

AGENDA ITEM 4

REVIEW AND DISCUSSION OF ASSEMBLY BILL 1510 (DABABNEH) RELATING TO ATHLETIC TRAINERS; POTENTIAL RECOMMENDATION TO FULL BOARD

The following are attached for review:

- Highlights of Agenda Item #8 from March 9, 10, 2017, Board Meeting
- Assembly Bill 1510 (Dababneh)
- Athletic Trainer (AT) state regulatory models
- Athletic training education competencies
- Executive Summary from recent Board of Certification (BOC) Practice Analysis
- AT scopes of practice (FL, IL, NY, OH, PA, TX)
- BOC Professional Practice and Discipline Guidelines (1/2014)
- Texas AT statutory language (effect 9/1/2015)
- "Changes in Healthcare Professions' Scope of Practice: Legislative Considerations"
- BOC newsletter (Fall 2016)
- Samples of language pertaining to Executive Officer, Disciplining a Licensee, and Athletic Trainer Scope of Practice

HIGHLIGHTS OF AGENDA ITEM #8
from March 9, 10, 2017, California Board of Occupational Therapy Meeting

8. Consideration and possible action on possible legislation to license athletic trainers.

Executive Officer, Heather Martin gave an overview of the position of the athletic trainers, their efforts to become licensed, and referenced board meeting materials provided for this agenda item. Ms. Martin stated California is now the only state that does not license athletic trainers.

Mike Chisar, Governmental Affairs Chair of the California Athletic Trainers' Association (CATA) that was introduced to answer any questions the Board had regarding the legislation to create the Athletic Trainer Licensing Committee within the California Board of Occupational Therapy (CBOT).

President Denise Miller asked Mr. Chisar how CATA envisioned the composition of the Athletic Trainer Licensing Committee would look under the CBOT. Mr. Chisar stated that CATA did want to be a committee under CBOT and they were open to working collaboratively on a model for their committee.

President Miller asked what 'illness and injury' looked like under their scope of practice. Mr. Chisar said that this would be setting specific because those that need treatment aren't always what the world sees as traditional athletes. Mr. Chisar said that athletic trainer's treat a wide range of physically active individuals such as military personnel, performing arts groups, police and fire etc...

Secretary Sharon Pavlovich asked what the fiscal implications were and how they would impact the CBOT. Executive Officer Heather Martin stated that committees have their own Executive Officer, budget, regulations and in some instances their own Board.

Secretary Pavlovich stated that she saw this as a great opportunity to collaborate and assist the athletic trainers in establishing licensure.

Vice President Richard Bookwalter asked if the actions of a committee would reflect on CBOT. Legal Counsel Ileana Butu stated that the committees' actions would reflect only on their committee. Ms. Butu pointed out that AB 1510 currently lacks administration details like staffing which would in fact burden CBOT if not updated.

Mr. Chisar responded that the lack of language pertaining to staffing the Committee was an oversight. It is not CATA's intent to saddle the CBOT with any costs or have existing CBOT staff administer the Committee. Mr. Chisar indicated appropriate language would be added to the bill.

Legal Counsel Ileana Butu suggested the Board compose a list of things that are missing from the proposed language.

Public Comments

- Heather Kitching, OTR, President of the Occupational Therapy Association of California (OTAC) stated that OTAC is supportive of licensure for the athletic trainers, however OTAC leadership is concerned about the proposed language and will be asking for amendments to the language.
- Ada Boone Hoerl, COTA, Program Coordinator at Sacramento City College commended the athletic trainers in their seeking licensure but had concerns regarding the breadth of the scope of practice language.

President Miller recommended forming an Ad Hoc committee that included OTAC participation, to establish a clear delineation on the scope of practice, disciplinary language and the administration of the committee.

Ms. Miller asked Ernie Escovedo if he wished to serve as a member of the committee. Mr. Escovedo accepted.

