

Discussion and possible position on Assembly Bill 796 (Weber) Athletic Trainers.

Included are the following:

- 2023 Legislative Calendar
- AB 796 Athletic Trainer bill analysis - April 11, 2023
- AB 796 Amended March 30, 2023
- AB 1592 Amended – March 28, 2019
- AB 1592 Assembly Committee Bill Analysis – April 10, 2019
- AB 1592 Board opposition letter – April 17, 2019
- AB 1592 CATA Response to Occupational Therapy Board Concerns – October 29, 2019
- AB1592 OTAC AOTA Opposition Letter – December 13, 2019
- Minutes from December 18, 2019, Board Meeting
- AB 796 Assembly Committee Bill Analysis – April 7, 2023
- AB 796 OTAC (and others) Opposition Letter – Received April 11, 2023

Link to 2023 Legislative Calendar:

<https://www.assembly.ca.gov/schedules-publications/legislative-deadlines>

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY BILL ANALYSIS

Bill Number: AB 796

Version: Amended March 30, 2023

Author: Weber

Subject: Athletic Trainers

Recommended Position: None.

This Bill:

This bill would enact the Athletic Training Practice Act, which would establish, until January 1, 2028, the Athletic Training under the California Board of Occupational Therapy, to exercise licensing, regulatory, and disciplinary functions and prohibit a person from practicing as an athletic trainer or using certain titles or terms without being licensed by the board.

The bill would define the practice of athletic training, specify requirements for licensure and license renewal, require a licensed athletic trainer to practice only under the supervision of a physician and surgeon, and authorize the board to deny, suspend, or revoke a license and to discipline a licensee for specified reasons.

Key Dates:

| | |
|----------------|---|
| April 11, 2023 | Bill heard in Assembly Arts, Entertainment, Sports and Tourism Committee (Ayes 5. Abstain 0.) |
| April 25, 2023 | Bill to be heard in Assembly Business and Professions Committee |
| April 28, 2023 | Last Date for policy committees to hear and report to fiscal committees fiscal bills introduced in their house. |
| May 12, 2023 | Last day for policy committees to meet prior to June 5 (J.R. 61(a)(4)). |
| May 19, 2023 | Last day for fiscal committees to hear and report to the Floor bills introduced in their house. |

Prior legislation:

AB 2410 (Cunningham), of 2020, would have established title protection for athletic trainers. (Status: Held in Senate Business, Professions, and Economic Development Committee.)

AB 1665 (Bonta), of 2020, would have enacted, until January 1, 2028, the Athletic Training Practice Act for the purpose of licensing persons engaged in the profession of Athletic Trainer. (Status: Held in Senate Business, Professions, and Economic Development Committee.)

AB 1592 (Bonta), of 2019, would have established a registration program under a new Athletic Training Board (Board) within the Department of Consumer Affairs (DCA) and prohibited a person from practicing athletic training, as defined, or holding himself or herself out as an athletic trainer, unless they are registered with the Board. (Status: Held in the Senate Appropriations Committee.)

The Board took a position of opposition unless certain amendments were included in the bill.

The previous Committee analysis of AB 1592 indicated support by numerous high schools, businesses, organizations and 547 individuals.

Opposition to the bill included 28 individuals and:

- California Nurses Association
- California Physical Therapy Association
- Occupational Therapy Association of California
- The American Occupational Therapy Association, Inc.
- United Nurses Associations of California/Union of Health Care Professionals

AB 3110 (Mullin), of 2018 was substantially similar to AB 1510. (Status: Held in the Senate Appropriations Committee.)

AB 1510 (Dababneh), of 2017, would have established a registration program under a new Athletic Training Board within DCA and prohibited a person from practicing athletic training, as defined, or holding himself or herself out as an athletic trainer unless they are registered with the Board. (Status: Held in Assembly Business and Professions Committee for procedural reasons.)

AB 161 (Chau) of 2015 would have established certification and training requirements for athletic trainers and prohibit individuals from calling themselves athletic trainers unless they meet those requirements. (Status: The bill was vetoed by Governor Brown.)

AB 1890 (Chau) of 2014 was substantially similar to AB 161. (Status: The bill was vetoed by Governor Brown.)

AB 864 (Skinner) of 2013 would have established the licensure and regulation of athletic trainers through the creation of an Athletic Trainer Licensing Committee under the Physical Therapy Board of California. (Status: The bill was held in the Assembly Committee on Appropriations.)

SB 1273 (Lowenthal) of 2012 was substantially similar to AB 864 introduced in 2011. (Status: The bill failed passage in Senate Business and Professions Committee.)

Various bills regarding Athletic Trainers were also introduced in 2002, 2003, 2006, 2007, 2010 and 2011.



AB-796 Athletic trainers. (2023-2024)

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AMENDED IN ASSEMBLY MARCH 30, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 796

Introduced by Assembly Member Weber

February 13, 2023

An act to ~~amend Sections 101 and 144 of, and to~~ add and repeal Chapter 5.8 (commencing with Section 2697) of Division 2 ~~of, of~~ the Business and Professions Code, relating to athletic trainers.

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as amended, Weber. Athletic trainers.

Existing law provides for the licensure and regulation of various professions and vocations by regulatory boards and entities within the Department of Consumer Affairs, including athlete agents. *Existing law establishes the California Board of Occupational Therapy within the Department of Consumer Affairs and provides for the licensure and regulation of the practice of occupational therapy.*

This bill would enact the Athletic Training Practice Act, which would establish, until January 1, 2028, ~~the California Board of Athletic Training within the Department of Consumer Affairs~~ *the Athletic Trainer Licensing Committee within the California Board of Occupational Therapy* to exercise licensure, regulatory, and disciplinary functions under the act. The bill would prohibit a person from practicing as an athletic trainer or using certain titles or terms without being licensed by the board.

The bill would define the practice of athletic training, specify requirements for licensure as an athletic trainer, and would require a licensed athletic trainer to practice only under the supervision of a physician ~~and or~~ surgeon.

The bill would provide that an athletic trainer license would be valid for 2 years and subject to renewal, and would authorize the board to deny, suspend, or revoke a license and to discipline a licensee for specified reasons. The bill would specify acts that constitute unprofessional conduct and would make it a misdemeanor for any person to violate the act. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would establish the Athletic Trainers Fund for the deposit of application and renewal fees and would make those fees available to the board upon appropriation by the Legislature for the purpose of implementing the act's provisions. The bill would authorize the Director of Consumer Affairs to seek and receive donations from the California Athletic Trainers Association or any other private individual or entity for the initial costs of implementing the act, and would specify that, if private funds are unavailable, a general fund or special fund loan may be used and repaid with fee revenue. 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 website of the determination.

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

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

~~SECTION 1. Section 101 of the Business and Professions Code is amended to read:~~

~~101. The department is comprised of the following:~~

~~(a) The Dental Board of California.~~

~~(b) The Medical Board of California.~~

~~(c) The California State Board of Optometry.~~

~~(d) The California State Board of Pharmacy.~~

~~(e) The Veterinary Medical Board.~~

~~(f) The California Board of Accountancy.~~

~~(g) The California Architects Board.~~

~~(h) The State Board of Barbering and Cosmetology.~~

~~(i) The Board for Professional Engineers, Land Surveyors, and Geologists.~~

~~(j) The Contractors State License Board.~~

~~(k) The Bureau for Private Postsecondary Education.~~

~~(l) The Bureau of Household Goods and Services.~~

~~(m) The Board of Registered Nursing.~~

~~(n) The Board of Behavioral Sciences.~~

~~(o) The State Athletic Commission.~~

~~(p) The Cemetery and Funeral Bureau.~~

~~(q) The Bureau of Security and Investigative Services.~~

~~(r) The Court Reporters Board of California.~~

~~(s) The Board of Vocational Nursing and Psychiatric Technicians.~~

~~(t) The Landscape Architects Technical Committee.~~

~~(u) The Division of Investigation.~~

~~(v) The Bureau of Automotive Repair.~~

~~(w) The Respiratory Care Board of California.~~

~~(x) The Acupuncture Board.~~

~~(y) The Board of Psychology.~~

~~(z)The Podiatric Medical Board of California.~~

~~(aa)The Physical Therapy Board of California.~~

~~(ab)The Arbitration Review Program.~~

~~(ac)The Physician Assistant Board.~~

~~(ad)The Speech Language Pathology and Audiology and Hearing Aid Dispensers Board.~~

~~(ae)The California Board of Occupational Therapy.~~

~~(af)The Osteopathic Medical Board of California.~~

~~(ag)The California Board of Naturopathic Medicine.~~

~~(ah)The Dental Hygiene Board of California.~~

~~(ai)The Professional Fiduciaries Bureau.~~

~~(aj)The State Board of Chiropractic Examiners.~~

~~(ak)The Bureau of Real Estate Appraisers.~~

~~(al)The Structural Pest Control Board.~~

~~(am)The California Board of Athletic Training. This subdivision shall become inoperative on January 1, 2028.~~

~~(an)Any other boards, offices, or officers subject to its jurisdiction by law.~~

~~SEC. 2. Section 144 of the Business and Professions Code is amended to read:~~

~~144.(a)Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.~~

~~(b)Subdivision (a) applies to the following:~~

~~(1)California Board of Accountancy.~~

~~(2)State Athletic Commission.~~

~~(3)Board of Behavioral Sciences.~~

~~(4)Court Reporters Board of California.~~

~~(5)Dental Board of California.~~

~~(6)California State Board of Pharmacy.~~

~~(7)Board of Registered Nursing.~~

~~(8)Veterinary Medical Board.~~

~~(9)Board of Vocational Nursing and Psychiatric Technicians of the State of California.~~

~~(10)Respiratory Care Board of California.~~

~~(11)Physical Therapy Board of California.~~

~~(12)Physician Assistant Board.~~

~~(13)Speech Language Pathology and Audiology and Hearing Aid Dispensers Board.~~

~~(14)Medical Board of California.~~

~~(15)California State Board of Optometry.~~

~~(16)Acupuncture Board.~~

~~(17)Cemetery and Funeral Bureau:~~

~~(18)Bureau of Security and Investigative Services:~~

~~(19)Division of Investigation:~~

~~(20)Board of Psychology:~~

~~(21)California Board of Occupational Therapy:~~

~~(22)Structural Pest Control Board:~~

~~(23)Contractors State License Board:~~

~~(24)Naturopathic Medicine Committee:~~

~~(25)Professional Fiduciaries Bureau:~~

~~(26)Board for Professional Engineers, Land Surveyors, and Geologists:~~

~~(27)Podiatric Medical Board of California:~~

~~(28)Osteopathic Medical Board of California:~~

~~(29)California Architects Board, beginning January 1, 2021:~~

~~(30)Landscape Architects Technical Committee, beginning January 1, 2022:~~

~~(31)Bureau of Household Goods and Services with respect to household movers as described in Chapter 3.1 (commencing with Section 19225) of Division 8:~~

~~(32)California Board of Athletic Training. This subdivision shall become inoperative on January 1, 2028:~~

~~(c)For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category:~~

SEC. 3. SECTION 1. 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 ~~board, and upon the advice and collaboration of a licensed supervising physician and surgeon, carries out the practice of prevention, recognition, evaluation, management, disposition, treatment, or rehabilitation of injuries in the manner, means, and methods deemed necessary, and that are congruent with the athletic trainer's education, training, and competence. An athletic trainer is a healing arts licensee.~~ *committee, and practices under the direction of a licensed physician or surgeon.*

(1) The term "athletic trainer" shall not include any teacher, coach, or other individual for an institution or organization, either public or private, within this state, who does not hold themselves out to the public as athletic trainers.

(2) Nothing in this chapter shall be construed to prevent any person from serving as an athletic training student, assistant athletic trainer, teacher athletic trainer, or any similar volunteer position if such service is not primarily for compensation and is carried out under the supervision of a physician or a licensed athletic trainer.

(3) The term "athletic trainer" shall not include any person who serves as a first responder or other layman position providing basic first aid within this state but who does not perform the duties of an athletic trainer or hold themselves out as an athletic trainer. For purposes of this chapter basic first aid includes the initial steps taken to stabilize an injury or illness situation until more advanced or professionally trained personnel can assume treatment measures. This care generally consists of simple, life-saving or injury-stabilizing techniques that a nonphysician or ~~lay person~~ *layperson* can be easily trained to perform with minimal equipment, and is

generally recognized as such by national organizations such as the American Red Cross, National Safety Council, American Heart Association, or other similar organization.

(b) "Athletic training" means the performance of those services that require the education, training, and experience required by this chapter for licensure as an athletic trainer pursuant to this chapter. "Athletic training" includes services appropriate for the prevention, recognition, assessment, management, treatment, rehabilitation, and reconditioning of injuries and illnesses sustained by an athlete:

(1) Who is engaged in sports, games, recreation, or exercise requiring physical strength, flexibility, range of motion, speed, stamina, or agility; or

(2) That affect an athlete's participation or performance in sports, games, recreation, or exercise as described in paragraph (1).

(c) "Athletic training" includes:

(1) Planning, administering, evaluating, and modifying methods for prevention and risk management of injuries and illnesses;

(2) Identifying an athlete's medical conditions and disabilities and appropriately caring for or referring an athlete as appropriate;

(3) Recognizing, assessing, treating, managing, preventing, rehabilitating, reconditioning, and appropriately referring to another health care provider to treat injuries and illnesses;

(4) Using therapeutic modalities for which the athletic trainer has received appropriate training and education;

(5) Using conditioning and rehabilitative exercise;

(6) Using topical pharmacological agents, in conjunction with the administration of therapeutic modalities and pursuant to prescriptions issued in accordance with the laws of this state, for which the athletic trainer has received appropriate training and education;

(7) Educating and counseling athletes concerning the prevention and care of injuries and illnesses;

(8) Educating and counseling the general public with respect to athletic training services;

(9) Referring an athlete receiving athletic training services to appropriate health care personnel as needed; and

(10) Planning, organizing, administering, and evaluating the practice of athletic training.

~~(b)~~

~~(d)~~ "Board" means the California Board of ~~Athletic Training~~. *Occupational Therapy.*

~~(e)~~ "Committee" means the *Athletic Trainer Licensing Committee.*

~~(e)~~

~~(f)~~ "Director" means the Director of Consumer Affairs.

~~(d)~~

~~(g)~~ "Supervising physician" or "supervising physician and surgeon" means a physician ~~and or~~ surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of California who supervises one or more athletic trainers, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation prohibiting the employment or supervision of a physician assistant.

~~(e)~~

~~(h)~~ (1) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by an athletic trainer. Supervision, as defined in this subdivision, shall not be construed to require the physical presence of the physician ~~and or~~ surgeon, but does require the following:

(A) Adherence to adequate supervision as agreed to in the practice agreement.

(B) The physician ~~and or~~ surgeon being available by telephone or other electronic communication method.

(2) Nothing in this subdivision shall be construed as prohibiting the board from requiring the physical presence of a physician ~~and or~~ surgeon as a term or condition of an Athletic Trainer's reinstatement, probation, or imposing discipline.

