

BOC PROFESSIONAL PRACTICE AND DISCIPLINE GUIDELINES
Effective March 22, 2007
Updated January 1, 2014



*Certainty for the
BOC Certified Athletic Trainer*



**BOARD OF CERTIFICATION
FOR THE ATHLETIC TRAINER**

Be Certain.™

WWW.BOCATC.ORG

Table of Contents

Introduction	3
Section 1: Professional Practice and Discipline Committee	3
Section 2: Investigation	4
Section 3: Charge	5
Section 4: Consent Agreements	5
Section 5: Conviction of a Crime or Professional Discipline	6
Section 6: Hearings	8
Section 7: Appeals	9
Section 8: Forms of Discipline	9
Section 9: Impaired Practitioner	10
Section 10: Required Action After Suspension	13
Section 11: Status Definitions	13
Section 12: Reinstatement	13
Section 13: Confidentiality of Proceedings	14
Section 14: General Provisions	15

Cover photo courtesy of Mark Baylor under a Creative Commons license, www.flickr.com/photos/baylors

Introduction

The *BOC Professional Practice and Discipline Guidelines and Procedures* are intended to inform BOC Certified Athletic Trainers, BOC exam applicants, consumers of athletic training services and members of the public of the disciplinary guidelines and procedures.

Section 1: Professional Practice and Discipline Committee

1.1 Function and Jurisdiction of the Professional Practice and Discipline Committee

The Professional Practice and Discipline Committee (referred to herein as "PPD Committee") is responsible for the oversight and adjudication of the *BOC Professional Practice and Discipline Guidelines and Procedures* (referred to herein as *Procedures*) and the *BOC Standards of Professional Practice*, which consists of the Practice Standards and the Code of Professional Responsibility. The PPD Committee has jurisdiction over all BOC Certified Athletic Trainers (referred to herein as AT or ATs) and both current and prospective BOC exam applicants.

1.2 Powers and Duties of the PPD Committee

The PPD Committee shall be authorized and empowered to:

- 1.2.1 Review and decide cases involving alleged violations of the *BOC Standards of Professional Practice* and impose sanctions as appropriate;
- 1.2.2 Review sanctions imposed for failure to comply with recertification requirements pursuant to Section 10;
- 1.2.3 Regularly report to the BOC Executive Director on the operation of the PPD Committee;
- 1.2.4 Propose amendments to the *Procedures*, subject to review and approval of the BOC Executive Director and BOC Legal Counsel, and adoption by the BOC Board of Directors; and
- 1.2.5 Adopt such other rules or procedures as may be necessary or appropriate to govern the internal operations of the PPD Committee.

1.3 Selection and Term Limits

The BOC Board of Directors, by a majority vote, shall appoint five persons who are ATs in good standing and two members of the public for a three year term to the PPD Committee with the ability to serve no more than a maximum of three consecutive terms. The terms shall be staggered. The BOC Board of Directors shall designate one AT member to serve as the Chair of the PPD Committee. The term for the Chair will be three years with the ability to serve no more than a maximum of two consecutive terms as Chair. The Chair must have previously served on the PPD Committee. The Chair will only vote when there is a tie vote among the other PPD Committee members.

When a vacancy on the PPD Committee occurs as a result of resignation, unavailability or disqualification, the BOC Executive Director shall designate a new member in coordination and compliance with the BOC Nominating Committee.

Section 2: Investigation

2.1 Filing a Complaint

Individuals shall report possible violations of the *BOC Standards of Professional Practice* in a written and signed statement addressed to the BOC. This statement shall identify the persons alleged to be involved and the facts concerning the alleged conduct in as much detail as possible and should include any available documentation. You may file a complaint on the BOC website, www.bocatc.org, or you may contact the BOC office to obtain a complaint form.

The BOC may undertake an investigation or initiate a disciplinary proceeding without a complaint in the event it receives or discovers information indicating that a violation of the *BOC Standards of Professional Practice* may have occurred.

2.2 Procedures for Investigation

2.2.1 Preliminary Review

The BOC shall review all complaints and information concerning a possible violation of the *BOC Standards of Professional Practice*. In making a determination of whether to proceed, the BOC shall make such inquiry regarding the underlying facts as it deems appropriate. If the BOC chooses not to investigate a complaint, no file shall be opened and the Complainant shall be notified of the BOC's decision.

2.2.2 Investigation

If, upon completion of its preliminary review, the BOC determines that the information and allegations, if true, describe facts that would constitute a violation of the *BOC Standards of Professional Practice*, the BOC shall initiate an investigation. Notice: Upon initiation of an investigation, the BOC shall notify the Respondent as well as the Complainant that it has decided to conduct an investigation. This notification shall be in writing and shall include a description of the allegations or information received by the BOC and may request additional information from the Respondent and/or Complainant. The identity of the Complainant will remain confidential to the extent consistent with a proper and thorough investigation. The Respondent and/or Complainant shall have 15 calendar days from the date notification is sent to respond in writing to the complaint. The BOC may extend this period up to an additional 15 calendar days upon request, provided sufficient justification for the extension is given prior to the expiration of the original deadline.

2.2.2.1 Response: Upon receipt of a response admitting the allegations in the complaint, the BOC shall refer the matter to the PPD Committee and the Respondent may request, or be requested to, enter into a Consent Agreement as outlined in Section 4. All other responses will be considered in the investigation.

2.2.3 Probable Cause Determination Procedures

Upon the completion of its investigation, the BOC shall determine if there is probable cause to believe grounds for discipline exist and shall either:

2.2.3.1 Dismiss the case due to insufficient evidence, the matter being insufficiently serious, or other reasons as may be warranted;

2.2.3.2 Begin preparation and processing of a Charge against the Respondent in accordance with Section 3; or

2.2.3.3 Offer a Consent Agreement as outlined in Section 4.

Section 3: Charge

3.1 Charge

A Charge letter shall be prepared by the BOC. The Charge letter shall contain a statement of the factual allegations constituting the alleged violation and the standard or code allegedly violated. The Charge letter shall also include a recitation of the Respondent's rights and shall enclose a copy of these *Procedures*.

3.2 Service of the Charge Letter

The Charge letter shall be transmitted to the Respondent by certified mail or tracked courier, return receipt requested.

3.3 Response

The Respondent shall have 30 calendar days from the date of receipt or delivery of the Charge in which to respond to the allegations, provide comments regarding appropriate sanctions or request a hearing. The BOC may extend this period up to an additional 15 calendar days upon request, provided sufficient justification for the extension is given prior to the expiration of the original deadline. All responses shall be in writing. Hearings are available only if the Respondent disputes the truth of the factual allegations underlying the Charge.

3.4 Failure to Respond

If the Respondent fails to respond within the period provided by Section 3.3, the Respondent shall be deemed to be in default and the allegations set forth in the Charge shall be deemed admitted. In such circumstance, the BOC shall serve upon the Respondent a notice of default specifying the form of discipline (see Section 8), if any, to be imposed and informing the Respondent of his/her right of appeal.

3.5 Consent Agreement

If the Respondent does not dispute the factual allegations outlined in the Charge letter, the Respondent shall be requested to enter into a Consent Agreement as outlined in Section 4.

Section 4: Consent Agreements

4.1 Consent Agreement

At any time during a disciplinary proceeding, the BOC may execute a Consent Agreement with the Respondent. A Consent Agreement is a voluntary and legally binding agreement between the BOC and the Respondent which formally resolves a Charge or investigation without further proceedings. Consent Agreements may be initiated by either the BOC or a Respondent. Consent Agreements may be entered into only with the consent of the Respondent, the PPD Committee and the Executive Director.

Any remedy, penalty or sanction that is otherwise available under these *Procedures* may be achieved by Consent Agreement, including long-term suspension. A Consent Agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original Consent Agreement. A Consent Agreement may be enforced by either party in an action at law or equity.

4.2 Offer of Consent Agreement

The BOC may propose entry into a Consent Agreement at any time during the disciplinary process, including but not limited to the conclusion of an investigation, at the time of service of a Charge letter, upon receipt of the Response to the Charge letter, or during the Hearing or Appeals process. Every Consent Agreement shall contain and describe in reasonable detail:

- 4.2.1 The act or practice which the Respondent is alleged to have engaged in or omitted;
- 4.2.2 The standard(s) or code(s) that such act, practice or omission to act is alleged to have been violated;
- 4.2.3 A statement that the Respondent does not contest the factual allegation(s) and violation(s) as outlined by 4.2.1 and/or the BOC's findings regarding the factual allegations;
- 4.2.4 The proposed action to be taken and a statement that the Respondent consents to the proposed action; and
- 4.2.5 The Respondent's waiver of all right of appeal within the BOC or the judicial system or to otherwise challenge or contest the validity of the Consent Agreement.

4.3 Publication

Although Consent Agreements typically remain confidential, the BOC may determine that circumstances exist in which publication is warranted. The terms of each Consent Agreement will specify the degree of confidentiality accorded each agreement.

Section 5: Conviction of a Crime or Professional Discipline

5.1 Duty to Report Criminal Charge, Conviction or Professional Discipline

5.1.1 Duty to Report Criminal Charge

An AT or BOC applicant who is charged with a serious crime as defined in Section 5.3.1 below, shall notify the BOC of such charge within 10 calendar days after the date on which the Respondent is notified of the charge.

5.1.2 Duty to Report Criminal Conviction or Professional Discipline

An AT or BOC applicant who is convicted of any crime (with the exception of misdemeanor traffic offenses or traffic ordinance violations that do not involve the use of alcohol or drugs), or who becomes subject to any professional discipline, shall notify the BOC in writing of such conviction or professional discipline within 10 calendar days after the date on which the Respondent is notified of the conviction or professional discipline.

5.2 Commencement of Disciplinary Proceedings Upon Notice of Charge, Conviction or Professional Discipline

Upon receiving notice that an AT or BOC applicant has been charged with a serious crime (as defined in Section 5.3.1) or convicted of a crime other than a serious crime or has been subject to professional discipline other than suspension (as defined in Section 5.3.2), the BOC shall commence an investigation. If the conviction is for a serious crime or if a Respondent has received a professional suspension, the BOC shall obtain the record of conviction or proof of suspension and initiate disciplinary proceedings against the Respondent as provided in Section 3. If the Respondent's criminal conviction or professional suspension is either admitted or proved as provided in Section 5.4, the Respondent shall have no right to a hearing before the Hearing Panel.

