File an annual report of its activities, including
4 the activities of the board, with the Department of Finance and
5 Administration.

6 (b) In addition to the powers and duties set forth in this subchapter,
7 the board shall investigate reported violations of this subchapter and take
8 necessary steps to enforce this subchapter.

9
10 SECTION 3. Arkansas Code §§ 17-93-409 – 17-93-413 are amended to read
11 as follows:

12 17-93-409. Qualification – Athletic trainer.

13 ~~(a) For the purpose of this subchapter, a person is actively engaged~~
14 ~~as an athletic trainer if the person has performed such duties as a principal~~
15 ~~part of his or her full-time employment under the direction of a licensed~~
16 ~~physician for three (3) of the past five (5) years preceding the application.~~

17 ~~(b)~~(a) An applicant for an Arkansas athletic trainer’s license ~~must~~ is
18 required to:

19 (1) Possess a ~~bachelor’s~~ degree from an accredited college or
20 university;

21 (2) Meet ~~other~~ minimum athletic training curriculum ~~and~~
22 ~~internship~~ requirements as ~~specified~~ established by the Arkansas State Board
23 of Athletic Training;

24 (3) Pass an examination for licensure as designated by the board
25 which is a reliable, valid, legally defensible examination for determining
26 minimum competency in athletic training;

27 (4) Submit appropriate application forms to the board; and

28 (5) Pay all appropriate fees.

29 ~~(c) Notarized proof of employment, performance of duties, and~~
30 ~~supervision shall accompany the person’s application.~~

31 ~~(d)~~(b) ~~Anyone~~ A person who meets the qualifications prescribed in
32 subsection ~~(b)~~ (a) of this section, except for the examination requirement
33 under subdivision ~~(b)(3)~~ (a)(3) of this section, shall be issued a temporary
34 nonrenewable athletic trainer’s permit license which shall expire one (1)
35 year after the date of application ~~therefor~~.

1 17-93-410. Expiration and renewal.

2 (a) A license issued under this subchapter expires ~~one (1) year after~~
 3 ~~the date of issuance~~ on June 30th of each calendar year.

4 (b)(1) ~~Licenses~~ A license shall be renewed according to procedures
 5 established by the Arkansas State Board of Athletic Training.

6 (2) The board shall renew a license upon proof of
 7 recertification as a certified athletic trainer provided by the athletic
 8 trainers' national governing entity which shall include:

9 (A) Compliance with the standard of professional practice;

10 (B) Emergency cardiac care certification;

11 (C) Maintenance of fees; and

12 (D) Successful completion of continuing education
 13 requirements as determined by the board.

14
 15 17-93-411. ~~Direction and supervision~~ Physician supervision.

16 (a) ~~In a nonclinical setting, an~~ An athletic trainer may practice the
 17 art and science of athletic training only under the direction of a physician
 18 licensed in the State of Arkansas.

19 (b) ~~The athletic trainer may practice athletic training in a hospital~~
 20 ~~or outpatient clinic under the direct supervision of a physical therapist and~~
 21 ~~upon the referral of a physician licensed in the State of Arkansas~~ A
 22 supervising physician is not required to be onsite with an athletic trainer,
 23 but shall be accessible for online or offline medical direction.

24 (c) Evidence of physician supervision can be established by:

25 (1) A functional protocol form signed by the supervising
 26 physician.

27 (B) The functional protocol form shall specify what
 28 procedures the athletic trainer may perform or initiate during an absence of
 29 the physician;

30 (2) A written or verbal order from the supervising physician; or

31 (3) A written procedure of the setting in which the athletic
 32 trainer practices that have been approved by the supervising physician.

33
 34 17-93-412. Revocation, suspension, or denial – Grounds.

35 (a) The Arkansas State Board of Athletic Training may refuse to issue
 36 or renew a license or may suspend or revoke a license if an applicant or

1 licensee has:

2 (1) Been convicted of a felony or misdemeanor involving moral
3 turpitude, the record of conviction being conclusive evidence of conviction
4 if the board determines after investigation that the person has not been
5 sufficiently rehabilitated to warrant the public trust;

6 (2) Secured a license under this subchapter by fraud or deceit;
7 ~~or~~

8 (3) Violated or conspired to violate this subchapter or rules ~~or~~
9 ~~regulations~~ issued ~~pursuant to~~ under this subchapter;

10 (4) Been found guilty of unethical or unprofessional conduct, as
11 determined by the board;

12 (5) Been convicted of a violation of any state or federal
13 narcotics laws;

14 (6) Been habitually intoxicated or has been addicted to the use
15 of narcotic drugs;

16 (7) Been found guilty of gross negligence in his or her
17 practice, as determined by the board;

18 (8) Been convicted of sexual abuse or sexual misconduct; or

19 (9) Been declared incompetent by a court and has not thereafter
20 been lawfully declared competent.

21 (b)(1) On application, the board may reissue a license to a person
22 whose license has been revoked, but the application may not be made ~~prior to~~
23 before the expiration of a period of one (1) year after the order of
24 revocation has become final.

25 (2) ~~Such~~ The application shall be made in the manner and form
26 required by the board.

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28 17-93-413. Revocation, suspension, or denial – Proceedings.

29 (a) Any person whose application for a license or for renewal of a
30 license is denied is entitled to a hearing, which shall be conducted ~~pursuant~~
31 ~~to~~ under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

32 (b)(1) Proceedings for revocation or suspension of a license shall be
33 commenced by filing charges with the Arkansas State Board of Athletic
34 Training in writing.

35 (2) The charge may be brought by any person against a person
36 having a license to practice as an athletic trainer in this state charging

1 that the person has committed a violation under § 17-93-412.

2 (3)(A) The board shall send an advisory notice to the person who
3 allegedly committed a violation once the complaint has been received by the
4 board.

5 (B) The advisory notice shall include a statement
6 notifying the person who allegedly committed a violation that the person
7 shall reply to the notice.

8 (c) The board shall fix the time and place of the hearing and shall
9 provide a written copy of the charges or reason for the denial of the license
10 or for the refusal to renew the license, together with a notice of the time
11 and place fixed for the hearing, to be served on the applicant requesting the
12 hearing or license against whom the charges have been filed at least thirty
13 (30) days ~~prior to~~ before the date set for the hearing.

14
15 SECTION 4. Arkansas Code Title 17, Chapter 93, Subchapter 4, is
16 amended to add an additional section to read as follows:

17 17-93-415. Notice of malpractice claim or suit.

18 (a) An athletic trainer shall notify the Arkansas State Board of
19 Athletic Training within ten (10) days after receipt of notification of a
20 claim or a lawsuit against the athletic trainer for malpractice.

21 (b) The board shall prepare and adopt rules as necessary to ensure
22 compliance with this section.

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