~~(f)~~

(i) "Regulations" means the rules and regulations as set forth in Division 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

2697.2. *Only a person licensed as an athletic trainer may use the title "athletic trainer" or "licensed athletic trainer," the letters "A.T." or "A.T.C." as a title, or any other generally accepted terms, letters, or figures that indicate that the person is an athletic trainer.*

2697.3. (a) *Nothing in this chapter authorizes an athletic trainer to practice:*

(1) *Medicine, as defined under Chapter 5 (commencing with Section 2000);*

(2) *Physical therapy, as defined under Chapter 5.7 (commencing with Section 2600);*

(3) *Chiropractic, as defined under Chapter 2 (commencing with Section 1000);*

(4) *Occupational therapy, as defined under Chapter 5.6 (commencing with Section 2570); or*

(5) *Any other regulated form of healing except as authorized by this chapter.*

(b) *Nothing in this chapter authorizes an athletic trainer to treat a disease or condition that is not related to a person's participation in sports, games, recreation, or exercise, but the athletic trainer shall take a person's disease or condition into account in providing athletic training services and shall consult with a physician as appropriate regarding the disease or condition.*

(c) *Nothing in this chapter prohibits a person from recommending weight management or exercise to improve strength, conditioning, flexibility, and cardiovascular performance to a person in normal health as long as the person recommending the weight management or exercise does not represent themselves as an athletic trainer and the person does not engage in athletic training as defined in this chapter.*

~~**2697.2.2697.4.**~~ (a) There is established the ~~California Board of Athletic Training within the Department of Consumer Affairs.~~ *Athletic Trainer Licensing Committee within the California Board of Occupational Therapy.*

(b) The ~~board committee~~ shall consist of seven members, as follows:

(1) Three licensed athletic trainers, except that initially, the ~~board committee~~ shall include three athletic trainers certified by the Board of Certification, Inc. or another nationally accredited athletic trainer certification agency, or its predecessors or successors, who shall satisfy the remainder of the licensure requirements described in Section ~~2697.4~~ **2697.6** as soon as it is practically possible.

(2) Three public members.

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

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

(1) The athletic trainers shall be appointed from the following:

(A) Two members shall be actively practicing athletic training and engaged primarily in direct patient care as an athletic trainer with at least five continuous years of experience.

(B) One member shall be active primarily as an educator or administrator in a program to educate athletic trainers.

(2) The physician ~~and or~~ surgeon or osteopathic physician ~~and or~~ surgeon shall be appointed from persons who have supervised or are currently supervising athletic trainers.

~~(3) Each public member shall satisfy all of the following:~~

~~(A) Chapter 6 (commencing with Section 450) of Division 1.~~

~~(B) Shall not be or have ever been an athletic trainer or in training to become an athletic trainer.~~

~~(C) Shall not be a current or former licensee of any board under this division or of any board referred to in Section 1000 or 3600.~~

~~(D) Shall not be an officer or faculty member of any college, school, or institution involved in another profession defined as a healing art education.~~

~~(E) Shall have no pecuniary interests in the provision of health care services.~~

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

~~(2) Notwithstanding paragraph (1), for initial appointments to the board, one public member appointed by the Governor, the physician and surgeon or osteopathic physician and surgeon, and one of the licensed athletic trainers shall serve terms of two years, and the remaining members shall serve terms of four years.~~

~~(e) Each of the board members shall receive per diem and expenses, except as otherwise specified.~~

~~(f) The appointing power shall have the power to remove any member of the board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.~~

~~(g) No person may serve as a member of the board for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term.~~

~~(h) Annually, the board shall elect one of its members as president and one of its members as vice president.~~

~~(i) Subject to Sections 107 and 154, the board may employ an executive officer and other officers and employees.~~

~~2697.3.2697.5.~~ (a) (1) The ~~board~~ **committee** shall adopt, repeal, and amend regulations as may be necessary to administer and enforce this chapter.

(2) Before adopting regulations, the ~~board~~ **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 ~~board~~ **committee** shall confirm, to the extent practicable, the information provided in an application before issuing a license to an applicant pursuant to this chapter.

(c) The ~~board~~ **committee** shall give protection of the public the highest priority 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.

Article 2. Licensure

~~2697.4.2697.6.~~ Except as otherwise provided in this chapter, the board shall issue an athletic training license to an applicant who meets all of the following requirements:

(a) At the time of application, the applicant is over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of a license under Section 480.

(b) The applicant has submitted an application developed by the board.

(c) The applicant passed an athletic training certification examination offered by the Board of Certification, Inc., or its predecessors or successors.

(d) The applicant has passed a criminal background check.

(e) The applicant has paid the application fee established by the board.

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

~~2697.7-2697.8.~~ The board shall renew a license if an applicant meets both of the following requirements:

(a) Pays the renewal fee as established by the board as described in this chapter.

(b) Submits proof of both of the following:

(1) Satisfactory completion of necessary continuing education, consistent with the requirements of the Board of Certification, Inc., or its predecessors or successors.

(2) Has a current athletic training certification from a certification body approved by the board, including, but not limited to, the Board of Certification, Inc., or its predecessors or successors.

~~2697.8-2697.9.~~ (a) The board may deny a license or discipline a 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 or another state or country.

(3) Has been convicted of a crime that is substantially related to the functions or duties of an athletic trainer.

(4) Has committed unprofessional conduct, as described in Section ~~2697.10-2697.11.~~

(b) The board may order any of the following actions regarding an athletic training license after notice and a hearing to determine unprofessional conduct:

(1) Placing the license on probation with terms and conditions.

(2) Suspending the license and the ability to practice athletic training for a period not to exceed one year.

(3) Revoking the license.

(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(5) Issuing an initial license on probation, with specific terms and conditions, to an applicant who has violated this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.

(6) Taking any other action as the board, in its discretion, deems proper to protect the public health and safety pursuant to subdivision (c) of Section ~~2697.3-2697.5.~~

(c) If a license is suspended, the holder may not practice as an athletic trainer during the term of suspension. Upon the expiration of the term of suspension, the license shall be reinstated and the holder entitled to resume practice under any remaining terms of the discipline, unless it is established to the satisfaction of the board that the holder of the license practiced in this state during the term of suspension. In this event, the board, after notice and a hearing on this issue alone, may revoke the license.

(d) The board shall retain jurisdiction to proceed with any investigation, action, or disciplinary proceeding against a license, or to render a decision suspending or revoking a license, regardless of the expiration, lapse, or suspension of the license by operation of law, by order or decision of the board or a court of law, or by the voluntary surrender of a license by the licensee.

~~2697.9-2697.10.~~ (a) A holder of a license that has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of a penalty, including reduction or termination of probation, after a period not less than the applicable following minimum period has elapsed from either the effective date of the decision ordering that disciplinary action, or, if the order of the board or any portion of it was stayed, from the date the disciplinary action was actually implemented in its entirety. The minimum periods that shall elapse prior to a petition are as follows:

(1) For a license that was revoked for any reason other than mental or physical illness substantially related to the functions or duties of an athletic trainer, at least three years.

(2) For early termination of probation scheduled for three or more years, at least two years.

(3) For modification of a penalty, reinstatement of a license revoked for mental or physical illness substantially related to the functions or duties of an athletic trainer, or termination of probation scheduled for less than three years, at least one year.

(b) The board may, in its discretion, specify in its disciplinary order a lesser period of time, provided that the period shall not be less than one year.

(c) The petition submitted shall contain any information required by the board, which may include a current set of fingerprints accompanied by the fingerprinting fee.

(d) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that they are entitled to the relief sought in the petition.

(e) The board, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision.

(f) The board may grant or deny the petition or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.

(g) The board shall refuse to consider a petition while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or subject to an order of registration pursuant to Section 290 of the Penal Code.

(h) No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

2697.10-2697.11. For purposes of this chapter, unprofessional conduct includes, but is not limited to, the following:

(a) Incompetence, negligence, or gross negligence in carrying out usual athletic trainer functions.

(b) Repeated similar negligent acts in carrying out usual athletic trainer functions.

(c) A conviction for practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

(d) The use of advertising relating to athletic training ~~which~~ *that* violates Section 17500.

(e) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a licensee by another healing arts board under the department, another state or territory of the United States, or by any other government agency. A certified copy of the decision, order, or judgment shall be conclusive evidence thereof.

(f) Procuring a license by fraud, misrepresentation, or mistake.

(g) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any regulation adopted pursuant to this chapter.

(h) Making or giving any false statement or information in connection with the application for issuance or renewal of a license.

(i) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.

(j) Impersonating an applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(k) Impersonating a licensee, or permitting or allowing another unlicensed person to use a license.

(l) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a licensee.

(m) Committing any act punishable as a sexually related crime, if that act is substantially related to the qualifications, functions, or duties of a licensee, in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

(n) Using excessive force upon or mistreating or abusing any athlete or athlete patient. For purposes of this subdivision, "excessive force" means force clearly in excess of that which would normally be applied in similar clinical circumstances.

(o) Falsifying or making grossly incorrect, grossly inconsistent, or unintelligible entries in an athlete or athlete patient or hospital record or any other record.

(p) Changing the prescription of a physician and surgeon or falsifying verbal or written orders for treatment or a diagnostic regime received, whether or not that action resulted in actual harm to the athlete or athlete patient.

(q) Failing to maintain the confidentiality of medical information of an athlete or athlete patient, except as disclosure is otherwise permitted or required by law.

(r) Delegating to an unlicensed employee or person a service that requires the knowledge, skills, abilities, or judgment of a licensee.

(s) Committing any act that would be grounds for denial of a license under Section 480.

(t) Except for good cause, the knowing failure to protect athletes or athlete patients by failing to follow infection control guidelines of the committee, thereby risking transmission of infectious diseases from licensee to athlete or athlete patient, from athlete or athlete patient to athlete or athlete patient, or from athlete or athlete patient to licensee.

(u) As a licensee, obtaining, possessing, or prescribing a controlled substance in violation of Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device in violation of Chapter 9 (commencing with Section 4000).

(v) As a licensee, using to an extent or in a manner dangerous or injurious to themselves, to any other person, or to the public, or that impairs their ability to conduct with safety to the public the practice authorized by their license, of any of the following:

(1) A controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(2) A dangerous drug or dangerous device as defined in Section 4022.

(3) Alcoholic beverages.

(w) As a licensee, being convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in paragraphs (1) and (2) of subdivision (v), or the possession of, or falsification of a record pertaining to, the substances described in paragraph (1) of subdivision (v), in which event the record of the conviction is conclusive evidence thereof.

(x) As a licensee, being committed or confined by a court of competent jurisdiction for intemperate use of any of the substances described in paragraphs (1) and (2) of subdivision (v), in which event the court order of commitment or confinement is prima facie evidence of the commitment or confinement.

(y) As a licensee, falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any athlete or athlete patient's record, or any other record.

~~2697.11.~~2697.12. Any person who violates this chapter shall be guilty of a misdemeanor.

Article 3. Revenue

~~2697.12.~~

2697.13. The Athletic Trainers Fund is hereby established in the State Treasury. All fees collected pursuant to this chapter shall be paid into the fund. Moneys in the fund shall be available to the board, upon appropriation by the Legislature, for expenditure by the board to defray its expenses for administering this chapter.

~~2697.13.~~

2697.14. Notwithstanding any other law, including Section 11005 of the Government Code, the director may seek and receive funds from the California Athletic Trainers Association or any other private individual or entity for the initial costs of implementing this chapter. If private funds are unavailable to cover the startup costs of implementing this act, a General Fund or special fund loan may be used and shall be repaid with fee revenue.

~~2697.14.~~

2697.15. The director shall determine that sufficient funds for that purpose of administering this chapter have been obtained and shall provide notice to the Legislature, the Governor, and on the department's internet website of the determination.

~~2697.15.~~

2697.16. This chapter shall remain in effect only until January 1, 2028, and as of that date is repealed.

~~SEC. 4.~~**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



AB-1592 Athletic trainers. (2019-2020)

Current Version: 03/28/19 - Amended Assembly Compared to Version: ⓘ

AMENDED IN ASSEMBLY MARCH 28, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

NO. 1592

Introduced by Assembly Member Bonta

February 22, 2019

An act *to amend, repeal, and add Sections 101 and 144 of, and 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 1592, as amended, Bonta. Athletic trainers.

Existing law provides for the licensure and regulation of various professions and vocations by regulatory boards and entities within the Department of Consumer Affairs, including athlete agents.

This bill would ~~state the intent of the Legislature to enact legislation relating to the licensure and regulation of athletic trainers.~~ *enact the Athletic Training Practice Act, which, until January 1, 2028, would establish the California Board of Athletic Training within the Department of Consumer Affairs to exercise licensing, regulatory, and disciplinary functions under the act. The bill would prohibit a person from practicing as an athletic trainer or using certain titles or terms without being licensed by the board. The bill would define the practice of athletic training, specify requirements for licensure as an athletic trainer, and would require a licensed athletic trainer to practice only under the supervision of a physician and surgeon. The bill would provide that an athletic trainer license would be valid for 2 years and subject to renewal, and would authorize the board to deny, suspend, or revoke a license and to discipline a licensee for specified reasons. The bill would specify acts that constitute unprofessional conduct and would make it a misdemeanor for any person to violate the act.*

The bill would establish the Athletic Trainers Fund for the deposit of application and renewal fees, as specified, and would make those fees available to the board for the purpose of implementing the act's 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 or any other private individual or entity for the initial costs of implementing the act, and would specify that, if private funds are unavailable, would specify that a general fund or special fund loan may be used and repaid with fee revenue.

The bill would repeal its provisions on January 1, 2028.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. *Section 101 of the Business and Professions Code is amended to read:*

101. The department is comprised of the following:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The State Board of Barbering and Cosmetology.
- (i) The Board for Professional Engineers, Land Surveyors, and Geologists.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Household Goods and Services.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The Bureau of Security and Investigative Services.
- (r) The Court Reporters Board of California.
- (s) The Board of Vocational Nursing and Psychiatric Technicians.
- (t) The Landscape Architects Technical Committee.
- (u) The Division of Investigation.
- (v) The Bureau of Automotive Repair.
- (w) The Respiratory Care Board of California.
- (x) The Acupuncture Board.
- (y) The Board of Psychology.
- (z) The California Board of Podiatric Medicine.

- (aa) The Physical Therapy Board of California.
- (ab) The Arbitration Review Program.
- (ac) The Physician Assistant Board.
- (ad) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (ae) The California Board of Occupational Therapy.
- (af) The Osteopathic Medical Board of California.
- (ag) The Naturopathic Medicine Committee.
- (ah) The Dental Hygiene Board of California.
- (ai) The Professional Fiduciaries Bureau.
- (aj) The State Board of Chiropractic Examiners.
- (ak) The Bureau of Real Estate Appraisers.
- (al) The Structural Pest Control Board.
- (am) The Bureau of Cannabis Control.
- (an) Any other boards, offices, or officers subject to its jurisdiction by law.

~~(ao) This section shall become operative on July 1, 2018.~~

(ao) The California Board of Athletic Training.