5.3 Conviction of Serious Crime or Professional Suspension – Immediate Suspension

Upon receiving notification of a Respondent's conviction of a serious crime or professional suspension, the BOC may, at its discretion, issue a notice to the convicted or suspended AT or BOC applicant directing that the Respondent show cause why the Respondent's right to use the ATC® certification mark should not be immediately suspended or BOC exam eligibility be denied pursuant to Section 8.

5.3.1 Serious Crime Defined

The term serious crime as used in these rules shall include: 1) any felony; 2) a misdemeanor related to public health, patient care, athletics or education. This includes, but is not limited to: rape; sexual or physical abuse of a child or patient; actual or threatened use of a weapon of violence; the prohibited sale or distribution of controlled substance, or its possession with the intent to distribute; or the use of the position of an AT to improperly influence the outcome or score of an athletic contest or event or in connection with any gambling activity; and/or an attempt, conspiracy, aiding and abetting, or solicitation of another to commit such an offense.

5.3.2 Definition of a Professional Suspension

A professional suspension as used herein shall mean the Respondent's license to provide athletic training or other healthcare services has been suspended or barred by a governmental or industry self-regulatory authority.

5.4 Proof of Conviction or Professional Discipline

Except as otherwise provided in these *Procedures*, an original or authenticated copy of a certificate or other writing from the clerk of any court of criminal jurisdiction indicating that an AT or applicant has been convicted of a crime in that court, or an original or authenticated copy of a letter or other writing from a governmental or industry self-regulatory authority to the effect that an AT or applicant has been subject to professional discipline or suspension by such authority, shall constitute conclusive proof of the existence of such conviction or such professional discipline for purposes of these disciplinary proceedings.

5.5 Applicants with Prior Criminal Conviction or Professional Discipline

A BOC applicant who has a prior conviction of any crime (with the exception of misdemeanor traffic offenses or traffic ordinance violations that do not involve the use of alcohol or drugs), or who has been subject to any professional discipline, shall select "Yes" to Question 1 and/or Question 2 of the Affidavit section of the BOC Exam Application.

5.5.1 Commencement of Disciplinary Proceedings upon Notice of Prior Conviction or Professional Discipline to Determine Exam Eligibility

The BOC Applicant shall submit an explanation of the events that led to the conviction and copy of court document(s), including, but not limited to, an arrest report, sentence recommendation, proof of compliance of all court requirements and proof of payment for all related fines. The Committee may request additional documentation at any time during the proceedings.

5.5.1.1 The Committee will review each case to determine exam eligibility.

5.5.1.2 The Committee may grant exam eligibility and if necessary, may impose discipline once the Applicant is certified. Possible forms of discipline are outlined in Section 8.

5.5.1.3 The Committee may deny exam eligibility. If exam eligibility is denied the Applicant has 30 calendar days to appeal. See Section 7 for appeal procedures.

5.5.2 Predetermination of Applicant Eligibility

Individuals with a conviction and/or professional discipline may request a predetermination of eligibility at any time by submitting documentation, as outlined in 5.5.1, prior to submitting an application. Upon review, the Committee will provide the individual written notification of exam eligibility. In the event that additional information is discovered regarding the conviction and/or professional discipline the notification is null and void. The notification does not guarantee exam eligibility.

Section 6: Hearings

Hearings are conducted only in cases where the Respondent disputes the truthfulness of the facts underlying the Charge. Respondents wishing to have a hearing must request a hearing in writing in Response to the Charge Letter. Hearings are conducted orally by telephone conference call. A hearing may be conducted in person at the BOC office in Omaha, Nebraska, if the BOC determines that exceptional circumstances exist which warrant such a hearing.

6.1 Notice

The BOC shall:

- 6.1.1 Forward any Response containing a valid request for a hearing and the Charge letter to the Hearing Panel;
- 6.1.2 Schedule a hearing before the Hearing Panel; and
- 6.1.3 Send by certified mail, return receipt requested, or tracked courier, a Notice of Hearing to the Respondent.
 - 6.1.3.1 The Notice of Hearing shall include a statement of the date and time of the hearing. The BOC will endeavor to schedule the hearing on a mutually agreeable time and date.

6.2 Designation of a Hearing Panel

Upon receipt of a request for a hearing that complies with the requirements of Section 3.3, above, the BOC Executive Director shall appoint a Hearing Panel. The Panel shall comprise five members, including three ATs and two members of the public. The BOC Executive Director shall designate one of the AT members to serve as the Chair for the Hearing Panel. The Chair shall only vote in the event of a tie among the other Hearing Panel members.

- 6.2.1 The Hearing Panel may be established as a standing Panel.
- 6.2.2 The BOC Executive Director may also appoint up to eight non-voting substitute members.
- 6.2.3 When a vacancy of a full member occurs in the Hearing Panel as a result of resignation, unavailability or disqualification, the BOC Executive Director shall designate a substitute member to serve in the full member's place.

6.3 Procedure and Proof

- 6.3.1 The Hearing Panel shall maintain an audio-taped or written transcript of the proceedings.
- 6.3.2 The BOC and the Respondent or their agent(s) may make opening statements, present documents and testimony, examine and cross-examine witnesses under oath, make closing statements and present written briefs as scheduled by the Hearing Panel.
- 6.3.3 The Hearing Panel shall determine all matters relating to the hearing by majority vote. The hearing shall be conducted on the record. Formal rules of evidence shall not apply. Relevant evidence may be admitted.

6.4 Decision

- 6.4.1 Decisions by the Hearing Panel shall be in writing and shall include, as appropriate, factual findings, conclusions of law and any form(s) of discipline applied.
- 6.4.2 Decisions by the Hearing Panel shall be transmitted to the Respondent by certified mail or tracked courier, return receipt requested.

6.5 Expenses

Each party shall bear its own travel, legal and other expenses related to the hearing.

Section 7: Appeals

The Respondent may appeal a decision by the Hearing Panel, a decision rendered by the PPD Committee regarding the imposition of discipline, or an entry of default by the BOC. Consent Agreements and any Orders accompanying them, are not subject to appeal. All appeals are based on the record before the Hearing Panel or PPD Committee. New or additional evidence is permitted only in exceptional circumstances and in the interests of justice.

7.1 Appeals Procedure

- 7.1.1 An appeal must be postmarked within 30 calendar days of the Respondent's receipt of a Hearing Panel or PPD Committee decision or a BOC entry of default through the submission of a written appeal statement to the BOC Executive Director. The appeal statement must set forth the grounds on which the appeal is based and the specific relief requested.
- 7.1.2 The BOC Executive Director may file a written response to the appeal statement of the Respondent.
- 7.1.3 The Appeals Panel shall render a decision on the record without oral hearing, although written briefing may be submitted.

7.2 Designation of Appeals Panel

Upon receipt of a valid appeal statement, the BOC Board of Directors shall select three of its members to serve on an Appeals Panel. The Appeals Panel shall include at least one Athletic Trainer Director and one Public Director.

7.3 Decision

The decision of the Appeals Panel shall be rendered in writing. A decision by the Appeals Panel shall contain, as appropriate, factual findings, conclusions of law and any form(s) of discipline applied. It shall be transmitted to the Respondent by certified mail or tracked courier, return receipt requested.

The Appeals Panel decision shall be final. The Appeals Panel may make the following decisions:

- 7.3.1 Affirm PPD Committee/Hearing Panel decision; or
- 7.3.2 Reverse the PPD Committee/Hearing Panel decision; or
- 7.3.3 Refer the case back to the PPD Committee/Hearing Panel for further investigation and resolution with full right of appeal; or
- 7.3.4 Modify the decision but not in a manner that would be more adverse to the Respondent; or
- 7.3.5 Vacate an entry of default by the BOC.

Section 8: Forms of Discipline

A violation of the *BOC Standards of Professional Practice* may result in one or more of the Forms of Discipline listed below. In imposing discipline, the BOC may consider any aggravating and/or mitigating circumstances, including the underlying facts, decision and discipline imposed in any previous disciplinary or criminal proceeding before the PPD Committee, Hearing Panel, Appeals Panel or any other regulatory body or court. All forms of discipline may be appealed as set forth in Section 7.

8.1 Suspension

The BOC may suspend certification in an Order of Suspension. The Order of Suspension shall state clearly and with reasonable particularity the grounds for suspension. The Order of Suspension also shall state the time at which the Respondent may petition for reinstatement under Section 12 of these

Procedures. It shall be standard procedure to publish Suspensions. Should the PPD Committee and/or BOC Executive Director determine that there is cause to believe that a threat of immediate and irreparable injury to the health of the public exists, the PPD Committee and/or BOC Executive Director shall immediately place the Respondent's certification on Suspension prior to a final disciplinary decision.

8.1.1 Should an Individual voluntarily surrender certification as outlined in a Consent Agreement (Section 4), the certification is **Suspended**.

8.1.2 Should an individual have a petition for reinstatement from suspension denied two times, the certification is permanently **Revoked**.

8.2 Denial of Eligibility

The BOC may deny a BOC applicant eligibility to sit for the BOC exam either permanently or for a specified period of time in an Order of Denial. The Order of Denial shall state clearly and with reasonable particularity the grounds for the denial of eligibility.

8.3 Private Censure

The BOC may issue a Private Censure. A Private Censure shall be an unpublished written reprimand from the BOC to the Respondent.

8.4 Public Censure

The BOC may issue a Public Censure. A Public Censure shall be a written reprimand from the BOC to the Respondent. It shall be standard procedure to publish Public Censures.

8.5 Probation

The BOC may place a Respondent on Probation. Probation may include the setting of conditions that must be met in a specific period of time not to exceed three years. A Respondent on probation is required to complete an Annual Probation Report. A report form is provided at the time the Probation is issued.