Board member Teresa Davies confirmed that the consensus reached by the Ad Hoc committee would be brought back to the Board for review and possible approval.

Heather Kitching, OTAC President submitted the names of two practitioners that she thought would be interested in serving as members of the Ad Hoc committee.

***President Miller stated that the list of Ad Hoc committee appointees would be outlined on day two of the Board meeting.

Day Two

The Ad hoc committee appointees are as follows:

- Teresa Davies, Chair
- Denise Miller
- Sharon Pavlovich
- Ada Boone Hoerl
- Kecia Coker
- Remy Chu Jr.
- Ernie Escovedo



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AB-1510 Athletic trainers. (2017-2018)

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Date Published: 02/17/2017 09:00 PM

CALIFORNIA LEGISLATURE—2017-2018 REGULAR SESSION

ASSEMBLY BILL

No. 1510

Introduced by Assembly Member Dababneh

February 17, 2017

An act to add and repeal Chapter 5.8 (commencing with Section 2697) of Division 2 of the Business and Professions Code, relating to athletic trainers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1510, as introduced, Dababneh. Athletic trainers.

Existing law provides for the regulation of various professions and vocations, including those of an athlete agent.

This bill would enact the Athletic Training Practice Act, which would, after a determination is made that sufficient funds have been received to pay initial costs of this bill, provide for the licensure and regulation of athletic trainers, as defined. The bill would, after that determination, establish the Athletic Trainer Licensing Committee within the California Board of Occupational Therapy to implement these provisions, including issuing and renewing athletic training licenses and imposing disciplinary action. Under the bill, the committee would be comprised of 7 members, to be appointed to 4-year terms, except as specified. Commencing 6 months after the committee is established by this bill, the bill would prohibit a person from practicing as an athletic trainer or using certain titles without a license issued by the committee, except as specified. The bill would prohibit, except in specified cases for a specified period, a person from using the title "athletic trainer," unless the person is licensed by the committee. The bill would specify the requirements for licensure, including education, examination, and the payment of a license application fee established by the committee. The bill would define the practice of athletic training and prescribe supervision requirements on athletic trainers.

The bill would also establish the Athletic Trainers' Fund for the deposit of license application and renewal fees,

and would make those fees available to the committee for the purpose of implementing these provisions upon appropriation by the Legislature. The bill would authorize the Director of Consumer Affairs to seek and receive donations from the California Athletic Trainers Association for purposes of obtaining funds for the startup costs of implementing the act. The bill would require the director to determine that sufficient funds for that purpose have been obtained and to provide notice to the Legislature, the Governor, and on the department's Internet Web site of the determination, as specified. This bill would repeal these provisions on January 1, 2025.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) California is ~~one of~~ ^{THE} only ~~two~~ states that does not currently regulate the practice of athletic training. This lack of regulation creates the risk that individuals who have lost or are unable to obtain licensure in another state will come to California to practice, thereby putting the public in danger and degrading the standards of the profession as a whole.

(b) There is a pressing and immediate need to regulate the profession of athletic training in order to protect the public health, safety, and welfare. This need is particularly important because athletic trainers often work with school-age children.

(c) There is also a pressing and immediate need to regulate the profession of athletic training because the absence of regulation puts California businesses, colleges, universities, and other organizations at risk of liability solely because of the unlicensed status of athletic trainers in the state.

SEC. 2. Chapter 5.8 (commencing with Section 2697) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 5.8. Athletic Trainers

Article 1. Administration

2697. This chapter shall be known, and may be cited, as the Athletic Training Practice Act.

2697.1. For the purposes of this chapter, the following definitions apply:

- (a) "Athletic trainer" means a person who meets the requirements of this chapter, is licensed by the committee, and practices under the direction of a licensed physician or surgeon.
- (b) "Board" means the California Board of Occupational Therapy.
- (c) "Committee" means the Athletic Trainer Licensing Committee.
- (d) "Director" means the Director of Consumer Affairs.