This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 2. *Section 101 is added to the Business and Professions Code, to read:*

101. *The department is comprised of the following:*

- (a) The Dental Board of California.*
- (b) The Medical Board of California.*
- (c) The State Board of Optometry.*
- (d) The California State Board of Pharmacy.*
- (e) The Veterinary Medical Board.*
- (f) The California Board of Accountancy.*
- (g) The California Architects Board.*
- (h) The State Board of Barbering and Cosmetology.*
- (i) The Board for Professional Engineers, Land Surveyors, and Geologists.*
- (j) The Contractors' State License Board.*
- (k) The Bureau for Private Postsecondary Education.*
- (l) The Bureau of Household Goods and Services.*
- (m) The Board of Registered Nursing.*
- (n) The Board of Behavioral Sciences.*
- (o) The State Athletic Commission.*
- (p) The Cemetery and Funeral Bureau.*
- (q) The Bureau of Security and Investigative Services.*

- (r) The Court Reporters Board of California.*
- (s) The Board of Vocational Nursing and Psychiatric Technicians.*
- (t) The Landscape Architects Technical Committee.*
- (u) The Division of Investigation.*
- (v) The Bureau of Automotive Repair.*
- (w) The Respiratory Care Board of California.*
- (x) The Acupuncture Board.*
- (y) The Board of Psychology.*
- (z) The California Board of Podiatric Medicine.*
- (aa) The Physical Therapy Board of California.*
- (ab) The Arbitration Review Program.*
- (ac) The Physician Assistant Board.*
- (ad) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.*
- (ae) The California Board of Occupational Therapy.*
- (af) The Osteopathic Medical Board of California.*
- (ag) The Naturopathic Medicine Committee.*
- (ah) The Dental Hygiene Board of California.*
- (ai) The Professional Fiduciaries Bureau.*
- (aj) The State Board of Chiropractic Examiners.*
- (ak) The Bureau of Real Estate Appraisers.*
- (al) The Structural Pest Control Board.*
- (am) The Bureau of Cannabis Control.*
- (an) Any other boards, offices, or officers subject to its jurisdiction by law.*

This section shall become operative on January 1, 2028.

SEC. 3. *Section 144 of the Business and Professions Code is amended to read:*

144. (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.

- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Bureau of Cannabis Control.
- (28) California Board of Podiatric Medicine.
- (29) Osteopathic Medical Board of California.

(30) The California Board of Athletic Training.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

(d) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 4. *Section 144 is added to the Business and Professions Code, to read:*

144. *(a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.*

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.*
- (2) State Athletic Commission.*
- (3) Board of Behavioral Sciences.*
- (4) Court Reporters Board of California.*
- (5) State Board of Guide Dogs for the Blind.*

- (6) *California State Board of Pharmacy.*
- (7) *Board of Registered Nursing.*
- (8) *Veterinary Medical Board.*
- (9) *Board of Vocational Nursing and Psychiatric Technicians.*
- (10) *Respiratory Care Board of California.*
- (11) *Physical Therapy Board of California.*
- (12) *Physician Assistant Committee of the Medical Board of California.*
- (13) *Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.*
- (14) *Medical Board of California.*
- (15) *State Board of Optometry.*
- (16) *Acupuncture Board.*
- (17) *Cemetery and Funeral Bureau.*
- (18) *Bureau of Security and Investigative Services.*
- (19) *Division of Investigation.*
- (20) *Board of Psychology.*
- (21) *California Board of Occupational Therapy.*
- (22) *Structural Pest Control Board.*
- (23) *Contractors' State License Board.*
- (24) *Naturopathic Medicine Committee.*
- (25) *Professional Fiduciaries Bureau.*
- (26) *Board for Professional Engineers, Land Surveyors, and Geologists.*
- (27) *Bureau of Cannabis Control.*
- (28) *California Board of Podiatric Medicine.*
- (29) *Osteopathic Medical Board of California.*

(c) *For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.*

(d) *This section shall become operative on January 1, 2028.*

SEC. 5. *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) *"Athlete" means a person who participates in an athletic activity.*

(b) *"Athletic activity" means participation in exercise, sport, game, recreation, wellness, fitness, performing arts, or employment activities that requires physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility.*

(c) "Athletic trainer" means a person who meets the requirements of this chapter, is licensed by the board, and practices under the supervision of a licensed physician or surgeon. An athletic trainer is a healing arts licensee.

(d) "Board" means the California Board of Athletic Training.

(e) "Director" means the Director of Consumer Affairs.

2697.2. (a) There is established the California Board of Athletic Training within the Department of Consumer Affairs.

(b) The board shall consist of seven members, all of whom shall be California residents, as follows:

(1) Three licensed athletic trainers, except that initially, the board shall include three athletic trainers certified by the Board of Certification, Inc. or another nationally accredited athletic trainer certification agency, who shall satisfy the remainder of the licensure requirements described in Section 2697.4 as soon as it is practically possible.

(2) Three public members.

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

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

(1) The athletic trainers shall be appointed from the following:

(A) Two members shall be actively practicing athletic training and engaged primarily in direct patient care as an athletic trainer with at least five continuous years of experience.

(B) One member shall be active primarily as an educator or administrator in a program to educate athletic trainers.

(2) The physician and surgeon or osteopathic physician and surgeon shall be appointed from persons who have supervised or are currently supervising athletic trainers.

(3) Each public member shall satisfy all of the following:

(A) Chapter 6 (commencing with Section 450) of Division 1.

(B) Shall not be or have ever been an athletic trainer or in training to become an athletic trainer.

(C) Shall not be a current or former licensee of any board under this division or of any board referred to in Section 1000 or 3600.

(D) Shall not be an officer or faculty member of any college, school, or institution involved in athletic training, physical therapy, or occupational therapy education.

(E) Shall have no pecuniary interests in the provision of health care services.

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

(2) Notwithstanding paragraph (1), for initial appointments to the board, one public member appointed by the Governor, the physician and surgeon or osteopathic physician and surgeon, and one of the licensed athletic trainers shall serve terms of two years, and the remaining members shall serve terms of four years.

(e) Each of the board members shall receive per diem and expenses, except as otherwise specified in Section 103.

(f) The appointing power shall have the power to remove any member of the board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

(g) No person may serve as a member of the board for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term.

(h) Annually, the board shall elect one of its members as president and one of its members as vice president.

(i) Subject to Sections 107 and 154, the board may employ an executive officer and other officers and employees.

2697.3. *(a) (1) The board shall adopt, repeal, and amend regulations as may be necessary to administer and enforce this chapter.*

(2) Before adopting regulations, the board 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 board shall confirm, to the extent practicable, the information provided in an application before issuing a license to an applicant pursuant to this chapter.

(c) The board shall give protection of the public the highest priority 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.

Article 2. Licensure

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

(a) At the time of application, the applicant is over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of a license under Section 480.

(b) The applicant has submitted an application developed by the board.

(c) The applicant 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 board.

(d) The applicant has passed a criminal background check.

(e) The applicant has paid the application fee established by the board.

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

2697.7. *The board shall renew a license if an applicant meets both of the following requirements:*

(a) Pays the renewal fee as established by the board as described in Section 2697.20.

(b) Submits proof of both of the following:

(1) Subject to subdivision (c) of Section 2697.3, satisfactory completion of necessary continuing education, as determined by the board.

(2) Has a current athletic training certification from a certification body approved by the board, including, but not limited to, the Board of Certification, Inc., or its predecessors or successors.

2697.8. *(a) The board may deny a license or discipline a 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 or another state or country.

(3) Has been convicted of a crime that is substantially related to the functions or duties of an athletic trainer.

(4) Has committed unprofessional conduct, as described in Section 2697.10.

(b) The board may order any of the following actions regarding an athletic training license after notice and a hearing to determine unprofessional conduct:

(1) Placing the license on probation with terms and conditions.

(2) Suspending the license and the ability to practice athletic training for a period not to exceed one year.

(3) Revoking the license.

(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(5) Issuing an initial license on probation, with specific terms and conditions, to an applicant who has violated this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.

(6) Taking any other action as the board, in its discretion, deems proper to protect the public health and safety pursuant to subdivision (c) of Section 2697.3.

(c) If a license is suspended, the holder may not practice as an athletic trainer during the term of suspension. Upon the expiration of the term of suspension, the license shall be reinstated and the holder entitled to resume practice under any remaining terms of the discipline, unless it is established to the satisfaction of the board that the holder of the license practiced in this state during the term of suspension. In this event, the board, after notice and a hearing on this issue alone, may revoke the license.

(d) The board shall retain jurisdiction to proceed with any investigation, action, or disciplinary proceeding against a license, or to render a decision suspending or revoking a license, regardless of the expiration, lapse, or suspension of the license by operation of law, by order or decision of the board or a court of law, or by the voluntary surrender of a license by the licensee.

2697.9. *(a) A holder of a license that has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of a penalty, including reduction or termination of probation, after a period not less than the applicable following minimum period has elapsed from either the effective date of the decision ordering that disciplinary action, or, if the order of the board or any portion of it was stayed, from the date the disciplinary action was actually implemented in its entirety. The minimum periods that shall elapse prior to a petition are as follows:*

(1) For a license that was revoked for any reason other than mental or physical illness substantially related to the functions or duties of an athletic trainer, at least three years.

(2) For early termination of probation scheduled for three or more years, at least two years.

(3) For modification of a penalty, reinstatement of a license revoked for mental or physical illness substantially related to the functions or duties of an athletic trainer, or termination of probation scheduled for less than three years, at least one year.

(b) The board may, in its discretion, specify in its disciplinary order a lesser period of time, provided that the period shall not be less than one year.

(c) The petition submitted shall contain any information required by the board, which may include a current set of fingerprints accompanied by the fingerprinting fee.

(d) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that they are entitled to the relief sought in the petition.

(e) The board, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision.

(f) The board may grant or deny the petition or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.

(g) The board shall refuse to consider a petition while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or subject to an order of registration pursuant to Section 290 of the Penal Code.

(h) No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

2697.10. *For purposes of this chapter, unprofessional conduct includes, but is not limited to, the following:*

- (a) Incompetence, negligence, or gross negligence in carrying out usual athletic trainer functions.*
- (b) Repeated similar negligent acts in carrying out usual athletic trainer functions.*
- (c) A conviction for practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event a certified copy of the record of conviction shall be conclusive evidence thereof.*
- (d) The use of advertising relating to athletic training which violates Section 17500.*
- (e) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a licensee by another healing arts board under the department, another state or territory of the United States, or by any other government agency. A certified copy of the decision, order, or judgment shall be conclusive evidence thereof.*
- (f) Procuring a license by fraud, misrepresentation, or mistake.*
- (g) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any regulation adopted pursuant to this chapter.*
- (h) Making or giving any false statement or information in connection with the application for issuance or renewal of a license.*
- (i) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.*
- (j) Impersonating an applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.*
- (k) Impersonating a licensee, or permitting or allowing another unlicensed person to use a license.*
- (l) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a licensee.*
- (m) Committing any act punishable as a sexually related crime, if that act is substantially related to the qualifications, functions, or duties of a licensee, in which event a certified copy of the record of conviction shall be conclusive evidence thereof.*
- (n) Using excessive force upon or mistreating or abusing any patient. For purposes of this subdivision, "excessive force" means force clearly in excess of that which would normally be applied in similar clinical circumstances.*
- (o) Falsifying or making grossly incorrect, grossly inconsistent, or unintelligible entries in a patient or hospital record or any other record.*
- (p) Changing the prescription of a physician and surgeon or falsifying verbal or written orders for treatment or a diagnostic regime received, whether or not that action resulted in actual patient harm.*
- (q) Failing to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law.*
- (r) Delegating to an unlicensed employee or person a service that requires the knowledge, skills, abilities, or judgment of a licensee.*
- (s) Committing any act that would be grounds for denial of a license under Section 480.*
- (t) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the committee, thereby risking transmission of infectious diseases from licensee to patient, from patient to patient, or from patient to licensee.*
- (u) As a licensee, obtaining, possessing, or prescribing a controlled substance in violation of Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device in violation of Chapter 9 (commencing with Section 4000).*
- (v) As a licensee, using to an extent or in a manner dangerous or injurious to themselves, to any other person, or to the public, or that impairs their ability to conduct with safety to the public the practice authorized by their license, of any of the following:*
 - (1) A controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.*

(2) A dangerous drug or dangerous device as defined in Section 4022.

(3) Alcoholic beverages.

(w) As a licensee, being convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in paragraphs (1) and (2) of subdivision (v), or the possession of, or falsification of a record pertaining to, the substances described in paragraph (1) of subdivision (v), in which event the record of the conviction is conclusive evidence thereof.

(x) As a licensee, being committed or confined by a court of competent jurisdiction for intemperate use of any of the substances described in paragraphs (1) and (2) of subdivision (v), in which event the court order of commitment or confinement is prima facie evidence of the commitment or confinement.

(y) As a licensee, falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any patient record, or any other record.

Article 3. Athletic Training

2697.11. (a) A person shall not practice athletic training or hold themselves out as an athletic trainer or as being able to practice athletic training, or to render athletic training services in this state unless the person is licensed as an athletic trainer 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.," "l.a.t.," "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) A person who is currently using one of the titles listed under subdivision (b) and is covered under a collective bargaining agreement is not subject to the requirements of subdivision (b) until the parties to that bargaining agreement renew that agreement. At that time, a person shall not use the titles listed in subdivision (b) if the individual does not meet the requirements of this section. Those individuals may choose a different title to describe their positions under the new collective bargaining agreement.

(d) No employee whose title is changed in order to comply with this section shall suffer any loss of employment status as a result of the title change, including, but not limited to, layoff, demotion, termination, reclassification, or loss of pay, seniority, benefits, or any other status or compensation related to the position.

2697.12. (a) The practice of athletic training includes all of the following:

(1) Risk management and injury or illness prevention through preparticipation screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks.

(2) The clinical evaluation and assessment of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, for which the athletic trainer has had formal training during a professional education program or advanced postprofessional study and falls within the scope of practice of athletic training, by obtaining a history of the injury or condition, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury.

(3) The immediate care of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, for which the athletic trainer has had formal training during a professional education program or advanced postprofessional study and falls within the scope of practice of athletic training, by the application of first aid and emergency procedures, techniques, and equipment for nonlife-threatening or life-threatening injuries or conditions.

(4) The rehabilitation and reconditioning from an injury sustained or exacerbated while participating in athletic activity and reconditioning from a condition, for which the athletic trainer has had formal training during a professional education program or advanced postprofessional study and falls within the scope of practice of athletic training, including, but not limited to, the application of physical agents and modalities, therapeutic exercise, manual therapy and massage, standard reassessment techniques and procedures, commercial products and durable medical equipment, and educational programs, in accordance with guidelines established with a healing arts licensee.

(b) The practice of athletic training does not include grade 5 spinal manipulations, the diagnosis of disease, or the practice of medicine.

(c) An athletic trainer shall refer a patient to an appropriate healing arts licensee when the management of the injury or condition does not fall within the practice of athletic training as defined in this section.

(d) An athletic trainer shall not provide, offer to provide, or represent that they are qualified to provide any treatment that they are not qualified to perform by their professional education or advanced postprofessional study or does not fall within the scope of practice of athletic training.

2697.13. *(a) An athletic trainer shall only render athletic training services under the supervision 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.*

(b) For purposes of this section, "supervision" means services are provided either under a verbal order by a physician and surgeon who is present when the services are provided or, if the physician is not present, under a written order, telecommunication, or an athletic training treatment plan or protocol that meets all of the following:

(1) The plan or protocol specifies the athletic training services, and referral requirements specific to the athletic trainer's individual training and competence.