8.6 Sanctions

The BOC may issue sanctions that include but are not limited to one or more of the following:

8.6.1 Mandatory audit participation of a specified reporting period;

8.6.2 Educational course requirements to be completed and reported by a specified date;

8.6.3 Other training, treatment and/or corrective action;

8.6.4 Payment of unpaid certification fee(s);

8.6.5 Annual reporting of a specified number of continuing education units to be submitted by a specified date.

Section 9: Impaired Practitioner *(section effective January 1, 2008)*

With regard to its charge to protect the public, it is the policy of the BOC to discipline and/or restrict the practice of any BOC Certified Athletic Trainer with an impairment that prevents him or her from practicing athletic training with reasonable skill.

9.1 Definitions

9.1.1 "Impaired practitioner" is defined as a person with a physical or mental condition, including deterioration through aging, loss of motor skill, or excessive use or abuse of drugs including alcohol, that prevents one from practicing athletic training with reasonable skill and safety to patients. *(Modified from definition of American Medical Association, 1972)*

- 9.1.2 Types of impairments may include, but are not limited to:
 - 9.1.2.1 Substance abuse;
 - 9.1.2.2 Personality disorders – disruptive behavior;
 - 9.1.2.3 Physical impairments;
 - 9.1.2.4 Psychological impairments.
- 9.1.3 “Governing authority” is defined as the entity responsible for overseeing the practice regulations of the Athletic Trainer in question. In many cases the governing authority will be identified in the regulatory legislation of the state, province or jurisdiction in which the Athletic Trainer practices.
- 9.1.4 “Reasonable skill” is defined as entry-level competence.

9.2 Scope of BOC Responsibilities

- 9.2.1 Restrictions or discipline primarily shall be the responsibility of the governing authority; in general, the BOC will respond to the governing authority’s actions.
- 9.2.2 The BOC shall act in the public’s interest by forwarding all complaints or allegations of impairment to the appropriate governing authority.
 - 9.2.2.1 The BOC will accept the determination of the governing authority of the validity of a complaint or allegation of impairment.
- 9.2.3 In the event the governing authority disciplines or restricts the practitioner’s ability to provide AT services, the BOC generally shall likewise discipline or restrict the practitioner’s certification.
 - 9.2.3.1 Certification restrictions or discipline shall be established by the BOC in a manner consistent with the restrictions or sanctions rendered by the state governing authority. These restrictions may include:
 - 9.2.3.1.1 Imposition of discipline as outlined in Section 8.
- 9.2.4 Where the governing authority has sanctioning authority, the BOC may restrict or discipline a practitioner’s certification in the absence or presence of restriction or discipline by the governing authority.
- 9.2.5 In the absence of a governing authority, the BOC shall follow the *BOC Professional Practice and Discipline Guidelines and Procedures* with regard to complaints or allegations of impairment.

9.3 Reporting Guidelines

- 9.3.1 Early intervention for the impaired practitioner may enhance recovery and will protect the safety of the public. Thus, reporting should occur when there is a reasonable suspicion of impairment.
- 9.3.2 Decreased clinical judgment, inappropriate behavior or diminished psychomotor skills are the hallmarks of impairment and generally should lead to reporting.
- 9.3.3 Strict adherence to the definition of impaired practitioner should be followed; however, illnesses, disabilities or other conditions that do not hamper the practitioner’s ability to competently practice as an AT should not be reported.
- 9.3.4 Reporting of an impaired practitioner may occur through:
 - 9.3.4.1 Self-reporting;
 - 9.3.4.2 Reporting from another practitioner;
 - 9.3.4.3 Reporting from a patient;
 - 9.3.4.4 Reporting from other sources with personal knowledge or reasonable suspicion of impairment.
- 9.3.5 Upon the development of a reasonable suspicion of impairment, complaints or allegations of impairment should be directed or sent promptly to the governing authority, with a copy to the BOC. Where there is no governing authority, complaints or allegations of impairment should be directed or sent promptly to the BOC.

9.4 Purpose and Application of Discipline and Restrictions

- 9.4.1 Protect the public.
- 9.4.2 In response to action by an appropriate governing authority or on its own initiative, the BOC shall impose discipline or restrictions necessary to protect the public.
- 9.4.3 BOC discipline and/or restrictions shall be clearly associated with the practitioner's behavior demonstrating incompetence or the potential for endangerment to the public.
- 9.4.4 Protect the individual.
- 9.4.5 Discipline and/or restrictions shall not unduly restrict/penalize an individual in areas of practice where he/she is safely and competently performing duties or providing a service.
- 9.4.6 Discipline and/or restrictions shall afford the practitioner the opportunity for rehabilitation or retraining if possible or practicable. The practitioner may be required to participate in a recovery program related to the impairment. This program may be established by the employer, state or private sector but must be approved by the governing authority or the BOC.
 - 9.4.6.1 Where a discipline includes mandatory participation in a recovery program, it is the responsibility of the impaired practitioner to enroll in the recovery program.
 - 9.4.6.1.1 Recovery or treatment programs must include:
 - 9.4.6.1.1.1 A monitoring system to track progress of the impaired practitioner.
 - 9.4.6.1.1.2 The submission of reports of compliance and progress to the governing authority.
 - 9.4.6.1.2 The BOC may require evidence or verification that the practitioner has completed a treatment program related to the impairment.
- 9.4.7 Following completion of any program or treatment requirements and demonstration of competence to practice, the BOC will adjust the certification status appropriately.

9.5 Professional Review and Monitoring

- 9.5.1 Upon receipt of a report or decision of impairment by the governing authority, the BOC will follow the *BOC Professional Practice and Discipline Guidelines and Procedures* to determine the appropriate discipline or restrictions that may be imposed upon the practitioner.
- 9.5.2 The BOC shall maintain confidentiality regarding impaired practitioners consistent with the law, its ability to investigate the reported alleged impairment and public safety.
- 9.5.3 Restrictions or discipline must be based on facts related to the impairment. Evidence of the impairment must be based on the absence of a level of competence to practice athletic training in a manner that protects the safety of the public.
 - 9.5.3.1 If the AT is unable to practice competently and safely, practice restrictions must be established that will enable the AT to do so or the AT's BOC certification will be suspended. Appropriate restrictions may limit the practice setting, clientele or other job duties that may be performed by the AT.
- 9.5.4 Where the governing authority has ordered specific testing of the practitioner such as physical examination, psychological examination and/or drug testing, the BOC may require the submission of copies of any reports generated from the examinations/testing or confirmation from the governing authority as to the results.
- 9.5.5 Once it is identified that testing of the practitioner is needed, it is the responsibility of the practitioner to obtain the tests required by the governing authority.
- 9.5.6 The BOC shall establish a system for monitoring the impaired practitioner to ensure the practitioner is in compliance with sanctions or restrictions.
 - 9.5.6.1 The monitoring system may be overseen by the employer or the governing authority; however, the practitioner is required to report any changes in status to the BOC.
 - 9.5.6.2 Compliance with the monitoring system shall be a condition of BOC certification.

Section 10: Required Action After Suspension

After the entry of Suspended, the Respondent shall promptly terminate any and all use of the ATC® certification mark and, in particular, shall not use the ATC® certification mark in any advertising material, announcement, letterhead or business card. The Respondent is required to return his/her BOC certification card to the BOC office within 10 calendar days of receipt of the order via traceable mail. Once the use of the ATC® certification mark has been terminated the Respondent may not:

- 10.1 Represent him/herself to the public as a practicing Certified Athletic Trainer or use the certification marks ATC® or C.A.T. following his/her name; or
- 10.2 Serve as an item writer for the BOC exam; or
- 10.3 Serve as a supervisor of students who are satisfying the athletic training requirements for certification eligibility.

Section 11: Status Definitions

The following status definitions are effective as of January 1, 2012.

11.1 Certified

Certification is in good standing. Individuals may practice as authorized by the BOC.

11.2 Expired

- 11.2.1 Certification is voluntarily resigned for reasons unrelated to disciplinary proceedings. ATs with an Expired status may not represent themselves as Certified Athletic Trainers or use the ATC® certification mark.
- 11.2.2 Certification is forfeited due to non-compliance with BOC certification fee and/or continuing education requirements. Respondents with an Expired status may not represent themselves as Certified Athletic Trainers or use the ATC® certification mark.

11.3 Suspended

Certification is not in good standing as a result of the imposition of a disciplinary action or the BOC Executive Director's decision that there is cause to believe that a threat of immediate and irreparable injury to the health of the public exists. Respondents with a Suspended status may not represent themselves as a Certified Athletic Trainer or use the ATC® certification mark.

11.3.1 Revoked

Certification is Suspended and individual has had two petitions for reinstatement denied; the certification is permanently revoked. Respondents with a Revoked status may not represent themselves as a Certified Athletic Trainer or use the ATC® certification mark.

Section 12: Reinstatement

12.1 Reinstatement After Expired

Failure to comply with fee, continuing education and/or emergency cardiac care requirements are direct violations of the *BOC Standards of Professional Practice* and result in an Expired status. The following steps are necessary for reinstatement:

- 12.1.1 The AT must complete a reinstatement application and pay the required fee.
- 12.1.2 The BOC may require an AT in Expired status to sit for the BOC certification exam.

12.2 Reinstatement After Suspended

Respondents whose certification was suspended for disciplinary reasons under Section 8 of these Guidelines must petition for reinstatement before returning to practice. Such petition shall be submitted in writing and shall be accompanied by any supporting documentation the Respondent wishes to provide to the Reinstatement Panel. A petition fee may be assessed.

12.2.1 Designation of Reinstatement Panel

Upon receipt of a valid petition for reinstatement from Suspended status, the BOC Executive Director shall appoint a Reinstatement Panel. The Panel shall comprise five members, including three ATs and two members of the public. The BOC Executive Director shall designate one of the AT members to serve as the Chair for the Reinstatement Panel. The Chair shall only vote in the event of a tie among the other Reinstatement Panel members.

12.2.1.1 The Reinstatement Panel may be established as a standing Panel.

12.2.1.2 The BOC Executive Director may also appoint up to eight non-voting substitute members.

12.2.1.3 When a vacancy of a full member occurs in the Reinstatement Panel as a result of resignation, unavailability or disqualification, the BOC Executive Director shall designate a substitute member to serve in the full member's place.