2697.2. (a) There is established the Athletic Trainer Licensing Committee within the California Board of Occupational Therapy. The committee shall consist of seven members.

(b) The seven committee members shall include the following:

(1) Four licensed athletic trainers. Initially, the committee shall include four athletic trainers who have graduated from a professional degree program described in subdivision (a) of Section 2697.5 prior to approval by the committee and who will satisfy the remainder of the licensure requirements, including submission of an application, described in Section 2697.5 as soon as it is practically possible.

(2) One public member.

(3) One physician and surgeon licensed by the Medical Board of California or one osteopathic physician and

(a+b) OF SECTION
2697.4 & 2697.5

surgeon licensed by the Osteopathic Medical Board of California.

(4) One occupational therapist licensed by the board.

(c) Subject to confirmation by the Senate, the Governor shall appoint two of the licensed athletic trainers, the public member, the physician and surgeon or osteopathic physician and surgeon, and the licensed occupational therapist. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a licensed athletic trainer.

(d) (1) All appointments are for a term of four years and shall expire on June 30 of the year in which the term expires. Vacancies shall be filled for any unexpired term.

(2) Notwithstanding paragraph (1), for initial appointments to the committee, the public member appointed by the Governor and two of the athletic trainers shall serve terms of two years, and the remaining members shall serve terms of four years.

(e) Each member of the committee shall receive per diem and expenses as provided in Section 103.

2697.3. (a) (1) The committee shall adopt, repeal, and amend regulations as may be necessary to enable it to administer this chapter. All regulations shall be in accordance with this chapter.

(2) Before adopting regulations, the committee may consult the professional standards issued by the National Athletic Trainers Association, the Board of Certification, Inc., the Commission on Accreditation of Athletic Training Education, or any other nationally recognized professional athletic training organization.

(b) The committee shall approve programs for the education and training of athletic trainers.

(c) The committee shall investigate each applicant, before a license is issued, in order to determine whether the applicant meets the qualifications required by this chapter.

(d) Protection of the public shall be the highest priority for the committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

2697.4. Except as otherwise provided in this chapter, the committee shall issue an athletic training license to an applicant who meets all of the following requirements:

(a) ~~Has submitted an application developed by the committee that includes~~ ^{FURNISHES} evidence that the applicant has graduated from a professional degree program in athletic training accredited by the Commission on Accreditation of Athletic Training Education, or its predecessors or successors, and approved by the committee, at an accredited postsecondary institution or institutions approved by the committee. The professional degree program shall consist of didactic, clinical, and research experiences in athletic training using critical thinking and weighing of evidence.

(b) Has passed an athletic training certification examination offered by the Board of Certification, Inc., its predecessors or successors, or another nationally accredited athletic trainer certification agency approved and recognized by the committee.

~~REMOVED SECTION~~ (c) Possesses a certificate in Cardio Pulmonary Resuscitation (CPR) and Automated External Defibrillator (AED) for professional rescuers and health care providers from a certification body, approved by the committee, that adheres to the most current international guidelines for cardiopulmonary resuscitation and emergency cardiac care.

~~(c) FINGERPRINT LANGUAGE~~
(d) Has paid the application fee established by the committee.

2697.5. Notwithstanding Section 2697.4, the committee shall issue an athletic training license to an applicant who did not graduate from an accredited athletic training education program described in subdivision (a) of Section 2697.4, but who received athletic training via an internship, if the applicant meets all of the following

requirements:

- (a) Furnishes evidence satisfactory to the committee of completion of a degree at an accredited postsecondary institution that included instruction in basic sciences related to, and on the practice of, athletic training.
- (b) Passes the examination described in subdivision (b) of Section 2697.4.
- (c) Completes at least 1,500 hours of clinical experience under an athletic trainer certified by a certification agency described in subdivision (b) of Section 2697.4.
- (d) Possesses a certificate in CPR and AED for professional rescuers and health care providers from a certification body, approved by the committee, that adheres to the most current international guidelines for cardiopulmonary resuscitation and emergency cardiac care.
- (e) Has paid the application fee established by the committee.