(2) The plan or protocol is established with and approved by the supervising physician and surgeon or osteopathic physician and surgeon.

(3) The plan or protocol accounts for the supervising physician and surgeon's availability to the athletic trainer as determined by the supervising physician and surgeon.

2697.14. *The practice of athletic training does not include any of the following:*

(a) The practice of occupational therapy, as defined in Chapter 5.6 (commencing with Section 2570).

(b) The practice of physical therapy, as defined in Chapter 5.7 (commencing with Section 2600).

(c) The practice of physician assistants, as defined in Chapter 7.7 (commencing with Section 3500).

(d) The practice of medicine, as defined in Chapter 5 (commencing with Section 2000).

(e) The practice of nursing, as defined in Chapter 6 (commencing with Section 2700).

(f) The practice of chiropractic, as defined in Chapter 2 (commencing with Section 1000).

2697.15. *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, while traveling with a team or organization, to engage in the practice of athletic training for, among other things, an athletic or sporting event and only when the athletic trainer limits their scope of practice to the members of the team or organization or during an emergency.

(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 the other state or country'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 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 any other healing arts licensee, when the student's title clearly indicates student status.

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

2697.16. *An individual who provides instruction to an individual or group to improve physical conditioning, for the use of exercise equipment, or on the mechanics of activities of cycling, running, free weights, calisthenics, or other technical aspects of exercise is not engaging in athletic training.*

2697.17. *This chapter does not limit, impair, or otherwise apply to the practice of any person licensed and regulated under any other chapter of this division.*

2697.18. *This chapter does not require new or additional reimbursement by a health care service plan, health insurer, workers' compensation insurance plan, employer, or state program for services rendered by an individual licensed under this chapter.*

2697.19. *Any person who violates this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.*

Article 4. Revenue

2697.20. *(a) The Athletic Trainers Fund is hereby established in the State Treasury. All fees collected pursuant to this chapter shall be paid into the fund. Moneys in the fund shall be available to the board, upon appropriation by the Legislature, for expenditure by the board to defray its expenses for administering this chapter.*

(b) The board shall charge the following fees:

(1) An application fee of not more than one hundred dollars (\$100).

(2) An initial license fee, which shall be prorated and based on the biennial renewal fee.

(3) A renewal fee to be established by the board, not to exceed the costs of providing the regulatory administration of this chapter.

(4) A delinquency fee for late payment of the license renewal fee in the following amounts:

(A) If the license is renewed not more than two years from the date of its expiration, the delinquency fee shall be 50 percent of the renewal fee in effect at the time of renewal.

(B) If the license is renewed more than two years after date of expiration of the license, the delinquency fee shall be 100 percent of the renewal fee in effect at the time of renewal.

(5) A duplicate license fee, to replace one that is lost or destroyed, or in the event of a name change, of thirty-five dollars (\$35).

(6) An endorsement fee of not more than fifty dollars (\$50).

(7) A fee to collect fingerprints for criminal history record checks charged by the Department of Justice and the Federal Bureau of Investigation.

2697.21. *Notwithstanding any other law, including Section 11005 of the Government Code, the director may seek and receive funds from the California Athletic Trainers Association or any other private individual or entity for the initial costs of implementing this chapter. If private funds are unavailable to cover the startup costs of implementing this act, a general fund or special fund loan may be used and shall be repaid with fee revenue.*

2697.22. *This chapter shall remain in effect only until January 1, 2028, and as of that date is repealed.*

SEC. 6. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

~~SECTION 1. It is the intent of the Legislature to enact legislation that would provide for the licensure and regulation of athletic trainers.~~

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Kansen Chu, Chair

AB 1592 (Bonta) – As Amended March 28, 2019

SUBJECT: Athletic trainers.

SUMMARY: Would enact, until January 1, 2028, the Athletic Training Practice Act for the purpose of licensing persons engaged in the profession of Athletic Trainer. Specifically, **this bill:**

- 1) Establishes, until January 1, 2028, the Athletic Training Practice Act and the 7 member California Board of Athletic Training within the Department of Consumer Affairs, comprised of:
 - a) three licensed athletic trainers appointed by the Governor;
 - b) three public members, one each appointed by the Governor, Senate Committee on Rules and Speaker of the Assembly, and;
 - c) one physician and surgeon licensed by the Medical Board of California (MBC) or one osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California (OMBC) appointed by the Governor.
- 2) Requires the Board to adopt, repeal, and amend regulations as may be necessary and authorizes the Board, prior to adopting regulations, to consult the professional standards issued by the National Athletic Trainers' Association (NATA), the Board of Certification, Inc. (BOC), the Commission on Accreditation of Athletic Training Education (CAATE), or any other nationally recognized professional athletic training organization.
- 3) Specifies that the Board shall give protection of the public the highest priority and whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
- 4) States that except as otherwise provided in this chapter, the board shall issue an athletic training license to an applicant who meets all of the following requirements:
 - a) At the time of application, the applicant is over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of a license under Section 480.
 - b) The applicant has submitted an application developed by the board.
 - c) The applicant 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 board.

- d) The applicant has passed a criminal background check.
 - e) The applicant has paid the application fee established by the board.
- 5) Provides that a license issued is valid for two years and thereafter is subject to the following renewal requirements: the applicant pays the renewal fee; demonstrates satisfactory completion of necessary continuing education, and; has a current athletic training certification from a certification body approved by the board, including, but not limited to, the Board of Certification, Inc., or its predecessors or successors.
- 6) States that the board may deny a license for any of the following reasons. The applicant:
- a) does not meet the requirements of this chapter;
 - b) has had an athletic training license, certification, or registration revoked or suspended by an accredited organization or another state or country;
 - c) has been convicted of a crime that is substantially related to the functions or duties of an athletic trainer, or;
 - d) has committed unprofessional conduct, as described.
- 7) Provides that the board may order any of the following actions regarding an athletic training license after notice and a hearing, as specified, to determine unprofessional conduct:
- a) Placing the license on probation with terms and conditions.
 - b) Suspending the license and the ability to practice athletic training for a period not to exceed one year.
 - c) Revoking the license.
 - d) Suspending or staying the disciplinary order, or portions of it, with or without conditions.
 - e) Issuing an initial license on probation, with specific terms and conditions, to an applicant who has violated this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.
 - f) Taking any other action as the board, in its discretion, deems proper to protect the public health and safety, as provided.
- 8) Provides, for the purposes of this chapter, the following definitions apply:
- a) “Board” means the California Board of Athletic Training.
 - b) “Director” means the Director of Consumer Affairs.
 - c) “Athlete” means a person who participates in an athletic activity.

- d) “Athletic activity” means participation in exercise, sport, game, recreation, wellness, fitness, performing arts, or employment activities that requires physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility.
- e) “Athletic trainer” means a person who meets the requirements of this chapter, is licensed by the board, and practices under the supervision of a licensed physician or surgeon.

States that an athletic trainer is a healing arts licensee.

- 9) Requires that a person shall not practice athletic training or hold themselves out as an athletic trainer or as being able to practice athletic training, or to render athletic training services in this state unless that person is licensed pursuant to this chapter.
- 10) Further requires, that no person may use the title “athletic trainer,” “licensed athletic trainer,” “certified athletic trainer,” “athletic trainer certified,” “a.t.,” “a.t.l.,” “l.a.t.,” “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.
- 11) Allows a person who is currently using one of the titles listed under (10) above, and is covered under a collective bargaining agreement is not subject to the requirements of subdivision (10) until the parties to that bargaining agreement renew that agreement. At that time, a person shall not use the titles listed in subdivision (10) if the individual does not meet the requirements of this section. Those individuals may choose a different title to describe their positions under the new collective bargaining agreement.
- 12) States that no employee whose title is changed in order to comply with this section shall suffer any loss of employment status as a result of the title change, including, but not limited to, layoff, demotion, termination, reclassification, or loss of pay, seniority, benefits, or any other status or compensation related to the position.
- 13) Defines “athletic training” as:
 - a) Risk management and injury or illness prevention through pre-participation screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks.
 - b) The clinical evaluation and assessment of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, for which the athletic trainer has had formal training during his or her professional education program or advanced post-professional study and falls within the practice standards of athletic training, by obtaining a history of the injury or condition, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury.
 - c) The immediate care of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, for which the athletic trainer has had formal training during his or her professional education program

or advanced post-professional study and falls within the practice standards of athletic training, by the application of first aid, and emergency procedures, techniques, and equipment for nonlife-threatening or life-threatening injuries or conditions.

- d) The rehabilitation and reconditioning from an injury sustained or exacerbated while participating in athletic activity and reconditioning from a condition, for which the athletic trainer has had formal training during his or her professional education program or advanced post-professional study and falls within the practice standards of athletic training, including, but not limited to, the application of physical agents and modalities, therapeutic exercise, manual therapy and massage, standard reassessment techniques and procedures, commercial products and durable medical equipment, and educational programs, under the supervision of a physician and surgeon as described in subdivision (c) of Section 2697.5.
- 14) States that the practice of athletic training does not include grade 5 spinal manipulations, the diagnosis of disease, or the practice of medicine.
- 15) Limits athletic training services to only those provided under the supervision of a physician and surgeon licensed by the MBC or OMBC.
- 16) Defines “supervision” to mean services are provided either under a verbal order by a physician and surgeon who is present when the services are provided or, if the physician is not present, under a written order, telecommunication, or an athletic training treatment plan or protocol that meets all of the following:
- a) The plan or protocol specifies the athletic training services, and referral requirements specific to the athletic trainer’s individual training and competence.
 - b) The plan or protocol is established with and approved by the supervising physician and surgeon or osteopathic physician and surgeon.
 - c) The plan or protocol accounts for the supervising physician and surgeon’s availability to the athletic trainer as determined by the supervising physician and surgeon.
- 17) Declares that the practice of athletic training does not include any of the following:
- a) The practice of occupational therapy;
 - b) The practice of physical therapy;
 - c) The practice of physician assistants.
 - d) The practice of medicine, as defined.
 - e) The practice of nursing.
 - f) The practice of chiropractic.

18) Exempts from its provisions:

- a) 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 the other state or country's scope of practice for athletic training.
- b) A student enrolled in an athletic training education program, while participating in educational activities during the course of 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 any other healing arts licensee, when the student's title clearly indicates student status.
- c) A member or employee of the United States Armed Forces, licensed, certified, or registered in another state as an athletic trainer, as part of temporary federal deployment or employment in California for a limited time.
- d) An individual who provides instruction to an individual or group to improve physical conditioning, for the use of exercise equipment, or on the mechanics of activities of cycling, running, free weights, calisthenics, or other technical aspects of exercise is not engaging in athletic training.

19) Clarifies that this chapter does not limit, impair, or otherwise apply to the practice of any person licensed and regulated under any other chapter of this division nor require new or additional reimbursement by a health care service plan, health insurer, workers' compensation insurance plan, employer, or state program for services rendered by an individual licensed under this chapter.

20) Establishes the Athletic Trainers Fund in the State Treasury, as specified, and provides that all fees collected pursuant to this chapter shall be paid into the fund and shall be available to the board, upon appropriation by the Legislature, for expenditure by the board to defray its expenses for administering this chapter.

21) Makes violation of this chapter a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

FISCAL EFFECT: Unknown. This measure has been keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) *Author's statement of need: Risk of harm posed by lack of authentication of trained practitioners, California is the only state in the union which does not recognize this profession. According to the Author, "the profession of athletic training is unregulated in California under existing law. There is an urgent and compelling need to regulate the profession of athletic training to protect the public, protect employers of athletic trainers and protect athletic trainers."*

The Author states that “Athletic trainers are health care professionals who are often charged with managing serious medical conditions such as concussions, heat illness, sudden cardiac arrest as well as a myriad of musculoskeletal issues like dislocations and fractures. Athletic trainers are required to complete an accredited athletic training education program at a college or university that culminates in at least a bachelor's degree in athletic training and achieve national athletic training certification through the Board of Certification, Inc...California is the only state that does not regulate the profession of athletic training. Currently anyone can call themselves an athletic trainer, regardless of whether they have any education or are nationally certified. A recent CIF survey of athletic directors with an approximately 90% response rate, and other verification indicate that there are at least 150 high schools currently employing an unqualified, non-certified individual who is practicing as an athletic trainer without the requisite education and training. This means hundreds of thousands of young athletes are unknowingly exposed to unqualified individuals purporting to be a health care professional and are managing injuries and conditions and giving medical advice to vulnerable athletes and their parents.

In California, because there is no entity that regulates athletic trainers, there is no accurate, systemic way for the public to report evidence of harm against athletic trainers or those posing as athletic trainers, and have those reports investigated or even tracked. There is mostly only anecdotal evidence. In the last two years, the CATA has fielded 80 complaints broken down as follows:

- Non-BOC certified person employed/volunteering as an Athletic Trainer – 50
- Unsupervised athletic training students – 15
- Harm to Patient – 8
- Licensed health-care professional claiming to be an Athletic Trainer – 6
- Other - (violation of patient privacy via social media) - 1

The Author states that there is proof of harm in other states including suspended/revoked licenses, suspended/revoked certifications and lawsuits against athletic trainers. The public in those states have recourse to a board or committee with investigative and true disciplinary power.

The Author also notes that “Currently athletic trainers practice in a legal grey area. Employers of athletic trainers in sectors such as education, healthcare, professional sports and industry are concerned that there is no state sanctioned scope of practice to delineate what athletic trainers can and cannot do. In health care settings, athletic trainers are often the only professionals these employers hire that aren't regulated. This creates a lack of uncertainty that increases the employers' risk of liability. Athletic trainers in some settings, especially in collegiate and professional sports and performing arts, are required to travel outside of the state as part of their job. In an increasing number of states, when an athletic trainer travels with their team or group and is performing his/her duties, they are practicing outside of that state's law solely because they aren't regulated. This puts employers in the untenable situation of having to choose between continuing to use their athletic trainer and

increasing their liability or having to contract an athletic trainer who is regulated in that state to provide care but is unfamiliar with their athletes or performers and management and is unable to provide any continuum of care.”

- 2) *Recognition of the profession of Athletic Trainer by other States.* Athletic trainers have some form of regulatory recognition in every state but California. 45 states (Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming license athletic trainers, requiring that individuals graduate from a bachelor’s degree program accredited by Commission on Accreditation of Athletic Training Education (CAATE), pass the comprehensive test administered by BOC, and meet ongoing educational requirements in order to stay licensed. These states provide that it is illegal to practice as an athletic trainer without obtaining a license. Only 2 states, Oregon and Hawaii require registration whereby an individual submits information (name, address, qualifications) in order to practice as an athletic trainer. Two states (New York and South Carolina) have a certification/title protection model under which an individual meets predetermined standards to be able to use the title of athletic trainer and where uncertified individuals can perform athletic trainer duties but cannot use the title of AT.
- 3) *Sunrise process and athletic training.* As noted below, the regulation of athletic trainers has come before this committee and the Legislature numerous times. The following is taken from the excellent Senate Business and Professions analysis of AB 3110 (Mullin) of 2018, which also aspired to regulate athletic trainers.