12.2.2 Investigation

Immediately upon receipt of a petition for reinstatement, the BOC will initiate an investigation. The petitioner shall cooperate in any such investigation. Once the investigation is concluded, a report of the investigation shall be submitted to the Reinstatement Panel. The report shall contain the results of the investigation, information regarding the petitioner's past disciplinary record and any recommendation regarding reinstatement.

12.2.3 Successive Petitions

If the petition is denied, the Reinstatement Panel shall set a date upon which the Respondent may file a second petition for permission to reapply for reinstatement. The Reinstatement Panel will not consider petitions for permission to reapply for reinstatement from Respondents whose petitions have been denied twice. Once a Respondent has had two petitions denied, his/her certification status is Revoked. Denials of petitions for permission to reapply are not appealable under these Guidelines.

12.2.4 Conditions or Restrictions on Reinstatement

If the reinstatement petition is granted, the Reinstatement Panel may impose disciplinary sanctions as outlined in Section 8 following reinstatement. The Reinstatement Panel also may impose other conditions on reinstatement, including but not limited to a requirement that the Respondent sit for the BOC certification exam.

Section 13: Confidentiality of Proceedings

13.1 Confidentiality

Except as otherwise provided in these *Procedures*, all proceedings conducted pursuant to these *Procedures* shall be confidential and the records of the PPD Committee, Hearing Panel, Appeals Panel, Reinstatement Panel, BOC Legal Counsel and BOC staff shall remain confidential and shall not be made public.

13.2 Exceptions to Confidentiality

The subject matter and status of proceedings conducted pursuant to these *Procedures* may be disclosed if:

- 13.2.1 The proceeding is predicated on criminal conviction or professional discipline as defined herein; or
- 13.2.2 The Respondent has waived confidentiality; or
- 13.2.3 Such disclosure is required by legal process of a court of law or other governmental body or agency having appropriate jurisdiction; or
- 13.2.4 The proceeding involves a consumer or consumers of athletic training services, wherein the BOC may contact the consumer(s) and/or the Respondent's current and/or former employer(s) to request documents relevant to the proceeding; or
 - 13.2.4.1 The Respondent receives a form of discipline that is published. In such cases, all AT state regulatory bodies shall be notified and an announcement included in one or more publications of interest to persons engaged in, or otherwise interested in, the profession of athletic training. The BOC may also disclose its final decision to state regulatory bodies and others as it deems appropriate, including, but not limited to, persons inquiring about the status of a Respondent's certification, employers and the general public.

Section 14: General Provisions

14.1 Definitions

14.1.1 Respondent

For the purpose of these *Procedures*, "Respondent" shall mean a Certified Athletic Trainer, BOC applicant or BOC potential applicant who is the subject of a disciplinary complaint or proceeding.

14.1.2 Complainant

For the purpose of these *Procedures*, "Complainant" shall be any individual or organization who provides the BOC with information or allegations indicating that a violation of the *BOC Standards of Professional Practice* may have occurred.

14.2 Disqualification

PPD Committee, Hearing Panel, Appeals Panel and Reinstatement Panel members may not serve in any situation where their impartiality might reasonably be questioned or in which they have an apparent or actual conflict of interest. PPD Committee, Hearing Panel, Appeals Panel and Reinstatement Panel members shall refrain from participating in any proceeding in which they, a member of their immediate family, their employer or an organization to which they belong, have any interest. PPD Committee, Hearing Panel, Appeals Panel and Reinstatement Panel members may not consider any matter that came before them during their tenure on another BOC committee or panel. PPD Committee, Hearing Panel, Appeals Panel and Reinstatement Panel members may serve in only one capacity at a time.

14.3 Quorum

A quorum of the PPD Committee, a Hearing Panel, an Appeals Panel or a Reinstatement Panel consists of three full-voting members, one of which must be the public member. PPD Committee, Hearing Panel, Appeals Panel and Reinstatement Panel action shall be determined by a majority vote.

14.4 Waiver and Release

As a condition of certification and application, ATs and applicants agree to release, discharge and exonerate the BOC, its officers, directors, employees, committee members and agents from any and

all liability of any nature and kind, arising out of any investigation, evaluation and/or communication regarding the individual's eligibility, certification or recertification. The foregoing waiver and release shall apply with equal force and effect to any person furnishing documents, records or other information to the BOC relating to the AT or applicant's eligibility, certification or recertification.

14.5 Notice and Service

Except as may otherwise be provided in these Procedures, notice shall be in writing and the giving of notice and/or service shall be sufficient when made either personally or by US regular mail, US certified mail or overnight mail sent to the last known address of the Respondent according to the records of the BOC.

14.6 Liberal Construction of Procedures

Time limitations are administrative and the BOC reserves the right to grant extensions for good cause, as determined by the BOC in its sole discretion. A Respondent's failure to observe time limits without proof of good cause may result in the forfeiture of rights or remedies under these Procedures. These Procedures shall be liberally construed for the protection of the public, the BOC, its ATs and applicants. No investigation or procedure shall be deemed invalid or insufficient by reason of any non-prejudicial irregularity or deviation.

VISION OF THE BOC

To be the worldwide leader in credentialing

MISSION OF THE BOC

To provide exceptional credentialing programs for healthcare professionals to assure protection of the public



BOARD OF CERTIFICATION
FOR THE ATHLETIC TRAINER

Be Certain.™

BOARD OF CERTIFICATION
1415 Harney Street, Suite 200
Omaha, Nebraska 68102

O (402) 559-0091
F (402) 561-0598
www.bocatc.org

FOLLOW US:

©Board of Certification, Inc.
All Rights Reserved Worldwide

Athletic Trainers
Occupations Code
Title 3. Health Professions
Chapter 451
Administered by the Texas Department of Licensing and Regulation
(Effective September 1, 2015)

<i>SUBCHAPTER A. GENERAL PROVISIONS</i>	1
Sec. 451.001. Definitions.....	1
Sec. 451.002. Interpretation; Practice of Medicine.....	1
Sec. 451.003. Applicability.....	1
<i>SUBCHAPTER B. ADVISORY BOARD OF ATHLETIC TRAINERS</i>	2
Sec. 451.051. Board; Membership.....	2
Sec. 451.0521. Duties of Board.	2
Sec. 451.053. Terms; Vacancy.....	2
Sec. 451.055. Presiding Officer.	2
Sec. 451.056. Meetings.....	2
<i>SUBCHAPTER C. POWERS AND DUTIES</i>	2
Sec. 451.101. General Powers and Duties.	3
Sec. 451.110. Confidentiality of Complaint and Disciplinary Information.....	3
<i>SUBCHAPTER D. LICENSE REQUIREMENTS</i>	3
Sec. 451.151. License Required.....	3
Sec. 451.152. License Application.....	4
Sec. 451.153. Applicant Qualifications.	4
Sec. 451.154. Out-of-State License Applicants.	4
Sec. 451.156. Requirements for License Issuance.....	4
Sec. 451.157. Temporary License.....	5
<i>SUBCHAPTER E. LICENSE RENEWAL</i>	5
Sec. 451.201. License Expiration; Renewal.	5
<i>SUBCHAPTER F. DISCIPLINARY PROCEDURES</i>	5
Sec. 451.251. Grounds for Denial of License or Disciplinary Action.....	5
<i>SUBCHAPTER G. PENALTIES</i>	5
Sec. 451.301. Criminal Penalty.....	5

SUBCHAPTER H. ADMINISTRATIVE PENALTY6
Sec. 451.351. Amount of Administrative Penalty.6

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 451.001. Definitions.

In this chapter:

- (1) "Athletic injury" means an injury sustained by a person as a result of the person's participation in an organized sport or sport-related exercise or activity, including interscholastic, intercollegiate, intramural, semiprofessional, and professional sports activities.
- (2) "Athletic trainer" means a person who practices athletic training, is licensed by the department, and may use the initials "LAT," "LATC," and "AT" to designate the person as an athletic trainer. The terms "sports trainer" and "licensed athletic trainer" are equivalent to "athletic trainer."
- (3) "Athletic training" means the form of health care that includes the practice of preventing, recognizing, assessing, managing, treating, disposing of, and reconditioning athletic injuries under the direction of a physician licensed in this state or another qualified, licensed health professional who is authorized to refer for health care services within the scope of the person's license.
- (4) "Board" means the Advisory Board of Athletic Trainers.
- (5) "Commission" means the Texas Commission of Licensing and Regulation.
- (6) "Department" means the Texas Department of Licensing and Regulation.
- (7) "Executive director" means the executive director of the department.

Sec. 451.002. Interpretation; Practice of Medicine.

This chapter does not authorize the practice of medicine by a person not licensed by the Texas Medical Board.

Sec. 451.003. Applicability.

This chapter does not apply to:

- (1) a physician licensed by the Texas Medical Board;
- (2) a dentist, licensed under the laws of this state, engaged in the practice of dentistry;
- (3) a licensed optometrist or therapeutic optometrist engaged in the practice of optometry or therapeutic optometry as defined by statute;
- (4) an occupational therapist engaged in the practice of occupational therapy;
- (5) a nurse engaged in the practice of nursing;
- (6) a licensed podiatrist engaged in the practice of podiatry as defined by statute;
- (7) a physical therapist engaged in the practice of physical therapy;
- (8) a registered massage therapist engaged in the practice of massage therapy;

- (9) a commissioned or contract physician, physical therapist, or physical therapist assistant in the United States Army, Navy, Air Force, or Public Health Service; or
- (10) an athletic trainer who does not live in this state, who is licensed, registered, or certified by an authority recognized by the department, and who provides athletic training in this state for a period determined by the department.

SUBCHAPTER B. ADVISORY BOARD OF ATHLETIC TRAINERS

Sec. 451.051. Board; Membership.

- (b) The board consists of five members appointed by the presiding officer of the commission with the approval of the commission as follows:
 - (1) three members who are athletic trainers; and
 - (2) two members who represent the public.
- (c) Each member of the board must be a citizen of the United States and a resident of this state for the five years preceding appointment.
- (d) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 451.0521. Duties of Board.

The board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

Sec. 451.053. Terms; Vacancy.

- (a) Board members serve staggered six-year terms with the terms of one or two members expiring on January 31 of each odd-numbered year.
- (b) If a vacancy occurs on the board, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the unexpired portion of the term.

Sec. 451.055. Presiding Officer.