REMOVE SECTION

2697.6. A license issued by the committee pursuant to Section 2697.4 or 2697.5 is valid for two years and thereafter is subject to the renewal requirements described in Sections 2697.7 and 2697.8.

2697.7. The committee shall establish license application and renewal fees in an amount sufficient to cover the reasonable regulatory costs of administering this chapter.

2697.8. The committee shall renew a license if an applicant meets all of the following requirements:

- (a) Pays the renewal fee as established by the committee.
- (b) Submits proof of all of the following:
 - (1) Satisfactory completion of continuing education, as determined by the committee.
 - (2) Current athletic training certification from a certification body approved by the committee, including, but not limited to, the Board of Certification, Inc., or its predecessors or successors.
 - (3) Current certification described in subdivision (c) of Section 2697.4.

REMOVE SUBDIVISION

2697.9. (a) The committee may deny a license or the renewal of a license for an applicant or licensee who is described by any of the following:

- (1) Does not meet the requirements of this chapter.
- (2) Has had an athletic training license, certification, or registration revoked or suspended by an accredited organization, state, or territory.
- (3) Has been convicted of a felony or any other crime that substantially relates to the functions or duties of an athletic trainer.
- (4) Has committed unprofessional conduct, as described in subdivision (b).

(b) The committee may order any of the following actions relative to an athletic training license after a hearing for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, any regulation adopted by the committee pursuant to this chapter, and revocation or suspension of an athletic training license, certification, or registration by an accredited organization, state, or territory:

- (1) Issuance of the athletic training license subject to terms and conditions.
- (2) Suspension or revocation of the athletic training license.
- (3) Imposition of probationary conditions upon the athletic training license.

Article 2. Athletic Training

2697.10. (a) A person shall not engage in the practice of athletic training unless licensed pursuant to this chapter.

(b) A person shall not use the title "athletic trainer," "licensed athletic trainer," "certified athletic trainer," "athletic trainer certified," "a.t.," "a.t.l.," "c.a.t.," "a.t.c.," or any other variation of these terms, or any other similar terms indicating that the person is an athletic trainer unless that person is licensed pursuant to this chapter.

(c) Notwithstanding subdivisions (a) and (b), a person who practiced athletic training in California for a period of 20 consecutive years prior to July 1, 2018, and is not eligible on that date for an athletic training license may engage in the practice of athletic training and use the title "athletic trainer" without being licensed by the committee, upon registration with the committee. However, on and after January 1, 2021, a person shall not engage in the practice of athletic training or use the title "athletic trainer" unless he or she is licensed by the committee pursuant to this chapter.

2697.11. (a) The practice of athletic training includes all of the following:

(1) Risk management and injury or illness prevention.

(2) The clinical evaluation and assessment of an injury sustained or exacerbated while participating in physical activity **OR A CONDITION EXACERBATED WHILE PARTICIPATING IN PHYSICAL ACTIVITY**

(3) The immediate care of an injury sustained or exacerbated while participating in physical activity or a condition exacerbated while participating in physical activity.

(4) The rehabilitation and reconditioning from an injury ~~or an illness~~ sustained or exacerbated while participating in physical activity.

(b) The practice of athletic training does not include grade 5 spinal manipulations.

(c) An athletic trainer shall refer a patient to an appropriate licensed health care provider when the ~~treatment~~ **SCOPE OF** or management of the injury or condition does not fall within the practice of athletic training.

(d) An athletic trainer shall not provide, offer to provide, or represent that he or she is qualified to provide any treatment that he or she is not qualified to perform by his or her education, training, ~~or experience~~, or that he or she is otherwise prohibited by law from performing. **OR**

(e) (1) For purposes of this section, "injury" means an injury sustained as a result of, or exacerbated by, participation in athletics or physical activity for which the athletic trainer has had formal training during his or her professional education program or advanced postprofessional study and falls within the practice of athletic training.