The Legislature uses a “Sunrise Model” for the purpose of assessing requests for new or increased occupational regulation, including the creation of any new licensing scheme or licensing entity within the DCA. Pursuant to the Government Code Sections 91488 et. seq. provisions and the Rules of this Committee, the CATA submitted a completed “Sunrise Regulatory Request Questionnaire” (Sunrise Questionnaire) in November, 2017 in support of its proposal for licensure (at the time, a bill proposing licensure was moving through the Legislative process).

According to information contained in the sunrise questionnaire, athletic training is listed by the American Medical Association, Health Resources Services Administration, the Department of Health and Human Services, and Centers for Medicare and Medicaid Services as an allied health profession. Athletic trainers work in collaboration with a physician and their education is predicated upon a formalized relationship with a physician, working under established guidelines. According to the sunrise questionnaire, athletic trainers evaluate injuries and determine a patient’s disposition, respond to emergencies and make “split second decisions” regarding the management of an injury as well as making decisions regarding the course of rehabilitation. Athletic trainers also make “immediate decisions regarding serious conditions such as concussion, spinal cord injury, heat illness and sudden cardiac arrest without the intervention or advice of other health care professionals” in situations where an incorrect decision could lead to a catastrophic or fatal outcome.

An individual can become an athletic trainer by graduating with a minimum of a bachelor's degree from an accredited athletic training education program and by passing a national certification examination offered by Board of Certification, Inc. (BOC). According to the sunrise questionnaire, 70 percent of athletic trainers practicing today hold a master's degree or higher. Athletic trainers, like other health care professionals, take science based courses in anatomy, physiology, chemistry and physics and must understand all systems of the body and their normal and pathological functions, including biochemical functions. Athletic training education also includes didactic instruction and clinical training in risk management and injury prevention, orthopedic clinical assessment and diagnosis, medical conditions and disabilities, acute care of injuries and illness, therapeutic modalities and conditioning and rehabilitative exercise, psychosocial intervention and referral, nutritional aspects of injuries and illness, health care administration and professional development.

The questionnaire highlights that according to the U.S. Department of Labor, athletic trainers are classified as "learned professionals." In the Code of Regulations under FLSA Section 213 exemption provision, athletic trainers have advanced and specialized knowledge through academic instruction which puts the athletic training profession in the same classification as professions of law, medicine, theology, accounting, actuarial computation, engineering, and architecture, most of which require state licensure and codes of professional ethics to practice. Athletic trainers are assigned National Provider Identifier (NPI) numbers like other health care professionals. According to the sunrise questionnaire, Department of Labor's classification of certified athletic trainers as learned professionals "is significant because it affirms that athletic trainers have 'advanced knowledge . . . in a field of science or learning . . . customarily acquired by prolonged course of specialized knowledge through academic instruction', as outlined in 29 C.F.R. § 541.301(a)–(d).

According to the sunrise questionnaire, currently there are over 3,300 BOC-certified individuals who would qualify for the practices and registration outlined in this bill, who are using the titles this bill would protect. The questionnaire also highlights that the United States Department of Labor, Bureau of Labor Statistics states in the 2016-17 edition of the *Occupational Outlook Handbook* "Employment of athletic trainers is projected to grow 21 percent from 2014 to 2024, much faster than the average for all occupations. As people become more aware of sports-related injuries at a young age, demand for athletic trainers is expected to increase." According to the questionnaire, citing data provided by the California Interscholastic Federation, over 151 such individuals are currently practicing and/or holding themselves out to be an athletic trainer in secondary schools without the requisite education and qualifications. Included among the individuals who purport to practice athletic training in California secondary schools are administrators, custodians, teachers, coaches, etc.

According to the BOC, approximately 60 percent of certified athletic trainers in California work with athletes in an educational or specific professional setting. Over a third of clinically practicing athletic trainers in California (35 percent) work with in a non-traditional setting with physically active people or "non-athletes." This is consistent with the national average of over 36 percent of athletic trainers who work with "non-athletes."

Athletic trainers serve a wide variety of consumers who have sustained injuries or have other medical conditions exacerbated by participation in physical activity. This includes individuals across the lifespan, from young adolescent athletes to adults injured on the job to geriatric individuals post joint replacement procedures. Athletic trainers are typically

employed by organizations such as professional sports teams, colleges and universities, high schools, out-patient rehabilitation clinics, hospitals, industry/ corporations, performing arts groups, physicians, the military, and health clubs. In the course of their employment, athletic trainers serve individual consumers associated with these organizations and/or employers.

Clients typically access athletic training practitioners directly. For example, an injured athlete, soldier, police officer or assembly line worker will be directed by a supervisor or “self-refer” to the institution’s athletic trainer for services such as injury prevention, evaluation, treatment, or rehabilitation. In cases of acute injury, the athletic trainer responds to the patient when notified of the injury. These are not referrals in the traditional sense, as no other health care professional is involved. This differs from “direct access” as athletic trainers are required to work under the direction of a physician and will collaborate with them on patient care.

Other health care practitioners may refer patients to athletic trainers for services. Physicians and physical therapists refer their patients to athletic trainers for rehabilitation programs and/or return to activity progression. Athletic training is not a stand-alone profession as certified athletic trainers work under the direction of and in collaboration with physicians. The sunrise questionnaire notes that athletic trainers are responsible for making a myriad of medical decisions, including life or death decisions regarding acute injuries and conditions in the course of their duties. As they are often the only health care provider present in the crucial minutes that will make the difference between survival or a tragic outcome, they must use sound clinical decision making skills and the entirety of their knowledge and training. They also make regular decisions regarding return to activity, referral and treatment. Over the last 2 and a half years, the CATA has received 93 complaints from the public regarding actions by both certified and non-certified individuals practicing athletic training, including, as the questionnaire notes, “harm to the public with patients asking the association to initiate disciplinary action against athletic trainers.”

The sunrise document also highlights the potential harm to young athletes who receive services from “unqualified and non-certified individuals” holding themselves out as athletic trainers. This includes giving medical advice to parents who incorrectly assume that the “athletic trainer” their school has hired is qualified to give such advice. Hundreds of thousands of student athletes come in contact with these individuals and unfortunately, albeit predictably, there are hundreds of documented cases of harm resulting to athletes under the care of these unqualified individuals. According to the questionnaire, citing data from the US Department of Labor Division of Practitioner Data Banks, a voluntary repository of malpractice claims in 2000- 2014 indicated that there were cases of athletic trainers successfully sued for “failure to diagnose” or “failure/delay in hospital admission” that resulted in “significant permanent injury” or “major temporary injury.” The questionnaire notes that in addition to malpractice claims there are documented cases of sexual misconduct by practitioners, including rape, child abuse and inappropriate sexual contact with patients. Information in the sunrise questionnaire from the US Department of Labor Division of Practitioner Data Banks noted 590 reports of sanctions to athletic trainers between 2000 and 2014, including sanctions for incompetent practice/harm, practicing beyond the scope of practice and sexual misconduct.

The BOC has documented cases and reports of athletic trainers practicing incompetently or unethically in California. Since 2014, the BOC has closed close to 1,831 cases nationally,

including 178 disciplinary cases against athletic trainers with a California address. The causes of disciplinary action in the California cases range from recertification violations and practicing without a license in other states to sexual misconduct/criminal convictions. Currently there are 9 athletic trainers residing in California who have had their BOC certification suspended, but there is no way the BOC can determine if they are still practicing in California. Of note, the BOC has limited ability to investigate complaints against certified practitioners and no statutory authority to limit practice of offenders. In addition, the BOC has no authority to investigate or discipline non-certified individuals posing as athletic trainers.

As all states that regulate athletic training are mandated to report their disciplinary actions and malpractice settlements, the sunrise questionnaire notes that without a regulatory board in California there is no mechanism for consumers and employers to ensure athlete trainers coming in from other states to practice have not been sanctioned and more importantly there is no mechanism for California consumers to report harm. Cases exist where athletic trainers from other states have had their licenses revoked and came to California because they were able to continue practicing despite disciplinary action they faced.

- 4) *Board of Certification.* According to their website, BOC was incorporated in 1989 to provide a certification program for entry-level athletic trainers. BOC establishes and regularly reviews both the standards for the practice of athletic training and the continuing education requirements for BOC certified athletic trainers. BOC asserts that it has the only accredited certification program for athletic trainers in the U.S. Additionally, BOC cites accreditation by the National Commission for Certifying Agencies (NCCA) and requirements that it undergo review and re-accreditation every five years through the NCCA. NCCA is the accreditation body of Institute for Credentialing Excellence, a non-profit organization that provides educational, networking, and advocacy resources to the credentialing community, and is charged with evaluating certification organization for compliance with the NCCA *Standards for the Accreditation of Certification Programs*.

BOC's website further asserts that they have been responsible for the certification of athletic trainers since 1969. BOC was the certification arm of the professional membership organization of the National Athletic Trainers' Association until 1989 when BOC became an independent non-profit organization. Athletic trainers currently have the option for certification through BOC. For BOC certification, athletic trainers must have received a minimum of a bachelor's degree from a National Athletic Training Association (NATA) accredited institution and pass a comprehensive exam. All states currently regulating athletic trainers utilize the BOC examination which is based on the Commission on Accreditation of Athletic Training Education (CAATE). To retain certification, credential holders must continue taking medical-related courses and adhere to the BOC standards of practice.

According to the BOC there are currently 3,413 BOC Certified Athletic Trainers residing in California and over 53,000 across the United States.

- 5) *Arguments in support: California is the only state in the union which does not recognize this profession which creates risk of harm to the public, our schools are training thousands of Athletic Trainers annually who cannot be licensed in their own state, and professional and college teams which use athletic trainers fear liability when traveling out of state.*

The author has articulated the predominant themes of the many support letters received by the Committee, that California is the only state in the union which does not recognize the AT profession, and that our lack of oversight creates risk of harm to the public. In addition to this line of justification, a few other issues have been brought forward as demonstrating need for AT regulation.

The Los Angeles Rams organization writes the Committee in support, with another common theme, stating, “A number of states we travel to require athletic trainers to be licensed in their home states when they travel to care for their athletes when travelling to their state. The unintended consequence of being the only state in which licensure of athletic trainers is not required is that our athletic trainers can’t meet this standard. This increases the liability of our organization and our athletic trainers.”

A coalition letter signed by 15 organizations including the NCAA, National Athletic Trainers Association, the California Coaches Association and 128 high schools, also stresses the need for teams that travel to have licensed ATs, saying, “As a part of their job, many California athletic trainers travel to different states providing care to athletic teams, performing arts groups, or other similar organizations. Due to licensing requirements of many state athletic training practice acts, athletic trainers traveling with them from California are breaking state law. The unintended consequence of being the only state that does not require licensure for athletic trainers is that they simply cannot meet the legal standard of the states to which they must travel. This places employers in the untenable situation of choosing between compromising the care of their athletes/performers or increasing their liability by sending their unlicensed athletic trainer to practice health care in a state that requires licensure. The increased liability in these situations extends beyond the employer to the athletic trainers themselves. Without licensure, the legal grey area that surrounds the employment of athletic trainers increases the athletic trainer’s personal liability. The lack of licensure also impedes the ability of athletic trainers to fully provide the care that they are qualified to provide.”

The Commission on Accreditation of Athletic Training Education (CAATE), is the sole accreditor for the nearly 400 professional, post- professional, and residency athletic training programs in the U.S. and is recognized by the Council for Higher Education Accreditation (CHEA). They support AB 1592 and assert that lack of licensure poses several issues for students studying to become ATs in California, including the fact “that the lack of licensure in California undercuts this often tax payer supported education as anyone can call themselves an athletic trainer and take jobs away from graduates of an accredited athletic training program.” They add that California trained ATs are forced to work out of state once they graduate if they wish to be licensed. In looking at how many students this impacts, the CCCATA (California Community College Athletic Trainers Association), who also support, point out that “Fifteen California universities, including seven CSUs, have accredited majors in athletic training. The California Community College Chancellors Office also recognizes Athletic Training and Sports Medicine (Top Code 1228.00) as program curriculum.”

The California Athletic Trainers Association (CATA), are sponsors of AB 1592. They assert, that “Licensure of athletic trainers is the sole remedy to these concerns. Title protection is not sufficient to protect the public, employers of athletic trainers and athletic trainers themselves. Only licensure can provide the scope of practice necessary to remove the legal grey area that athletic trainers work under in California and increases liability to athletic trainers and their employers. Only licensure can provide the regulatory framework required of California

athletic trainers traveling to other states to practice in accordance with their state law. Only licensure can give other licensed healthcare providers the clear, legal protection necessary to interact with athletic trainers, allowing safe, quality care. Only licensure can create statutory guidelines that prevent unqualified individuals from providing medical care to young athletes. Only licensure can create a board to investigate and discipline /remove individuals who have committed harm to the public.”

- 6) *Arguments in opposition: The bill allows Athletic Trainers to treat patients beyond “athletes” with too little supervision which is dangerous and beyond the scope of stated need.* The leading voice of opposition comes from the California Physical Therapy Association (CPTA), which has numerous concerns with this legislation, including their belief that the definitions of athletic activity in Section 2697.1(b) is overly broad, saying, “It allows one licensed under this act to work with nearly anyone for nearly any physical condition. Athletic Trainers are specifically educated and trained to work with athletes who have undergone a pre-participation screening by a physician and are participating in an organized sports activity. The broadness of this definition puts public safety at risk because it allows Athletic Trainers to work with all in our population with no pre-participation screen and to provide care to the generalized population instead of that for which they are known to treat---athletes participating in athletic settings with an individualized protocol tailored to an athlete’s specific needs.”

In addition, CPTA is concerned that the supervision of an athletic trainer as outlined in the bill is insufficient, writing to add, “AB 1592 allows athletic trainers to work under verbal or written orders OR follow written protocols established by a physician or surgeon who need not be present AND that are not specific to the presentation of each individual athlete. This would allow an athletic trainer to work with essentially unlimited direct access to patients, without the patient ever having to see a licensed healthcare practitioner, so long as the Athletic Trainer (and not the patient/no longer ‘athlete’) has some sort of relationship with a physician somewhere.

The conditions of this bill would allow the athletic trainer to ‘assess and evaluate’ a patient’s condition, then offer ‘treatment.’ Working under the direction of a protocol when no physician is present would effectively require the athletic trainer to diagnose a patient’s condition to correctly apply the proper treatment protocol. The ability to diagnose is well outside of the education and training of an athletic trainer.” (Committee note: the bill states that an AT may not diagnose disease.)

Finally, they posit that, “The argument that other states prohibit California Athletic Trainers from traveling with their sports teams unless there is a licensing scheme in this state has not, to our knowledge, affected any single California sports team. If this were the case, however, title protection and a requirement for Athletic Trainers to be certified would meet the requirements of other states, just as do the certification requirements used by many other states currently.”

The United Nurses Associations of California/Union of Health Care Professionals (UNAC/UHCP) share the concern that AB 1592 would establish an overly broad scope of practice for treating patients in the health care arena that exceeds their training and expertise. They write the Committee to say, “In its current form, the bill would license ‘athletic trainers’ and would allow them to treat any ‘injury or illness’ that was ‘sustained or

exacerbated' in virtually any activity 'that requires physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility.' In other words, virtually any injury or illness would be treatable by athletic trainers so long as the injury occurred or was exacerbated while the patient was moving, or was engaged in an activity that required movement.