The presiding officer of the commission shall designate a member of the board to serve as the presiding officer of the board for a one-year term. The presiding officer of the board may vote on any matter before the board.

Sec. 451.056. Meetings.

The board shall meet at the call of the presiding officer of the commission or the executive director.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 451.101. General Powers and Duties.

- (a) The executive director shall administer and enforce this chapter.
- (a-1) The department shall:
 - (1) adopt an official seal;
 - (2) prescribe the application form for a license applicant;
 - (3) prescribe a suitable form for a license certificate;
 - (4) prepare and conduct an examination for license applicants;
 - (5) maintain a complete record of all licensed athletic trainers; and
 - (6) annually prepare a roster showing the names and addresses of all licensed athletic trainers.
- (a-2) The department shall make a copy of the roster available to any person requesting it on payment of a fee established by the department in an amount sufficient to cover the cost of the roster.

Sec. 451.110. Confidentiality of Complaint and Disciplinary Information.

- (h) All information and materials subpoenaed or compiled by the department in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:
 - (1) persons involved with the department in a disciplinary action against the holder of a license;
 - (2) athletic trainer licensing or disciplinary boards in other jurisdictions;
 - (3) peer assistance programs approved by the commission under Chapter 467, Health and Safety Code;
 - (4) law enforcement agencies; and
 - (5) persons engaged in bona fide research, if all individual-identifying information has been deleted.
- (i) The filing of formal charges by the department against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director, and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 451.151. License Required.

A person may not hold the person out as an athletic trainer or perform any activity of an athletic trainer unless the person holds a license under this chapter.

Sec. 451.152. License Application.

An applicant for an athletic trainer license must submit to the department:

- (1) an application in the manner and on a form prescribed by the executive director; and
- (2) the required examination fee.

Sec. 451.153. Applicant Qualifications.

(a) An applicant for an athletic trainer license must:

- (1) have met the athletic training curriculum requirements of a college or university approved by the commission and give proof of graduation;
- (2) hold a degree or certificate in physical therapy and have completed:
 - (A) a basic athletic training course from an accredited college or university; and
 - (B) an apprenticeship described by Subsection (b); or
- (3) have a degree in corrective therapy with at least a minor in physical education or health that includes a basic athletic training course and meet the apprenticeship requirement or any other requirement established by the commission.

(b) The apprenticeship required to be completed by an applicant consists of 720 hours completed in two years under the direct supervision of a licensed athletic trainer acceptable to the department. Actual working hours include a minimum of 20 hours a week during each fall semester.

Sec. 451.154. Out-of-State License Applicants.

(a) An out-of-state applicant must:

- (1) satisfy the requirements under Section 451.153; and
- (2) submit proof of active engagement as an athletic trainer in this state as described by Subsection (b).

(b) A person is actively engaged as an athletic trainer if the person:

- (1) is employed on a salary basis by an educational institution for the institution's school year or by a professional or other bona fide athletic organization for the athletic organization's season; and
- (2) performs the duties of athletic trainer as the major responsibility of that employment.

Sec. 451.156. Requirements for License Issuance.

An applicant for an athletic trainer license is entitled to receive the license if the applicant:

- (1) satisfies the requirements of Section 451.153 or 451.154;

- (2) passes the examination required by the department;
- (3) pays the required license fee; and
- (4) has not committed an act that constitutes grounds for refusal of a license under Section 451.251.

Sec. 451.157. Temporary License.

- (a) The department may issue a temporary license to an applicant if the applicant satisfies:
 - (1) the requirements of Section 451.153 or 451.154; and
 - (2) any other requirement established by the commission.
- (b) The commission by rule shall prescribe the time during which a temporary license is valid.

SUBCHAPTER E. LICENSE RENEWAL

Sec. 451.201. License Expiration; Renewal.

- (a) A license issued under Section 451.156 expires on the second anniversary of the date of issuance and may be renewed biennially.

SUBCHAPTER F. DISCIPLINARY PROCEDURES

Sec. 451.251. Grounds for Denial of License or Disciplinary Action.

- (a) The commission or executive director may refuse to issue a license to an applicant and shall reprimand a license holder or suspend, revoke, or refuse to renew a person's license if the person:
 - (1) has been convicted of a misdemeanor involving moral turpitude or a felony;
 - (2) obtained the license by fraud or deceit;
 - (3) violated or conspired to violate this chapter or a rule adopted under this chapter; or
 - (4) provided services outside the scope of practice of athletic training.
- (b) For the purposes of Subsection (a)(1), the record of conviction is conclusive evidence of conviction.

SUBCHAPTER G. PENALTIES

Sec. 451.301. Criminal Penalty.

- (a) A person commits an offense if the person violates this chapter.
- (b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.

SUBCHAPTER H. ADMINISTRATIVE PENALTY

Sec. 451.351. Amount of Administrative Penalty.

- (c) The amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$500 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$2,500.
- (d) The amount shall be based on:
 - (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
 - (2) the threat to health or safety caused by the violation;
 - (3) the history of previous violations;
 - (4) the amount necessary to deter a future violation;
 - (5) whether the violator demonstrated good faith, including, when applicable, whether the violator made good faith efforts to correct the violation; and
 - (6) any other matter that justice may require.



CHANGES IN
HEALTHCARE PROFESSIONS'
SCOPE OF PRACTICE:
LEGISLATIVE CONSIDERATIONS

In 2009, a new era of health care reform is sweeping state and federal government in the U.S. During these difficult economic times policymakers are faced with many challenges, not the least of which are legislative and regulatory debates on how to maximize the use of all healthcare practitioners and the debate among health care practitioners, regarding the continuous evolution of scopes of practice. Law and rule makers charged with consumer protection will find this document helpful in guiding discussions on how the most effective and efficient care can be delivered to the American public in an era of continuous changes in health care.

Revised August 2009

TABLE OF CONTENTS

I. Executive Summary	3
II. Changes in Healthcare Professions' Scope of Practice: Legislative Considerations	5
A. Purpose	
B. Background	
C. Historical Context	
D. Introduction	
III. The Purpose of Regulation	8
A. Defining Scope of Practice	
B. Assumptions Related to Scope of Practice	
IV. The Basis for Decisions Related to Changes in Scope of Practice	11
A. Historical Basis	
B. Education and Training	
C. Evidence	
D. Regulatory Environment	
V. The Basis for Legislative Decision Making	15
VI. Conclusion	16
Appendix	18

I. EXECUTIVE SUMMARY

This document is a result of a collaborative effort in 2006 by representatives from six healthcare regulatory organizations. It has been developed to assist legislators and regulatory bodies with making decisions about changes to healthcare professions' scopes of practice.

Proposed changes to a healthcare professions' scope of practice often elicit strongly worded comments from several professional interest groups. Typically, these debates are perceived as turf battles between two or more professions, with the common refrain of "this is part of my practice so it can't be part of yours." Often lost among the competing arguments and assertions are the most important issues of whether this proposed change will better protect the public and enhance consumers' access to competent healthcare services.

Healthcare education and practice have developed in such a way that most professions today share some skills or procedures with other professions. It is no longer reasonable to expect each profession to have a completely unique scope of practice, exclusive of all others. We believe that scope of practice changes should reflect the evolution of abilities of each healthcare discipline, and we therefore have attempted to develop a rational and useful way to make decisions when considering practice act changes.

Based on reports from the Institute of Medicine¹ and the Pew Healthcare Commission² we propose a process for addressing scope of practice, which is focused on patient safety. The question that healthcare professionals must answer today is whether their profession can provide this proposed service in a safe and effective manner. If an issue does not address this question, it has no relevance to the discussion.

This process gets to the heart of regulation which, according to Schmitt and Shimberg, is intended to:

1. "Ensure that the public is protected from unscrupulous, incompetent and unethical practitioners";
2. "Offer some assurance to the public that the regulated individual is competent to provide certain services in a safe and effective manner"; and
3. "Provide a means by which individuals who fail to comply with the profession's standards can be disciplined, including the revocation of their licenses."³

The argument for scope of practice changes should have a foundational basis within four areas: 1) an established history of the practice scope within the profession, 2) education and training, 3) supporting evidence, and 4) appropriate regulatory environment. If a profession can provide support evidence in these areas, the proposed changes in scope of practice are likely to be in the public's best interest.

¹ *Crossing the Quality Chasm: A New Health System for the 21st Century*, The Institute of Medicine, National Academy Press, 2001.

² *Reforming Healthcare Workforce Regulation: Policy Considerations for the 21st Century*. Report of the Pew Health Professions Commission's Taskforce on Healthcare Workforce Regulation, December 1995, ix.

³ *Demystifying Occupational and Professional Regulation: Answers to Questions You May Have Been Afraid to Ask*, Schmitt, K. and Shimberg, B., Council on Licensure, Enforcement and Regulation, 1996.

II. CHANGES IN HEALTHCARE PROFESSIONS SCOPE OF PRACTICE: LEGISLATIVE CONSIDERATIONS

A. Purpose

The purpose of this document is to provide information and guidance for legislative and regulatory agency decision making regarding changes in the scope of practice of healthcare professions. Specifically, the purpose is to:

- Promote better consumer care across professions and competent providers
- Improve access to care
- Recognize the inevitability of overlapping scopes of practice.

We envision this document as an additional resource to be used by state legislatures, healthcare professions and regulatory boards in preparing proposed changes to practice acts and briefing legislators regarding those changes, just as various professions' model practice acts are used.

B. Background

This paper was a collaborative project developed by representatives of the regulatory boards of the following healthcare professions: medicine, nursing, occupational therapy, pharmacy, physical therapy and social work. It attempts to address scope of practice issues from a public protection viewpoint by determining whether a specific healthcare profession is capable of providing the proposed care in a safe and effective manner.

We believe that it is critical to review scope of practice issues broadly if our regulatory system is going to achieve the recommendations made by both the Institute of Medicine and the Pew Health Commission Taskforce on Healthcare Workforce Regulation. These reports urge regulators to allow for innovation

in the use of all types of clinicians in meeting consumer needs in the most effective and efficient way, and to explore pathways to allow all professionals to provide services to the full extent of their current knowledge, training, experience and skills.