(2) For purposes of this section, "condition" means a condition acutely exacerbated while participating in athletics or physical activity for which the athletic trainer has had formal training during his or her professional education program or advanced postprofessional study and falls within the practice of athletic training.

2697.12. (a) An athletic trainer shall render treatment within his or her scope of practice under the direction of a physician and surgeon licensed by the Medical Board of California or an osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California. This direction shall be provided by verbal or written order by the directing physician and surgeon or osteopathic physician and surgeon or by athletic training treatment plans or protocols established by the physician and surgeon or osteopathic physician and surgeon.

(b) Notwithstanding any other law, and consistent with this chapter, the committee may establish other alternative mechanisms for the adequate direction of an athletic trainer.

2697.13. The requirements of this chapter do not apply to the following:

(a) An athletic trainer licensed, certified, or registered in another state or country who is in California temporarily, traveling with a team or organization, to engage in the practice of athletic training for, among other things, an athletic or sporting event.

(b) An athletic trainer licensed, certified, or registered in another state ^{OR COUNTRY} who is invited by a sponsoring organization, such as the United States Olympic Committee, to temporarily provide athletic training services under his or her state's scope of practice for athletic training.

(c) A student enrolled in an athletic training education program, while participating in educational activities during the course of his or her educational rotations under the supervision and guidance of an athletic trainer licensed under this chapter, a physician and surgeon licensed by the Medical Board of California, an osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California, or other licensed health care provider.

(d) A member or employee of the United States Armed Forces, licensed, certified, or registered in another state, as part of his or her temporary federal deployment or employment in California for a limited time.

2697.14. This chapter does not limit, impair, or otherwise apply to the practice of any person licensed and regulated under any other chapter of Division 2 (commencing with Section 500).

2697.15. This chapter does not require new or additional third-party reimbursement for services rendered by an individual licensed under this chapter.

Article 3. Athletic Trainers' Fund

2697.16. The Athletic Trainers' Fund is hereby established. All fees collected pursuant to this chapter shall be paid into the fund. These fees shall be available to the committee, upon appropriation by the Legislature, for the regulatory purpose of implementing this chapter.

2697.17. (a) Notwithstanding any other law, including Section 11005 of the Government Code, the Director of Consumer Affairs may seek and receive funds from the California Athletic Trainers Association for the initial costs of implementing this chapter. ^{AS A LOAN}

(b) Articles 1 (commencing with Section 2697) and 2 (commencing with Section 2697.10) shall not become operative unless the director determines, on or before January 1, 2019, that sufficient funds to pay for the initial costs of this chapter have been received from the California Athletic Trainers Association, or some other source of funding, and the funds are deposited in the Athletic Trainers' Fund, in which case Article 1 shall become operative on the first January 1 or July 1, whichever occurs first, immediately following this determination. Article 2 shall become operative on the first January 1 or July 1, whichever occurs first, immediately following the operative date of Article 1. If the director finds that sufficient funds are not available by January 1, 2019, the director shall reexamine the funding status by June 30 of each subsequent year until either the director determines that sufficient funds have been received and deposited or until January 1, 2021, whichever occurs first.

(c) The director shall provide written notification to the Legislature and the Governor when the determination described in subdivision (b) has been made, and shall concurrently post a notice on the Department of Consumer Affairs Internet Web site that the determination has been made.

(d) A failure of the director to comply with subdivision (c) shall not affect the validity of a determination made pursuant to subdivision (b).

2697.18. This chapter shall remain in effect only until January 1, 2025, and as of that date is repealed, ^{UNLESS} ~~SUBSEQUENT STATUTE IS ENACTED BEFORE THAT DATE THAT DELETES OR EXTENDS THAT DATE.~~