“By licensing a new healthcare provider with such a broad scope, consumers will be misled into thinking that athletic trainers are actually capable of providing treatment in areas for which it is inappropriate for them to do so. Moreover, the level of doctor supervision is very minimal. The bill does not require doctors to even see the patients that athletic trainers are treating, nor does it require patient-specific protocols.”

They close by sharing their faith, “that there is a pathway for athletic trainers to obtain title protection, registration, or even licensure, so long as they do not purport to have a scope of practice for which they are not qualified.”

The Occupational Therapy Association of California (OTAC) and the American Occupational Therapy Association (AOTA), each have an “oppose unless amended” position on AB 1592. They share the concerns detailed above, “that extending ‘athletic activity’ to settings beyond organized sports is overly broad and should be amended to focus on sports settings. They offer, “in the last year’s legislative session on AB 3110, the AT licensure bill, OTAC agreed with the amendments that came out of Assembly Business & Professions Committee, which defined ‘Athletic activity’ as an activity involving an athlete that requires physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility that is related to the following:

- (1) An activity or event conducted by any of the following:
 - (A) An intercollegiate athletic association or interscholastic athletic association.
 - (B) A professional athletic organization.
 - (C) An amateur athletic organization.
- (2) A professional or recreational activity that meets all of the following:
 - (A) Has officially designated coaches or trainers.
 - (B) Conducts regularly scheduled practices or workouts that are supervised by coaches or trainers.
 - (C) Has established schedules for performances, competitive events, or exhibitions.

This language defining the settings for athletic training is consistent with the education and training received by athletic trainers and is very similar to what most other states with AT licensure schemes define as “athletic activity.”

- 7) *Committee comment: we should have regulation of Athletic Trainers with sufficient oversight and a well-defined scope of practice, whether it is through license, certification or registration.* As noted above and below, this concept has come before the Committee numerous times in different forms, from title protection to regulation to full licensure, each of which has passed out of our Committee and then either died for lack of consensus elsewhere in the Legislature or was vetoed. While there seems to be a current agreement that some form of regulatory scheme is needed for ATs, the devil, as always, is in the details. This current proposal has a very strong license scheme, with a fairly broad scope of practice detailed for the Athletic Trainers that is not confined to sports injuries, including treatment in

employment settings. The measure also contains autonomy for the licensed ATs to act under “supervision,” which could be as little as following a written plan or protocol, and would allow treatment of patients in preventive care, clinical evaluation and assessment of injuries or conditions, and rehabilitation of prior injury. The Committee recognizes that a certain amount of autonomy should be given in respect to the training ATs must obtain in order to be certified, however, as the nature of the scope of their proposed practice grows, so too should the amount of oversight a supervising physician and surgeon must exert. As this bill moves forward, a balance must be struck. The Author notes that this is the first policy hearing of a bill that is still a work in progress. He has committed to the Committee that should the bill pass out he will work with stakeholders to ensure this concern is addressed.

- 8) *Double-referral.* Should this bill pass out of this committee, it will be re-referred to the Assembly Committee on Business and Professions.
- 9) *Prior related legislation.*
 - a) AB 3110 (Mullin), of 2018, would have established a registration program under a new Athletic Training Board (Board) within the Department of Consumer Affairs (DCA) and prohibited a person from practicing athletic training, as defined, or holding himself or herself out as an athletic trainer, unless they are registered with the Board. (Status: Held in the Senate Appropriations Committee.)
 - b) AB 1510 (Dababneh), of 2017, would have established a registration program under a new Athletic Training Board (Board) within the Department of Consumer Affairs (DCA) and prohibited a person from practicing athletic training, as defined, or holding himself or herself out as an athletic trainer, unless they are registered with the Board. (Status: Held in Assembly Business and Professions Committee for procedural reasons.)
 - c) AB 161 (Chau) of 2015 would have established certification and training requirements for athletic trainers and prohibit individuals from calling themselves athletic trainers unless they meet those requirements. (Status: The bill was vetoed by Governor Brown.)
 - d) AB 1890 (Chau) of 2014 was substantially similar to AB 161. (Status: The bill was vetoed by Governor Brown.)
 - e) AB 864 (Skinner) of 2013 would have established the licensure and regulation of athletic trainers through the creation of an Athletic Trainer Licensing Committee under the Physical Therapy Board of California. (Status: The bill was held in the Assembly Committee on Appropriations.)
 - f) SB 1273 (Lowenthal) of 2012 was substantially similar to AB 864. (Status: The bill failed passage in Senate Business and Professions Committee.)
 - g) AB 374 (Hayashi) of 2011 as introduced would have established the Athletic Trainer Licensing Committee within the Medical Board of California to license and regulate athletic trainers commencing January 1, 2013, with a sunset date of January 1, 2018. The bill was later amended to provide title protection for athletic trainers. (Status: The bill was later amended to become a bill by Assemblymember Hill that dealt with funeral embalmers and signed by the Governor.)

- h) AB 1647 (Hayashi) of 2010 would have established certification and training requirements for athletic trainers and prohibited individuals from calling themselves athletic trainers unless they meet those requirements. (Status: The bill was vetoed by Governor Schwarzenegger.)
- i) SB 284 (Lowenthal) of 2007 would have enacted the Athletic Trainers Registration Act prohibiting a person from representing himself or herself as a “certified athletic trainer,” unless he or she is registered by an athletic training organization. (Status: The bill was vetoed by Governor Schwarzenegger.)
- j) SB 1397 (Lowenthal) of 2006 would have enacted the Athletic Trainers Certification Act, prohibiting a person from representing him or herself as an athletic trainer unless he or she is certified as an athletic trainer by an athletic training organization, as defined. (Status: The bill was vetoed by Governor Schwarzenegger.)
- k) AB 614 (Lowenthal) of 2003 would have required the DCA to submit a recommendation to the Legislature as to whether the state should license and regulate athletic trainers by January 1, 2006, if the DCA is provided with an occupational analysis of persons providing athletic trainer services by July 1, 2005. (Status: This bill was held in Senate Business and Professions Committee to allow JCBCCP to examine whether athletic trainers should be licensed as part of the "sunrise" process.)
- l) AB 2789 (Lowenthal) of 2002 would have required the Department of Consumer Affairs to review the need for licensing of athletic trainers and undertake an occupational analysis. (Status: This bill was held under submission in the Assembly Committee on Appropriations.)

REGISTERED SUPPORT / OPPOSITION:**Support**

American Medical Society for Sports Medicine
Biola University
Board of Certification, Inc.
California Athletic Trainers Association
California Coaches Association
California Community College Athletic Trainers Association
California Interscholastic Federation
Commission on Accreditation of Athletic Training Education
Concussion Legacy Foundation
Eric Paredes Save A Live Foundation
Far West Athletic Trainers' Association
Los Angeles Rams
Meticulous Medical, Inc
Modesto City Schools District
National Athletic Trainers' Association
National Collegiate Athletic Association
National Federation of State High School Associations
Pacific Union College

Pivot Physical Therapy/Onsite Innovations
 Preventixc
 Southern California Intercollegiate Athletic Conference
 Travis R. Roy Sudden Cardiac Arrest Fund
 Via Heart Project
 547 Individuals

High Schools in Support

| | |
|---------------------------------|--------------------------------|
| A.A. Stagg High School | Irvine High School |
| Agoura High School | Jewish Community of the Bay |
| Bella Vista High School | JW North High School |
| Belmont High School | Kearny High School |
| Bolsa Grande High School | Kennedy High School |
| Branham High School | King/Drew Magnet High School |
| Buhach Colony High School | La Costa Canyon High School |
| Calabasas High School | La Reina High School |
| California Lutheran High School | La Sierra Academy |
| Camarillo High School | La Sierra High School |
| Canoga Park High School | Laguna Beach High School |
| Canyon Crest Academy | Laguna Creek High School |
| Central Valley High School | Liberty Ranch High School |
| Cesar E. Chavez High School | Livingston High School |
| Charter Oak High School | Lodi High School |
| Chowchilla Union High School | Los Banos High School |
| Colton High School | Madera South High School |
| Convent & Sacred Heart | Manteca High School |
| Costa Mesa High School | Marin Academy |
| Davis Senior High School | Mariposa County High School |
| East Union High School | Martin Luther King High School |
| Edison High School | Marysville High School |
| El Capitan | Merced High School |
| El Dorado High School | Mesa Verde High School |
| Encinas Prep High school | Milpitas High School |
| Exeter High School | Mission Prep |
| Fairmont Preparatory Academy | Monterey Trail |
| Flintridge Prep School | Nevada Union High School |
| Folsom High School | North Salinas High School |
| Francis Parker School | Notre Dame High School |
| Gahr High School | Oakdale High School |
| George Washington High School | Oakmont High School |
| Golden Valley High School | Oaks Christian School |
| Granite Hills High School | Oceanview High School |
| Granite Hills High School | Oxnard High School |
| Half Moon Bay High School | Pacific High School |
| Hamilton High School | Palma High School |
| Head-Royce School | Patrick Henry High School |
| Henry M. Gunn High School | Patterson High School |
| Hoover Senior High School | Pitman High School |

Ponderosa High School
Rancho Bernardo High School
Rancho Dominguez Preparatory
Rio Linda High School
Rio Mesa High School
River Valley High School
Roseville High School
Rowland High School
Sacramento Adventist Academy
Sacramento High School
Sacred Heart Cathedral Preparatory
Sacred Heart Preparatory
San Benito High School
San Dieguito Academy
San Mateo High School
San Pasqual High School
Santa Fe Christian High School
Santa Paula High School
Shadow Hills
Sierra Pacific High School
Simi Valley High School
St. Anthony High School
St. Augustine High School
St. Francis Catholic High School

St. Joseph Notre Dame High School
St. Mary's Academy
St. Paul High School
Sunny Hills High School
Sunnyside High School
Sweetwater High School
Taft Union High School
Tahquitz High School
The Athenian School
The College Preparatory School
Tokay High School
Tri-City Christian High School
Tulare Union
Tulare Western
Turlock High School
Union Mine
Vista del Lago High School
West High School
West Hills High School
Woodcreek High School
Woodrow Wilson High School
Yula Girls High School

Opposition

California Nurses Association
California Physical Therapy Association
Occupational Therapy Association of California
The American Occupational Therapy Association, Inc.
United Nurses Associations of California/Union of Health Care Professionals
28 individuals

Analysis Prepared by: Dana Mitchell / A.,E.,S.,T., & I.M. / (916) 319-3450



California Board of Occupational Therapy

2005 Evergreen Street, Suite 2250, Sacramento, CA 95815

April 17, 2019

The Honorable Evan Low
Chair, Business & Professions Committee
California State Assembly
State Capitol, Room 2003
Sacramento, CA 95814

RE: AB 1592 (Bonta) – **OPPOSE**

Dear Assembly Member Low:

The California Board of Occupational Therapy (Board) carefully reviewed AB 1592, which would license athletic trainers and regulate the practice of athletic training, and has concerns with the language as written.

The Board respectfully opposes AB 1592 due to language used in several provisions, including the following:

- (1) The use of '*direct patient care*' in section 2697.2(c)(1)(A);
- (2) The use of '*clinical*' in 'evaluation and assessment' in section 2697.12(a)(2);
- (3) The use of '*advanced postprofessional study*' as a form of qualifying education in section 2697.12(a)(2);
- (4) The use of '*immediate care*' in 'immediate care of an injury' in section 2697.12(a)(3);
- (5) Including the '*the application of physical agent modalities*' in the scope of practice as set forth in section 2697.12(a)(4); and
- (6) The use of '*temporary*' and '*temporarily*' when referring to exemptions from licensure, as set forth in section 2697.15, when these term are not defined.

The Board also seeks clarification on the definition of 'commercial products' as used in section 2697.12(a)(1) and (4); the use of 'durable medical equipment' as used in section 2697.12(a)(4); and the use of 'treatment plan' as used in section 2697.13(b).

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Department of Consumer Affairs
Dean R. Grafilo, Director

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Vice President

Laura Hayth, OT
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Jeff Ferro
Public Member

Denise Miller, OT

Beata Morcos
Public Member

Heather Martin
Executive Officer

*The California Board
of Occupational
Therapy, as a model
consumer protection
agency, aspires to be
recognized for our
valued commitment to
all of our
stakeholders.*

*The mission of the
California Board of
Occupational Therapy
is to protect
California consumers
of occupational
therapy services
through effective
regulation, licensing
and enforcement.*

Assembly Member Low
April 17, 2019
Page Two

Please contact me at 916/263-2294 if you need additional information regarding the Board's position on this bill.

Sincerely,

Heather Martin, Executive Officer
CA Board of Occupational Therapy

cc: Assembly Member Rob Bonta, Author,
Lila Mirrashidi, Deputy Secretary of Business and Consumer Relations,
Business, Consumer Services and Housing Agency
Myles White, Assistant Director Deputy of Legislation,
Business, Consumer Services and Housing Agency
Dennis Cuevas-Romero, Deputy Director,
Division of Legislative and Policy Review, Department of Consumer Affairs
Members, CA Board of Occupational Therapy
Mike Chisar, Chair, Governmental Affairs Committee,
California Athletic Trainers Association

CATA Response to OT Board Concerns

October 29, 2019

(1) The use of ‘*direct patient care*’ in section 2697.2(c)(1)(A):

Two members shall be actively practicing athletic training and engaged primarily in direct patient care as an athletic trainer with at least five continuous years of experience.

Possible edits:

*Two members shall be actively practicing athletic training and engaged primarily in **direct athlete or athlete patient care**, as an athletic trainer, **as defined in 2697.12**, with at least five continuous years of experience. (Included in draft language provided)*

*Two members shall be actively practicing athletic training and engaged **primarily in treating athletes** as an athletic trainer, **as defined in 2697.12**, with at least five continuous years of experience.*

(2) The use of ‘*clinical*’ in ‘evaluation and assessment’ in section 2697.12(a)(2):

*The **clinical evaluation and assessment** of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, for which the athletic trainer has had formal training during a professional education program or advanced post-professional study and falls within the scope of practice of athletic training, by obtaining a history of the injury or condition, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury.*

Possible edit:

*The **clinical** evaluation and assessment of an injury sustained or exacerbated while (Included in draft language provided)*

- *Language provided by OTAC*
- *Language consistent with educational competencies (“clinical examination and diagnosis”) (page 16)*
- *Has already passed (legislative) policy committees multiple times.*

(3) The use of ‘*advanced post-professional study*’ as a form of qualifying education in section 2697.12(a)(2);

Removed reference note above.

Proposed edit:

*The **clinical** evaluation and assessment of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, ~~for which the athletic trainer has had formal training during a professional education program or advanced post-professional study and that falls within the scope of~~*

CATA Response to OT Board Concerns October 29, 2019

~~practice of athletic training~~, by obtaining a history of the injury or condition, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury.

- Include same change in 2697.12(a)(3) and (4)
(Included in draft language provided)

(4) The use of ‘*immediate care*’ in ‘immediate care of an injury’ in section 2697.12(a)(3);

The immediate care of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, for which the athletic trainer has had formal training during a professional education program or advanced post-professional study and falls within the scope of practice of athletic training, by the application of first aid and emergency procedures, techniques, and equipment for nonlife-threatening or life-threatening injuries or conditions.