C. Historical Context

The history of professional licensure must be taken into account if one is to understand the current regulatory system governing scope of practice. Physicians were the first health professionals to obtain legislative recognition and protection of their practice authority. The practice of medicine was defined in broad and undifferentiated terms to include all aspects of individuals' care. Therefore, when other healthcare professions sought legislative recognition, they were seen as claiming the ability to do tasks which were already included in the universal and implicitly exclusive authority of medicine. This dynamic has fostered a view of scope of practice that is conceptually faulty and potentially damaging.

D. Introduction

The scope of practice of a licensed healthcare profession is statutorily defined in each state's laws in the form of a practice act. State legislatures have the authority to adopt or modify practice acts and therefore adopt or modify a particular scope of practice of a healthcare profession. Sometimes such modifications of practice acts are just the formalization of changes already occurring in education or practice within a profession, due to the results of research, advances in technology, and changes in societal healthcare demands, among other things.

This process sometimes pits one profession against another before the state legislature. As an example, one profession may perceive another profession as "encroaching" into their area of practice. The profession may be economically or otherwise threatened and therefore opposes the other profession's legislative effort to change scope of practice. Proposed changes in scopes of practice that are supported by one profession but opposed by other professions may be perceived by legislators and the public as "turf battles." These turf battles are often costly and time consuming for the regulatory bodies, the professions and the legislators involved.⁴ Aside from guidance on scope of practice issues, this document may assist in preventing costly legislative battles; promote better consumer care and collaboration among regulatory bodies, the professions and between competent providers; and improve access to care.

⁴ *Strengthening Consumer Protection: Priorities for Healthcare Workforce Regulation*, Report from Pew Health Professions Commission, 1998.

III. THE PURPOSE OF REGULATION

Before providing information regarding scope of practice decisions, we must ask the very basic question, "What is the purpose of regulation?" According to Schmitt and Shimberg, regulation is intended to:

1. "Ensure that the public is protected from unscrupulous, incompetent and unethical practitioners";
2. "Offer some assurance to the public that the regulated individual is competent to provide certain services in a safe and effective manner"; and
3. "Provide a means by which individuals who fail to comply with the profession's standards can be disciplined, including the revocation of their licenses."⁵

A. Defining Scope of Practice

A 2005 Federation of State Medical Boards report defined scope of practice as the "Definition of the rules, the regulations, and the boundaries within which a fully qualified practitioner with substantial and appropriate training, knowledge, and experience may practice in a field of medicine or surgery, or other specifically defined field. Such practice is also governed by requirements for continuing education and professional accountability."⁶

B. Assumptions Related to Scope of Practice

In attempting to provide a framework for scope of practice decisions, basic assumptions can be made:

1. **The purpose of regulation — public protection — should have top priority in scope of practice decisions, rather than professional self-interest.** This encompasses the belief that the public should have access to providers who practice safely and competently.
2. **Changes in scope of practice are inherent in our current healthcare system.** Healthcare and its delivery are necessarily evolving. These changes relate to demographic changes (such as the aging of the “baby boomers”); advances in technology; decreasing healthcare dollars; advances in evidence-based healthcare procedures, practices and techniques; and many other societal and environmental factors. Healthcare practice acts also need to evolve as healthcare demands and capabilities change.
3. **Collaboration between healthcare providers should be the professional norm.** Inherent in this statement is the concept that competent providers will refer to other providers when faced with issues or situations beyond the original provider’s own practice competence, or where greater competence or specialty care is determined as necessary or even helpful to the consumer’s condition.
4. **Overlap among professions is necessary.** No one profession actually owns a skill or activity in and of itself. One activity does not define a profession, but it is the entire scope of activities within the practice that makes any particular profession unique. Simply because a skill or activity is within one profession’s skill set does not mean another profession cannot and should not include it in its own scope of practice.

5. Practice acts should require licensees to demonstrate that they have the requisite training and competence to provide a service. No professional has enough skills or knowledge to perform all aspects of the profession's scope of practice. For instance, physicians' scope of practice is "medicine," but no physician has the skill and knowledge to perform every aspect of medical care. In addition, all healthcare providers' scopes of practice include advanced skills that are not learned in entry-level education programs, and would not be appropriate for an entry-level practitioner to perform. As professions evolve, new techniques are developed; not all practitioners are competent to perform these new techniques.

⁵ *Demystifying Occupational and Professional Regulation: Answers to Questions You May Have Been Afraid to Ask*, Schmitt, K. and Shimberg, B., Council on Licensure, Enforcement and Regulation, 1996.

⁶ *Assessing Scope of Practice in Health Care Delivery: Critical Questions in Assuring Public Access and Safety*, Federation of State Medical Boards, 2005.

IV. THE BASIS FOR DECISIONS RELATED TO CHANGES IN SCOPE OF PRACTICE

Arguments for scope of practice changes should have a foundational basis within four areas: 1) an established history of the practice scope within the profession, 2) education and training, 3) supportive evidence, and 4) appropriate regulatory environment. This foundation should provide the framework for analyzing and determining if a change in statutory scope of practice is warranted in a particular situation. If a profession can provide supporting evidence in these areas, the proposed changes in scope of practice should be adopted.

A. Historical Basis

The first of these relates to the history and evolution of the profession and its practice. This historical framework provides the basis for the essentials of the profession, including its theoretical basis, how it developed over the years and how it is presently defined. Changes in statutory scope of practice should fit within the historical, evolutionary and present practice context for the profession.

Questions to be considered in this area include:

1. Has there been an evolution of the profession towards the addition of the new skill or service?
2. What is the evidence of this evolution?
3. How does the new skill or service fit within or enhance a current area of expertise?

B. Education and Training

Tasks added to scopes of practice are often initially performed by professionals as advanced skills. Over time, as these new skills and techniques are utilized by a sufficient cohort of practitioners,

they become entry-level skills and are taught as such in entry-level curricula. It is not realistic to require a skill or activity to be taught in an entry-level program before it becomes part of a profession's scope of practice. If this were the standard, there would be few, if any, increases in scope of practice. However, the entry-level training program and its accompanying accrediting standards should provide the framework, including the basic knowledge and skills needed, to acquire the new skill once out in the field. There should be appropriate accredited post-professional training programs and competence assessment tools that indicate whether the practitioner is competent to perform the advanced skill safely.

Questions to be considered in this area include:

1. Does current entry-level education prepare practitioners to perform this skill as their experience increases?
2. If the change in scope is an advanced skill that would not be tested on the entry-level licensure examination, how is competence in the new technique assured?
3. What competence measures are available and what is the validity of these measures?
4. Are there training programs within the profession for obtaining the new skill or technique?
5. Are standards and criteria established for these programs?
6. Who develops these standards?
7. How and by whom are these programs evaluated against these standards?

C. Evidence

There should be evidence that the new skill or technique, as used by these practitioners, will promote access to quality healthcare. The base of evidence should include the best available clinical evidence, clinical expertise and research. Other forms of evidence include evolving concepts of disease/disability management, quality improvement and risk data, standards of care, infection control data, cost-effectiveness analysis and benchmarking data. Available evidence should be presented in an easy-to-understand format and in an objective and transparent manner.

Questions to be considered in this area include:

1. Is there evidence within the profession related to the particular procedures and skills involved in the changes in scope?
2. Is there evidence that the procedure or skill is beneficial to public health?

D. Regulatory Environment

A consideration in proposing changes in scope of practice is the regulatory environment. Often, it is the professional association that promotes and lobbies for scope of practice changes. The regulatory board should be involved in the process and be prepared to deal with the regulatory issues related to the proposed changes.

Questions to be considered in this area include:

1. Is the regulatory board authorized to develop rules related to a changed or expanded scope?

2. Is the board able to determine the assessment mechanisms for determining if an individual professional is competent to perform the task?
3. Is the board able to determine the standards that training programs should be based on?
4. Does the board have sufficient authority to discipline any practitioner who performs the task or skill incorrectly or might likely harm a patient?
5. Have standards of practice been developed for the new task or skill?
6. How has the education, training and assessment within the profession expanded to include the knowledge base, skill set and judgments required to perform the tasks and skills?
7. What measures will be in place to assure competence?

V. BASIS FOR LEGISLATIVE DECISION MAKING

Although the areas for decision making listed above do not specifically mention public protection, supplying documentation in historical basis, education and training, evidence and the regulatory environment is likely to ensure that the public will be protected when these changes are made.

Potential for harm to the consumer is difficult to prove or disprove relative to scope of practice. It is the very fact that there is potential for harm that necessitates regulation. If a strong basis for the redefined scope is demonstrated as described above, this basis will be rooted in public protection.

This paper rests on the premise that the only factors relevant to scope of practice decision making are those designed to ensure that all licensed practitioners be capable of providing competent care.

VI. CONCLUSION

This paper presents important issues for consideration by legislators and regulatory bodies when establishing or modifying a profession's scope of practice. The primary focus of this paper is public protection. When defining a profession's scope of practice, the goal of public protection can be realized when legislative and/or regulatory bodies include the following critical factors in their decision-making process:

- **Historical basis** for the profession, especially the evolution of the profession advocating a scope of practice change,
- Relationship of **education and training** of practitioners to scope of practice,
- **Evidence** related to how the new or revised scope of practice benefits the public, and
- The **capacity of the regulatory agency** involved to effectively manage modifications to scope of practice changes.

Overlapping scopes of practice are a reality in a rapidly changing healthcare environment. The criteria related to who is qualified to perform functions safely without risk of harm to the public are the only justifiable conditions for defining scopes of practice.