- Language provided by OTAC
- Language consistent with educational competencies (“acute care of injury and illness”) (pages 19-21)
- Language consistent with practice analysis (“immediate and emergency care”) (pages 20-21)
- Defined in that sentence
- Has already passed policy committees multiple times.

Possible edit: (Included in draft language provided)

The ~~immediate acute~~ care of an injury sustained or exacerbated while participating in athletic activity or a condition exacerbated while participating in athletic activity, ~~for which the athletic trainer has had formal training during a professional education program or advanced postprofessional study and falls within the scope of practice of athletic training~~, by the application of first aid and emergency procedures, techniques, and equipment for nonlife-threatening or life-threatening injuries or conditions.

(5) Including the ‘*the application of physical agent modalities*’ in the scope of practice as set forth in section 2697.12(a)(4);

The rehabilitation and reconditioning from an injury sustained or exacerbated while participating in athletic activity and reconditioning from a condition, for which the athletic trainer has had formal training during a professional education program or advanced post-professional study and falls within the scope of practice of athletic training, including, but not limited to, the application of physical agents and modalities, therapeutic exercise, manual therapy and massage, standard reassessment techniques and procedures, commercial products and durable medical equipment, and educational programs, in accordance with guidelines established with a healing arts licensee.

CATA Response to OT Board Concerns

October 29, 2019

- Will leave as is
- Language provided by OTAC
- Use of physical agents and modalities are required in the educational competencies (pages 22-24), Standards for Professional Programs (Page 13), part of the practice analysis (pages 21-23), and included on certification examination

Possible edit to address #3:

2697.12(a)(4) *The rehabilitation and reconditioning from an injury sustained or exacerbated while participating in athletic activity and reconditioning from a condition, **for which the athletic trainer has had formal training during a professional education program or advanced post-professional study and falls within the scope of practice of athletic training,** including, but not limited to, the application of physical agents and modalities, therapeutic exercise, manual therapy and massage, standard reassessment techniques and procedures, commercial products and durable medical equipment, and educational programs, in accordance with guidelines established with a healing arts licensee.*

(6) The use of ‘temporary’ and ‘temporarily’ when referring to exemptions from licensure, as set forth in section 2697.15, when these term are not defined.

(a) An athletic trainer licensed, certified, or registered in another state or country who is in California temporarily, while traveling with a team or organization, to engage in the practice of athletic training for, among other things, an athletic or sporting event and only when the athletic trainer limits their scope of practice to the members of the team or organization or during an emergency.

(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 the other state or country’s scope of practice for athletic training.

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

NOTE: Only 16 states define a time frame (up to 120 days), with 22 not defining a time frame and 12 with no mention, so standard is to leave as is. We could include edit below for clarity as to the practitioner who is truly out of state and only treating an out of state travelling party

Possible edit: (Included in draft language provided)

*(a) An athletic trainer **who resides in and** is licensed, certified, or registered in another state or country who is in California temporarily, while traveling with **an out-of-state** team or organization, to engage in the practice of athletic training for, among other things, an athletic or sporting event and only when the athletic trainer limits their scope of practice to the members of the team or organization or during an emergency.*

(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

CATA Response to OT Board Concerns

October 29, 2019

temporarily provide athletic training services under the other state or country's scope of practice for athletic training.

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

(7) The Board also seeks clarification on the definition of 'commercial products' as used in section 2697.12(a)(1) and (4);

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

(1) Risk management and injury or illness prevention through preparticipation screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks.

(4) The rehabilitation and reconditioning from an injury sustained or exacerbated while participating in athletic activity and reconditioning from a condition, for which the athletic trainer has had formal training during a professional education program or advanced post-professional study and falls within the scope of practice of athletic training, including, but not limited to, the application of physical agents and modalities, therapeutic exercise, manual therapy and massage, standard reassessment techniques and procedures, commercial products and durable medical equipment, and educational programs, in accordance with guidelines established with a healing arts licensee.

- *Language provided by OTAC*
- *Use of commercial products and DME include things such as splints, braces, tape, etc, are required in the educational competencies (pages 13,21,32), standards for professional programs (pages 12 and 14), part of the practice analysis, and included on certification examination.*
- *Additionally, commercial products refer to things that can be bought and many of the domains, standards and competencies refer to using, educating people on, fitting, etc. things that were purchased and not practical or appropriate to list every product.*
- *Already passed policy committee multiple times*

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

(1) Risk management and injury or illness prevention through preparticipation screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks.

*(4) The rehabilitation and reconditioning from an injury sustained or exacerbated while participating in athletic activity and reconditioning from a condition, **for which the athletic trainer has had formal training during a professional education program or advanced postprofessional study and falls within the scope of practice of athletic training,** including, but not limited to, the application of physical agents and modalities, therapeutic exercise, manual therapy and massage, standard reassessment techniques and procedures, commercial products and durable medical equipment, and educational programs, in accordance with guidelines established with a healing arts licensee.*

CATA Response to OT Board Concerns October 29, 2019

The use of ‘durable medical equipment’ as used in section 2697.12(a)(4);

(4) The rehabilitation and reconditioning from an injury sustained or exacerbated while participating in athletic activity and reconditioning from a condition, for which the athletic trainer has had formal training during a professional education program or advanced post-professional study and falls within the scope of practice of athletic training, including, but not limited to, the application of physical agents and modalities, therapeutic exercise, manual therapy and massage, standard reassessment techniques and procedures, commercial products and durable medical equipment, and educational programs, in accordance with guidelines established with a healing arts licensee.

- *Language provided by OTAC*
- *Use of commercial products and DME include things such as splints, braces, tape, etc, are required in the educational competencies (pages 13,21,32), standards of professional programs (pages 12 and 14), part of the practice analysis, and included on certification examination*
- *Additionally, commercial products refer to things that can be bought and many of the domains, standards and competencies refer to using, educating people on, fitting, etc. things that were purchased and not practical or appropriate to list every product.*
- *Already passed policy committee multiple times*

Proposed Edit:

(4) The rehabilitation and reconditioning from an injury sustained or exacerbated while participating in athletic activity and reconditioning from a condition, ~~for which the athletic trainer has had formal training during a professional education program or advanced postprofessional study and falls within the scope of practice of athletic training,~~ including, but not limited to, the application of physical agents and modalities, therapeutic exercise, manual therapy and massage, standard reassessment techniques and procedures, commercial products and durable medical equipment, and educational programs, in accordance with guidelines established with a healing arts licensee.

The use of ‘treatment plan’ as used in section 2697.13(b).

- *The ‘treatment plan’ is defined in 2697.13(b) (1), (2), and (3).*
- *Possibly add from a physician and surgeon if that provides clarity.*

Proposed Edit: (Included in draft language provided)

*(b) For purposes of this section, “supervision” means services are provided either under a verbal order by a physician and surgeon who is present when the services are provided or, if the physician is not present, under a written order from a physician and surgeon, telecommunication from a physician and surgeon, or an athletic training **treatment plan** or protocol, that **meets all of the following:** {Emphasis added.}*

CATA Response to OT Board Concerns
October 29, 2019

- (1) *The **plan** or protocol specifies the athletic training services, and referral requirements specific to the athletic trainer's individual training and competence.*
- (2) *The **plan** or protocol is established **with and approved by the supervising physician and surgeon or osteopathic physician and surgeon.***
- (3) *The **plan** or protocol accounts for the supervising physician and surgeon's availability to the athletic trainer **as determined by the supervising physician and surgeon.***



December 13, 2019

The Honorable Evan Low
Chair, Assembly Business and Professions Committee
State Capitol, Room 4126
Sacramento, CA 95814

RE: AB 1592 (Bonta) – Athletic Trainers – OPPOSE UNLESS AMENDED

Dear Chairman Low,

On behalf of the Occupational Therapy Association of California (OTAC), we are writing to express our “Oppose Unless Amended” position on AB 1592 (Bonta), which would enact the Athletic Training Practice Act.

OTAC is a not-for-profit professional association representing the interests of the more than 18,000 licensed occupational therapy clinicians throughout California. Occupational therapists (OTs) and occupational therapy assistants (OTAs) work with people of all ages experiencing physical and behavioral health conditions or disabilities to develop, improve, or restore functional daily living skills, such as caring for oneself, managing a home, achieving independence in the community, driving, or returning to work. The provision of this type of care in facilitating and restoring everyday capacities in our patients optimizes participation in work and life for the citizens of California.

We have supported athletic training title protection/certification bills in the past and believe this approach is the right first step for the profession. The argument that anyone can currently hold themselves out as an athletic trainer could easily be addressed by “title protection,” which would prevent someone from representing that they are a “certified athletic trainer” without proper credentials. If AB 1592 were amended to be a title protection/certification bill, we would remove our opposition to the bill.

However, AB 1592 creates a licensure scheme that remains overly broad and seeks to create a new healthcare professional that extends well beyond the athletic settings where trainers are currently educated and trained to practice. It calls for the licensure of athletic trainers, but one of the most troubling provisions is the definition of “athletic activity” which under the bill is defined as *“participation in exercise, sport, game, recreation, wellness, fitness, performing arts, or employment activities that requires physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility.”* We believe that extending “athletic activity” to settings beyond organized sports is overly broad and should be amended to focus on sports settings.

In the 2017-18 legislative session, OTAC agreed with the amendments that came out of Assembly Business & Professions Committee on AB 3110 (the AT licensure bill), which defined “Athletic activity” as *an activity involving an athlete that requires physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility that is related to the following:*

(1) An activity or event conducted by any of the following:

(A) An intercollegiate athletic association or interscholastic athletic association.

(B) A professional athletic organization.

(C) An amateur athletic organization.

(2) A professional or recreational activity that meets all of the following:

(A) Has officially designated coaches or trainers.

(B) Conducts regularly scheduled practices or workouts that are supervised by coaches or trainers.

(C) Has established schedules for performances, competitive events, or exhibitions.

This language defining the settings for athletic training is consistent with the education and training received by athletic trainers and is very similar to what most other states with AT licensure schemes define as “athletic activity.”

We have concerns that under section 2697.12 (a)(1) of AB 1592, the inclusion of “illness prevention” as the practice of athletic training is overly broad and should include only “risk management and injury prevention.” Also under this section, the ability of an athletic trainer to use “commercial products” seems overly broad and could be interpreted to include the provision of medications or products beyond an athletic trainer’s education and training.

With respect to the physician supervision requirements and protocols set forth in the bill, the implementation of such protocols should be subject to a pre-screening of the athlete by their treating physician rather than a general protocol that is non-specific to each athlete. Further, working by direction of a protocol when no physician is present or without the pre-screening of the athlete will effectively require the athletic trainer to diagnose an individual’s condition in order to apply the correct treatment protocol. The ability to diagnose is well outside the scope and training of an athletic trainer.

For these reasons, we must oppose AB 1592 unless it is amended to be title protection/certification or alternatively our concerns with the current licensure scope of practice are addressed as outlined above. If you have any questions, please contact Ivan Altamura with Capitol Advocacy at (916) 444-0400 or ialtamura@capitoladvocacy.com.

Sincerely,



Heather J. Kitching, OTD, OTR/L
OTAC President



Chuck Willmarth
Director of State Affairs, AOTA

cc: The Honorable Rob Bonta, Author
Members, Assembly Business and Professions Committee
Vincent Chee, Principal Consultant, Assembly Business and Professions Committee
Bill Lewis, Consultant, Assembly Republican Caucus
Heather Martin, Executive Officer, California Board of Occupational Therapy



TELECONFERENCE BOARD MEETING MINUTES

December 18, 2019

Board Member(s) Present

Richard Bookwalter (President) San Francisco
Sharon Pavlovich (Vice President) Loma Linda
Jeff Ferro – Loma Linda
Denise Miller – Glendale
Beata Morcos – Glendale

Board Staff Present

Heather Martin (Executive Officer) Sacto
Jody Quesada (Analyst) Sacto
Reza Pejuhesh (Legal Counsel) Sacto

3:00 pm - Board Meeting

1. Call to order, roll call, establishment of a quorum.

The meeting was called to order at 3:07 p.m., roll was called, a quorum was established. Laura Hayth was absent.

2. President's Remarks – Informational only; no Board Action to be taken.

President Bookwalter offered every location the opportunity to have any members of the public introduce themselves at will. Sacramento was the only location with a public attendee. He introduced himself as a representative from the Department of Consumer Affairs.

3. Board Member Remarks – Informational only; no Board Action to be taken.

There were no remarks.

CONVENE CLOSED SESSION

The Board convened in Closed Session at 3:15 p.m.

RECONVENE IN OPEN SESSION

The Board reconvened in Open Session at 3:54 p.m.

4. Public Comment session for items not on the agenda.

Ivan Altamura, Capitol Advocacy representing Occupational Therapy Association of California (OTAC) introduced himself and does not have any comments regarding items not on the agenda.

5. Discussion and consideration of position on Assembly Bill 1592 (Bonta), Athletic Trainers.

The Board decided to discuss the 'Oppose Unless Amended' submitted by OTAC on December 13, 2019.

Mr. Altamura recapped the points of opposition unless amended as:

- The Athletic Trainers (ATs) could prohibit a person without proper credentials from holding themselves out as an AT by amending AB 1592 to be a title protection bill.
- The language is overly broad as it pertains to the definition of 'athletic activity.'
- The inclusion of 'illness prevention' is overly broad and the ability of the trainer to use 'commercial products' seems overly broad.
- With respect to the physician supervision requirements the language in the bill may require an AT to diagnose an individual's condition which is outside of the scope and training of an AT.

Mr. Altamura expressed his confusion regarding the handout named "CATA Response to OT Board Concerns" dated October 29, 2019, and in particular the references to OTAC having provided the language that CATA used. Mr. Altamura acknowledged that some of the points could have been the result of a previous iteration of the bill, but he was unable to locate these submissions.

President Bookwalter acknowledged that it is possible that an error could have been made by CATA because he recalled Mike Chisar stating that the process was getting convoluted. Mr. Bookwalter reminded the Board that their position is currently 'Oppose Unless Amended.'

Jeff Ferro expressed his concern that the Board may have been given inaccurate information about OTAC's position on certain language.

Denise Miller stated her support of OTAC's letter of 'Oppose Unless Amended' dated December 13, 2019, because she finds it reliable and accurate.

Vice President Pavlovich asked when an updated version of the bill would be provided.

Executive Officer Heather Martin reported that if the ATs decided to introduce a new bill it would most likely be in early February.

Beata Morcos suggested that further discussion be held over to the February Board meeting.

The meeting adjourned at 4:21 p.m.

Date of Hearing: April 11, 2023

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, AND TOURISM

Sharon Quirk-Silva, Chair

AB 796 (Weber) – As Amended March 30, 2023

SUBJECT: Athletic trainers

SUMMARY: Enacts the Athletic Training Practice Act for the purpose of licensing persons engaged in the profession of Athletic Trainer.