Developed by:

(In May 2006)

Association of Social Work Boards (ASWB)

Donna DeAngelis, LICSW, ACSW, Executive Director

Federation of State Boards of Physical Therapy (FSBPT)

William A. Hatherill, CEO

Barbara J. Safriet, Public Member and Associate Dean and
Lecturer in Law, Yale Law School

Federation of State Medical Boards (FSMB)

Lisa Robin, Vice-President, Government Relations,
Policy and Education

National Board for Certification in Occupational Therapy (NBCOT®)

Paul Grace, MS, CAE, President/CEO

National Council of State Boards of Nursing, Inc. (NCSBN®)

Kathy Apple, MS, RN, CAE, Executive Director

National Association of Boards of Pharmacy (NABP®)

Carmen A. Catizone, MS, RPh, DPh, Executive Director/Secretary

APPENDIX

Contact Information

Association of Social Work Boards (ASWB)

400 South Ridge Parkway, Suite B
Culpeper, VA 22701
800.225.6880 toll free
540.829.6880 phone
www.aswb.org

Federation of State Boards of Physical Therapy (FSBPT)

124 West Street South, Third Floor
Alexandria, VA 22314
703.299.3100
www.fsbpt.org

Federation of State Medical Boards of the United States, Inc. (FSMB)

PO Box 619850
Dallas, TX 75261-9850
Main phone: 817.868.4000
www.fsmb.org

Related resource information:

www.fsmb.org/pdf/2005_grpol_scope_of_practice.pdf

National Association of Boards of Pharmacy (NABP)

1600 Feehanville Drive
Mount Prospect, IL 60056
Tel: 847.391.4406
www.nabp.net

**National Board for Certification in
Occupational Therapy, Inc. (NBCOT)**

The Eugene B. Casey Building
800 South Frederick Avenue
Suite 200
Gaithersburg, MD 20877-4150
301.990.7979
www.nbcot.org

Related resource information:

Foundations of NBCOT Certification Examinations
www.nbcot.org/WebArticles/articlefiles/106-monograph_foundations_exams.pdf

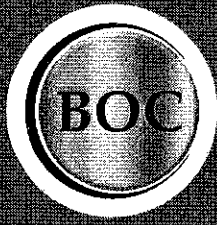
Occupational Therapy State Regulatory Boards and NBCOT
www.nbcot.org/WebArticles/articlefiles/106-RegulatoryBoardsAndNBCOT_brochure.pdf

National Council of State Boards of Nursing, Inc. (NCSBN)

111 East Wacker Drive
Suite 2900
Chicago, Illinois 60601
312.525.3600
www.ncsbn.org

Related resource information:

www.ncsbn.org/NursingRegandInterpretationofSoP.pdf



REGULATORY UPDATE

A PUBLICATION FROM
THE BOARD
OF CERTIFICATION

FALL 2016

BOC Joins Coalition to Address Antitrust Liability for Boards

The BOC has joined with representatives from other national professional licensing board associations to form a coalition in response to a US Supreme Court decision affecting regulatory boards.

The Professional Licensing Coalition (PLC) has spearheaded federal efforts to eliminate the threat of antitrust liability from regulatory boards and their members when they are acting in their official capacity. In its 2015 ruling on *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, the Supreme Court said state licensing boards composed of market participants do not necessarily have immunity from antitrust laws.

The PLC's strategy is to amend the 1984 Local Government Anti-Trust Act to include state regulatory boards.

(Continued on Page 3)

Professional Licensing Coalition Members

- American Association of Veterinary State Boards (AAVSB)
- Association of Social Work Boards (ASWB)
- Association of State & Provincial Psychology Boards (ASPPB)
- Board of Certification for the Athletic Trainer (BOC)
- Council of Landscape Architectural Registration Boards (CLARB)
- Federation of Associations of Regulatory Boards (FARB)
- Federation of State Boards of Physical Therapy (FSBPT)
- Federation of State Medical Boards (FSMB)
- National Association of State Boards of Accountancy (NASBA)
- National Board for Certification in Occupational Therapy (NBCOT)
- National Council of Architectural Registration Boards (NCARB)

Featured Stories

- *BOC News in Brief*
- *New CAATE Standards Under Review*
- *Calendar of Events*
- *State Regulatory News*
- *Requirements for AT License or Registration Renewal*
- *FARB Publishes Model for Identifying and Addressing Antitrust Issues*
- *Save the Date: BOC Regulatory Conference*
- *Board Advocates for ATs During Capitol Hill Day*
- *And More!*

FOLLOW US:



BOC NEWS IN BRIEF

Annual Exam Report

The annual exam report for the BOC's 2015-2016 testing year has been posted on the BOC website.

Regulatory Network

News affecting Athletic Trainer regulation happens every day. Are you up to speed on changes at the state and federal level?

The BOC State Regulatory Network

collects news and provides a space for discussion among peers in the regulatory community. Don't miss it. Sign up or log in today!

Disciplinary Action Exchange

The Disciplinary Action Exchange (DAE) helps the BOC, states and consumers locate disciplinary actions in an efficient

manner. The BOC posts all public disciplinary actions that have been deemed public.

We strongly encourage you to participate in the exchange. You can submit disciplinary actions via the online submission form, under the "Links" section of the State Regulatory Network home page.

Get the Word Out

Let us help you get the word out on important announcements you have for ATs. The BOC can post announcements on our website or in *Cert Update*, a biannual newsletter for ATs.

Read more:

- BOC Website
- *Cert Update*

New CAATE Standards Under Review

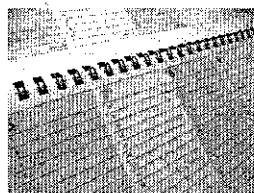
The Commission on Accreditation of Athletic Training Education (CAATE) recently closed public comment periods regarding proposed Operational and Curricular Content Standards. CAATE committees are now reviewing the many comments submitted and, if necessary, will make the appropriate modifications to the proposed Standards.

The Operational Standards, once adopted, will apply only to professional programs at the master's degree level.

The Curricular Content Standards, once revised and adopted, will comprise the new content that must be taught in all professional programs.

If an additional open comment period is warranted, the BOC will post the information on the BOC Regulatory Network.

Please visit the CAATE's website, www.caate.net, for more information.



CALENDAR OF EVENTS

41st Annual Federation of Associations of Regulatory Board (FARB) Forum

January 26-29, 2017
San Antonio, Texas
www.FARB.org

NATA Clinical Symposia & AT Expo

June 26-29, 2017
Houston, Texas
www.NATA.org

BOC Athletic Trainer Regulatory Conference

July 14-15, 2017
Omaha, Nebraska
www.bocatc.org/state-regulation/state-regulatory-conference

Council on Licensure, Enforcement and Regulation (CLEAR) Annual Education Conference

September 13-16, 2017
Denver, Colorado
www.CLEARhq.org

STATE REGULATORY NEWS

COLORADO

A bill reinstating Athletic Trainer regulation was signed into law in June. SB161 restored regulatory authority of ATs to the director of the Division of Professions and Occupations in the Department of Regulatory Agencies. The law was passed after the Colorado General Assembly, in 2015, did not enact legislation to continue the director's regulatory authority, thereby repealing regulation of ATs.

SB161 reinstates the director's authority in this area. Athletic Trainers are required to obtain a registration from the director in order to practice athletic training in Colorado. The bill restores the "Athletic Trainer Practice Act," as it existed on June 30, 2015, with a few changes.

NORTH DAKOTA

The North Dakota Board of Athletic Trainers (NDBAT) has partnered with the BOC to develop online systems for North Dakota licensees and the public. Services include:

- **2016 Renewal Applications** - ATs licensed in North Dakota renewed their North Dakota license using BOC Central™ (an online system ATs use to maintain their BOC certification). The BOC will perform the same service in 2017

- **Online Registry** - The BOC developed an online registry so that anyone can check the status of a North Dakota licensed AT
- **New License Applications** - ATs looking to be licensed for the first time in North Dakota now complete the initial license application using BOC Central™

Brad Reed, Secretary/Treasurer for the NDBAT, said the board has received only positive feedback about the new system.

The BOC staff "has been nothing but professional, helpful and very hardworking ... I wish everyone I worked with was this great, being treated like a person and not as a number, my hat's off to you," Reed said. "Thank you for a job well done."

If you are interested in learning more about what the BOC can do for you, please contact Shannon Fleming at ShannonF@bocatc.org.

WASHINGTON

Notice on Continuing Education

Athletic Trainers are now required to complete 50 hours of continuing education every 2 years.

BOC Joins Coalition (Continued from Page 1)

BOC Executive Director Denise Fandel is serving as the BOC's representative to the coalition to help shape legislation that will protect those who serve on state boards from potential litigation.

The BOC will provide updates from the coalition as they become available.

FOR FURTHER READING

- "SCOTUS Denies Boards Antitrust Immunity," *Regulatory Update*
- "Opinion analysis: No antitrust immunity for professional licensing boards," SCOTUSblog
- "The Federation of Associations of Regulatory Boards Publishes Model for Identifying and Addressing Antitrust Issues," FARB

STATE BY STATE: Requirements For AT License or Registration Renewal

The BOC recently conducted research to determine the current requirements for Athletic Trainers to renew their license or registration in each state. The following table provides detail on fees, renewal cycles, BOC certification requirements and acceptance, and continuing education (CE) requirements.

Maintaining competence is critical to Athletic Trainers, the profession and the public. Patients have come to expect that a healthcare provider's license to practice provides assurance of their current professional competence. Athletic Trainers want to know that their colleagues are competent as well.

States in red do not have continuing competence requirements such as CE or maintaining BOC certification. The BOC will work with these states to help them update their laws or rules and regulations.

States in green require BOC certification for renewal. This is recommended by the BOC as it is most efficient and cost effective for Athletic Trainers. The BOC requires continuing education to maintain BOC certification.

Please contact Shannon Fleming, ShannonF@bocatc.org, with corrections and updates.

State	Renewal Fee	Renewal Cycle	BOC Certification Required to Renew	CE Required	CE Amount	Accept BOC Certification to Renew
Alaska		Biennial	X	X		
Alabama	\$75	Annual		X	26/year	X
Arkansas	\$50	Annual		X	Prescribed by the BOC	X
Arizona	\$175	Annual		X	15/year	X
California						
Colorado	\$155	Biennial				
Connecticut	\$200	Annual	X			
District of Columbia						
Delaware		Biennial		X	3.0(30 hours)/2 years	
Florida	\$130	Biennial		X	24/2 years	X
Georgia	\$100	Biennial		X	40/2 years	
Hawaii		Triennial	X			
Iowa	\$120	Biennial		X	50/2 years	X
Idaho	\$90	Annual		X	BOC or 80/3 years	X
Illinois	\$100	Biennial		X	40/2 years	
Indiana	\$50	Biennial		X	50/2 years	
Kansas	\$67	Annual		X	20/year	

State	Renewal Fee	Renewal Cycle	BOC Certification Required to Renew	CE Required	CE Amount	Accept BOC Certification to Renew
Kentucky	\$50	Triennial		X	60/3 years	
Louisiana	\$100	Annual		X	24/2 year	
Massachusetts	\$68	Biennial	X			
Maryland	\$135	Biennial		X	50/2 years	X
Maine	\$175	Annual	X	X	BOC	
Michigan	\$600	Triennial		X	80/3years	X
Minnesota	\$100	Annual		X	60/3 years	
Missouri	\$50	Biennial				
Mississippi	\$50	Annual		X		
Montana	\$250	Annual	X	X	Prescribed by BOC	
North Carolina	\$75	Annual		X	75/3 years	
North Dakota	\$50	Annual		X	80/3 years or BOC	X
Nebraska	\$117	Biennial		X	25/2 years or BOC	X
New Hampshire	\$110	Biennial	X	X	Current BOC certification	
New Jersey	\$80	Biennial		X	24/2 years	
New Mexico	\$165	Annual	X	X	75/3 years	
Nevada	\$150	Annual		X		
New York	\$50	Triennial				
Ohio	\$80	Biennial		X	25/2 years including ethics	
Oklahoma	\$55	Annual				
Oregon	\$225	Annual		X	10/year	
Pennsylvania	\$37	Biennial		X	Prescribed by the BOC	
Rhode Island	\$62.50	Biennial		X	Prescribed by the BOC	
South Carolina	\$40	Biennial		X	2 courses (choose from list)/2 years	
South Dakota	\$50	Annual		X	4/3 years (1 CEU = 10 contact hours)	
Tennessee	\$150	Biennial		X	50/2 years	
Texas	\$250	Biennial		X	40/2 years	
Utah	\$47	Biennial	X			
Virginia	\$155	Biennial	X			
Vermont	\$200	Biennial	X			
Washington	\$200	Annual		X	50/2 years	
Wisconsin	\$75	Biennial		X	30/2 years	
West Virginia	\$75	Biennial				
Wyoming	\$200	Annual		X	50/2 years or BOC	X

FARB Publishes Model for Identifying And Addressing Antitrust Issues

The Federation of Associations of Regulatory Boards (FARB) recently released the following statement and guidance on antitrust issues for state professional licensing boards. The FARB Model for Identifying and Addressing Antitrust Issues appears on the next page.

As an organization that crosses jurisdictional and professional boundaries, FARB is in the unique position to provide guidance to the regulatory community. FARB stands behind the importance of professional regulation as a means of promoting the health, safety and welfare of the consuming public.

Northbrook, IL - The Federation of Associations of Regulatory Boards (FARB) is pleased to announce the development of the FARB Model for Identifying and Addressing Antitrust Issues. The Model provides a reasoned and balanced approach to regulation in response to the 2015 Supreme Court of the United States ruling in North Carolina State Board of Dental Examiners v. FTC. Legislative and legal responses exceeding those necessary to adequately address the issues have emerged, ignoring the foundation of the established administrative regulatory system. Examples of legislative responses range from the formation of oversight commissions to altering the board membership. The composition of state boards has become the focus of criticism, rather than the underlying nature of the contemplated board action.

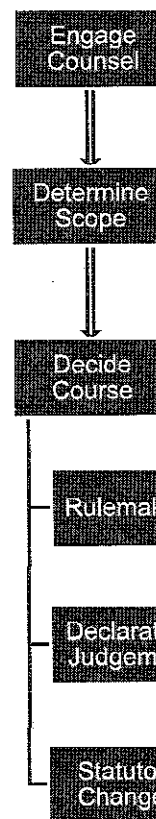
Supreme Court Ruling

The Supreme Court ruling has prompted varied legal and political reactions including challenges to the basic need for an administrative regulatory system; suggested additional bureaucratic layers of government decision makers; and modifications to the composition of the regulatory boards. The judicial decision characterized a state regulatory board as "non-sovereign" for purposes of applying the immunity principles under the state action doctrine. This state action doctrine is a common law defense and provides antitrust immunity to state actors. Based upon the involvement of licensees, referred to as "active market participants," the Supreme Court imposed the two part test generally reserved to private actors seeking immunity from antitrust liability. The two part test includes a clearly articulated state policy to displace competition and active supervision by the state. In spite of the checks and balances in place to curb self-serving interests and the existence and application of relevant ethics laws applicable to volunteer state board members, the Court found the need for satisfaction of the two prong test and focused on the state oversight requirement.

FARB offers the following Model as a method by which boards may address the concerns in the opinion, balancing economic factors and the public protection needs met by an effective and efficient state based licensure system.



FARB Model for Identifying and Addressing Antitrust Issues



STEP ONE: Engage legal counsel

It is strongly recommended that state licensing boards engage and regularly involve legal counsel. Attendance and participation by counsel at all board meetings provides ongoing opportunities for counsel to identify, research, and advise on important legal consequences to decisions. It is here where counsel can proactively identify board actions and relevant antitrust issues.

STEP TWO: Determine the scope of the proposed action

In conjunction with legal counsel, assess whether the proposed board action implicates antitrust laws. Decisions to grant or deny an individual applicant a license or pursue administrative prosecution of a licensee generally do not constitute anti-competitive behavior. Adoption of policy positions that may affect virtually all practitioners or preclude others from entering the market are the types of board actions which should not take place without prior assessment of compliance with antitrust laws.

STEP THREE: Choose the appropriate course of action

If a decision has potential antitrust implications and the issue is not addressed by current statute or rules, state licensing boards can seek the necessary oversight to satisfy the second prong of the immunity test. Such oversight can be addressed in one or more of the following options.

OPTION ONE: Rulemaking

Subject the licensing board determination to the rulemaking process, which involves notice, an opportunity for comment(s), and hearings. In many jurisdictions, legislative and/or executive approval is required before new rules are effectuated. Rulemaking involves oversight from multiple perspectives.

OPTION TWO: Declaratory judgement

Seek a declaratory ruling from a court regarding the encompassing position of the licensing board. The board will be required to substantiate its position to justify the entry of a court order. If successful, the judicial order would provide oversight and justification for the proposed action.

OPTION THREE: Statutory changes

Provide data to the legislature to stimulate statutory changes to address the encompassing issue(s). To the extent the practice act is in need of and does change, the board would clearly be acting under oversight of the legislative branch.

These options, individually and/or collectively, will involve time, costs, and effort, and may contain some uncertainty. However, such checks and balances provide state oversight while maintaining the expertise on the boards to promote effective and efficient public protection legislation.

SAVE THE DATE: BOC Regulatory Conference to be July 14-15, 2017

The Advisory Panel met in October to discuss and develop the 2017 BOC Athletic Trainer Regulatory Conference. Conference topics may include deregulation, telehealth, portability, board issues and strategic planning. More information will be made available by March 2017.

As in previous years, invitations will be sent to the state association and state regulatory agency in each state. The BOC will fund up to 2 nights hotel for a representative from each state association and state regulatory agency. Registration and travel will be the responsibility of the attendee. The \$250 registration fee will include breakfast, lunch and an evening reception on Friday and breakfast on Saturday.



The conference will begin at 8:00am on Friday, July 14, and will end at noon on Saturday, July 15.

Board Advocates for ATs During Capitol Hill Day

BOC leaders advocated for Athletic Trainers and student-athletes during a June visit to Washington D.C.

BOC Executive Director Denise Fandel and members of the BOC Board of Directors spent Capitol Hill Day discussing 2 proposed pieces of legislation with elected officials. BOC leaders urged support of the Sports Medicine Licensure Clarity Act and the Secondary School Student Athletes' Bill of Rights.

The Sports Medicine Licensure Clarity Act would protect ATs who provide services for their team in a secondary state. Many states do not provide legal protection for ATs who travel to another state with an athletic team solely to provide care for that team.

Learn more about the Sports Medicine Licensure Clarity Act, or H.R. 921 / S. 689, at the NATA website.

The Secondary School Student Athletes' Bill of Rights addresses the health and safety of youth athletes. Introduced in the U.S. House of Representatives in 2013 and in the U.S. Senate in 2015, the resolution contains 10 best practices that any school in the country can implement to make their student athletes safer. It also encourages secondary schools to take all available and reasonable efforts to ensure student athlete safety.

Learn more about the Secondary School Student Athletes' Bill of Rights, or H. Res. 72/ S. RES 83, at the NATA website.

New BOC Practice Analysis Published

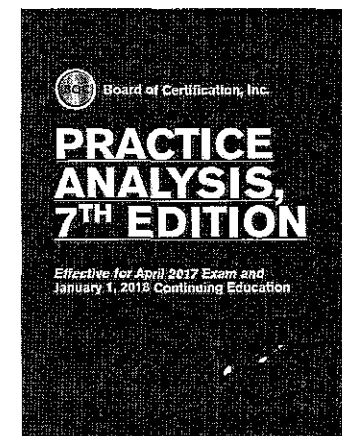
The BOC has published a new version of its practice analysis. BOC Practice Analysis, 7th Edition, will become effective for BOC exams beginning April 2017 and for continuing education beginning January 1, 2018.

PA7 identifies essential knowledge and skills for the athletic training profession and serves as a blueprint for exam development and continuing competence programming.

The following supporting documents are available at no cost from the BOC website:

- Content Outline for PA7
- Comparison of PA7 to RD/PA6
- How to Use PA7

If you need a full copy of PA7 for regulatory purposes, please contact the BOC office via email: ShannonL@bocatc.org.



[Click for more about PA7](#)

Updated Standards Document Now Available

The BOC Board of Directors has approved an updated version of the *BOC Standards of Professional Practice*, which became effective September 1, 2016. It was published in full in the summer edition of *Cert Update*.

The BOC Standards Committee's goal was to streamline the document with the understanding that the Professional Practice and Discipline Committee uses this document to determine practice violations. Last updated in 2006, the new version aligns with other healthcare

professions while maintaining its relevance for Athletic Trainers.

A public comment period was open in fall 2015. The Standards Committee reviewed the feedback and made a few modifications. The *BOC Standards of Professional Practice* is reviewed by the BOC Standards Committee and recommendations are provided to the BOC Board of Directors. The BOC Standards Committee is composed of 5 Athletic Trainer members and 1 Public member.