Specifically, **this bill:**

- 1) Establishes, until January 1, 2028, the seven member Athletic Trainer Licensing Committee within the California Board of Occupational Therapy, comprised of:
 - a) Three licensed athletic trainers appointed by the Governor;
 - b) Three public members, one each appointed by the Governor, Senate Committee on Rules and Speaker of the Assembly, and;
 - c) One physician and surgeon licensed by the Medical Board of California (MBC) or one osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California (OMBC) appointed by the Governor.
- 2) Requires the Committee to adopt, repeal, and amend regulations as may be necessary and authorizes the Committee, prior to adopting regulations, to consult the professional standards issued by the National Athletic Trainers' Association (NATA), the Board of Certification, Inc. (BOC), the Commission on Accreditation of Athletic Training Education (CAATE), or any other nationally recognized professional athletic training organization.
- 3) Specifies that the Committee shall give protection of the public the highest priority and whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
- 4) States that except as otherwise provided in this chapter, the board shall issue an athletic training license to an applicant who meets all of the following requirements:
 - a) At the time of application, the applicant is over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of a license under Section 480.
 - b) The applicant has submitted an application developed by the board.
 - c) The applicant passed an athletic training certification examination offered by the Board of Certification, Inc., or its predecessors or successors.
 - d) The applicant has passed a criminal background check.
 - e) The applicant has paid the application fee established by the board.

- 5) Provides that a license issued is valid for two years and thereafter is subject to the following renewal requirements: the applicant pays the renewal fee; submits proof of satisfactory completion of necessary continuing education, and; has a current athletic training certification from a certification body approved by the board, including, but not limited to, the Board of Certification, Inc., or its predecessors or successors.
- 6) States that the board may deny a license for any of the following reasons. The applicant:
 - a) Does not meet the requirements of this chapter;
 - b) Has had an athletic training license, certification, or registration revoked or suspended by an accredited organization or another state or country;
 - c) Has been convicted of a crime that is substantially related to the functions or duties of an athletic trainer, or;
 - d) Has committed unprofessional conduct, as described.
- 7) Provides that the board may order any of the following actions regarding an athletic training license after notice and a hearing, as specified, to determine unprofessional conduct:
 - a) Placing the license on probation with terms and conditions.
 - b) Suspending the license and the ability to practice athletic training for a period not to exceed one year.
 - c) Revoking the license.
 - d) Suspending or staying the disciplinary order, or portions of it, with or without conditions.
 - e) Issuing an initial license on probation, with specific terms and conditions, to an applicant who has violated this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.
 - f) Taking any other action as the board, in its discretion, deems proper to protect the public health and safety, as provided.
- 8) Provides, for the purposes of this chapter, the following definitions apply:
 - a) “Board” means the California Board of Occupational Therapy.
 - b) “Committee” means the Athletic Trainer Licensing Committee.
 - c) “Director” means the Director of Consumer Affairs
 - d) “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.

- i) The term “athletic trainer” shall not include any teacher, coach, or other individual for an institution or organization, either public or private, within this state, who does not hold themselves out to the public as athletic trainers.
 - ii) Nothing in this chapter shall be construed to prevent any person from serving as an athletic training student, assistant athletic trainer, teacher athletic trainer, or any similar volunteer position if such service is not primarily for compensation and is carried out under the supervision of a physician or a licensed athletic trainer.
 - iii) The term “athletic trainer” shall not include any person who serves as a first responder or other layman position providing basic first aid within this state but who does not perform the duties of an athletic trainer or hold themselves out as an athletic trainer. For purposes of this chapter basic first aid includes the initial steps taken to stabilize an injury or illness situation until more advanced or professionally trained personnel can assume treatment measures. This care generally consists of simple, life-saving or injury-stabilizing techniques that a non-physician or layperson can be easily trained to perform with minimal equipment, and is generally recognized as such by national organizations such as the American Red Cross, National Safety Council, American Heart Association, or other similar organization.
- e) “Athletic training” means the performance of those services that require the education, training, and experience required by this chapter for licensure as an athletic trainer pursuant to this chapter. “Athletic training” includes services appropriate for the prevention, recognition, assessment, management, treatment, rehabilitation, and reconditioning of injuries and illnesses sustained by an athlete:
- i) Who is engaged in sports, games, recreation, or exercise requiring physical strength, flexibility, range of motion, speed, stamina, or agility; or
 - ii) That affect an athlete’s participation or performance in sports, games, recreation, or exercise.
- f) “Athletic training” includes:
- i) Planning, administering, evaluating, and modifying methods for prevention and risk management of injuries and illnesses;
 - ii) Identifying an athlete’s medical conditions and disabilities and appropriately caring for or referring an athlete as appropriate;
 - iii) Recognizing, assessing, treating, managing, preventing, rehabilitating, reconditioning, and appropriately referring to another health care provider to treat injuries and illnesses;
 - iv) Using therapeutic modalities for which the athletic trainer has received appropriate training and education;
 - v) Using conditioning and rehabilitative exercise;

- vi) Using topical pharmacological agents, in conjunction with the administration of therapeutic modalities and pursuant to prescriptions issued in accordance with the laws of this state, for which the athletic trainer has received appropriate training and education;
 - vii) Educating and counseling athletes concerning the prevention and care of injuries and illnesses;
 - viii) Educating and counseling the general public with respect to athletic training services;
 - ix) Referring an athlete receiving athletic training services to appropriate health care personnel as needed; and
 - x) Planning, organizing, administering, and evaluating the practice of athletic training.
- g) “Supervising physician” or “supervising physician and surgeon” means a physician or surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of California who supervises one or more athletic trainers, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation prohibiting the employment or supervision of a physician assistant.
- h) “Supervision” means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by an athletic trainer. Supervision, as defined in this subdivision, shall not be construed to require the physical presence of the physician or surgeon, but does require the following:
- i) Adherence to adequate supervision as agreed to in the practice agreement.
 - ii) The physician or surgeon being available by telephone or other electronic communication method.
- 9) Requires, that no person may use the title “athletic trainer” or “licensed athletic trainer,” the letters “A.T.” or “A.T.C.” as a title, or any other generally accepted terms, letters, or figures that indicate that the person is an athletic trainer unless that person is licensed pursuant to this chapter.
- 10) Declares that nothing in this chapter authorizes an athletic trainer to practice:
- a) Medicine, as defined;
 - b) Physical therapy, as defined;
 - c) Chiropractic, as defined;
 - d) Occupational therapy, as defined; or
 - e) Any other regulated form of healing except as authorized by this chapter.

- 11) Declares that nothing in this chapter authorizes an athletic trainer to treat a disease or condition that is not related to a person's participation in sports, games, recreation, or exercise, but the athletic trainer shall take a person's disease or condition into account in providing athletic training services and shall consult with a physician as appropriate regarding the disease or condition.
- 12) Declares that nothing in this chapter prohibits a person from recommending weight management or exercise to improve strength, conditioning, flexibility, and cardiovascular performance to a person in normal health as long as the person recommending the weight management or exercise does not represent themselves as an athletic trainer and the person does not engage in athletic training as defined in this chapter.
- 13) Establishes the Athletic Trainers Fund in the State Treasury. All fees collected pursuant to this chapter shall be paid into the fund. Moneys in the fund shall be available to the board, upon appropriation by the Legislature, for expenditure by the board to defray its expenses for administering this chapter.
- 14) Makes violation of this chapter a misdemeanor.

FISCAL EFFECT: Unknown. This measure has been keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) Author's statement. According to the author, "AB 796 will establish the California Board of Athletic Training within the Occupational Therapy Board at the California Department of Consumer Affairs. This bill would also explicitly prohibit an individual from practicing as an athletic trainer without being licensed by the board. Athletic trainers are an integral part of the health care team. As a parent of two young athletes, I want to ensure that the person caring for my injured child is educated in the proper techniques to minimize injury and work with physicians, physical therapists and other health professionals on follow up care. A formalized licensure for athletic trainers is necessary to ensure the safety of all California athletes.
- 2) Background. Athletic trainers have some form of regulatory recognition in every state, including Washington D.C., except for California. 46 states (Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming license athletic trainers, requiring that individuals graduate from a bachelor's degree program accredited by Commission on Accreditation of Athletic Training Education (CAATE), pass the comprehensive test administered by the Board of Certification (BOC), and meet ongoing educational requirements in order to stay licensed. These states provide that it is illegal to practice as an athletic trainer without obtaining a license. Only Hawaii requires registration whereby an individual submits information (name, address, qualifications) in order to practice as an athletic trainer. Two states (New York and South Carolina) have a certification/title protection model under which an individual meets predetermined standards to be able to use the title of athletic trainer and

where uncertified individuals can perform athletic trainer duties but cannot use the title of athletic trainer.

Athletic training is listed by the American Medical Association, Health Resources Services Administration, the Department of Health and Human Services, and Centers for Medicare and Medicaid Services as an allied health profession. Athletic trainers work in collaboration with a physician and their education is predicated upon a formalized relationship with a physician, working under established guidelines.

An individual can become an athletic trainer by graduating with a minimum of a bachelor's degree from an accredited athletic training education program and by passing a national certification examination offered by BOC. Athletic trainers, like other health care professionals, take science based courses in anatomy, physiology, chemistry, and physics, and must understand all systems of the body and their normal and pathological functions, including biochemical functions. Athletic training education also includes didactic instruction and clinical training in risk management and injury prevention, orthopedic clinical assessment and diagnosis, medical conditions and disabilities, acute care of injuries and illness, therapeutic modalities and conditioning and rehabilitative exercise, psychosocial intervention and referral, nutritional aspects of injuries and illness, health care administration and professional development.

Athletic trainers serve a wide variety of consumers who have sustained injuries or have other medical conditions exacerbated by participation in physical activity. This includes individuals across the lifespan, from young adolescent athletes to adults injured on the job to geriatric individuals post joint replacement procedures. Athletic trainers are typically employed by organizations such as professional sports teams, colleges and universities, high schools, out-patient rehabilitation clinics, hospitals, industry/ corporations, performing arts groups, physicians, the military, and health clubs. In the course of their employment, athletic trainers serve individual consumers associated with these organizations and/or employers.

Clients typically access athletic training practitioners directly. For example, an injured athlete, soldier, police officer or assembly line worker will be directed by a supervisor or "self-refer" to the institution's athletic trainer for services such as injury prevention, evaluation, treatment, or rehabilitation. In cases of acute injury, the athletic trainer responds to the patient when notified of the injury. These are not referrals in the traditional sense, as no other health care professional is involved. This differs from "direct access" as athletic trainers are required to work under the direction of a physician and will collaborate with them on patient care.

Other health care practitioners may refer patients to athletic trainers for services. Physicians and physical therapists refer their patients to athletic trainers for rehabilitation programs and/or return to activity progression. Athletic training is not a stand-alone profession as certified athletic trainers work under the direction of and in collaboration with physicians.

- 3) Arguments in support. According to the California Athletic Trainers' Association, "Athletic trainers are board certified health care professionals. The profession requires a master's level degree for entry. Athletic training encompasses the prevention, diagnosis, and intervention of emergency, acute and chronic medical conditions involving impairment, functional limitations, and disabilities. Athletic trainers work with a variety of patients in schools,

colleges/universities, and professional sports, industrial, police and fire departments, performing arts, military, and healthcare facilities. Athletic training is classified under the allied health professions category, as defined by the U.S. Department of Health and Human Services (HHS) and are assigned National Provider Identifier numbers (NPIs). The American Medical Association also recognizes athletic training as an allied health care profession. Currently, there are more than 3,400 certified athletic trainers working in California.

“In all other states and the District of Columbia, the athletic training profession has statutorily outlined education and training standards, a defined scope of practice, an oversight board, and a formal adjudication process. Because California does not regulate the profession, this framework does not exist in the state. There are at least 130 individuals claiming to be athletic trainers and performing athletic training services in high schools who are unqualified to practice. Tens of thousands of student athletes encounter these individuals daily, and there are documented cases of harm resulting from the care of these unqualified individuals.

“Additionally, this lack of regulation many times impedes the ability of athletic trainers to fully execute their job duties. Due to their non-licensed health care provider status, in some institutions in California, athletic trainers are barred from reviewing, or entering into, patient medical records, compromising the care that they and other members of the healthcare team provide.”

- 4) Arguments in opposition. A coalition of groups in opposition to the bill, including members of the California Physical Therapy Association (CPTA), the Occupational Therapy Association of California (OTAC), the California Nurses Association (CNA), and the United Nurses Association of California/United Health Care Professionals (UNAC/UHCP), provided a list of concerns about the bill that include the following:
 - a) Lack of necessity – “While many other states have in place a title protection or licensing scheme for athletic trainers, there is NO current crisis in California due to not having a new bureaucracy in place for athletic trainers... Another oft-repeated argument is that anyone in California can call themselves an “athletic trainer” without having appropriate credentials. This could be easily addressed through a title protection/certification requirement.”
 - b) The supervision of an athletic trainer as outlined in the bill – “[AB 796] concerningly allows physicians to supervise an unspecified number of athletic trainers and does not require physician supervision of athletic trainers to be in person or synchronous, which further endangers the patients receiving care from an athletic trainer.”
 - c) Placing a committee for athletic trainers under the California Board of Occupational Therapy for regulation – “Licensing boards are supported through fees on the professionals regulated. In this case, there is no real nexus between athletic trainers and occupational therapists. Further, the bill specifies that physicians are responsible for supervising athletic trainers. Therefore, a committee dedicated to athletic trainers should be placed under the Medical Board of California, which regulates the physicians responsible in the bill for supervising athletic trainers.”
- 5) Committee Comments. This concept has come before the Committee numerous times in different forms, from title protection to regulation to full licensure. An analysis of one of

those previous bills noted that, “Currently athletic trainers practice in a legal grey area. Employers of athletic trainers in sectors such as education, healthcare, professional sports and industry are concerned that there is no state sanctioned scope of practice to delineate what athletic trainers can and cannot do. In health care settings, athletic trainers are often the only professionals these employers hire that aren't regulated. This creates a lack of uncertainty that increases the employers' risk of liability. Athletic trainers in some settings, especially in collegiate and professional sports and performing arts, are required to travel outside of the state as part of their job. In an increasing number of states, when an athletic trainer travels with their team or group and is performing his/her duties, they are practicing outside of that state's law solely because they aren't regulated. This puts employers in the untenable situation of having to choose between continuing to use their athletic trainer and increasing their liability or having to contract an athletic trainer who is regulated in that state to provide care but is unfamiliar with their athletes or performers and management and is unable to provide any continuum of care.”

- 6) Double-referral. Should this bill pass out of this committee, it will be re-referred to the Assembly Committee on Business and Professions.
- 7) Prior and related legislation:
 - a) AB 2410 (Cunningham), of 2020, would have established title protection for athletic trainers. (Status: Held in Senate Business, Professions, and Economic Development Committee)
 - b) AB 1665 (Bonta), of 2020, would have enacted, until January 1, 2028, the Athletic Training Practice Act for the purpose of licensing persons engaged in the profession of Athletic Trainer. (Status: Held in Senate Business, Professions, and Economic Development Committee)
 - c) AB 1592 (Bonta), of 2019, would have enacted, until January 1, 2028, the Athletic Training Practice Act for the purpose of licensing persons engaged in the profession of Athletic Trainer. (Status: Held in Assembly Business and Professions Committee)
 - d) AB 3110 (Mullin), of 2018, would have established a registration program under a new Athletic Training Board (Board) within the Department of Consumer Affairs (DCA) and prohibited a person from practicing athletic training, as defined, or holding himself or herself out as an athletic trainer, unless they are registered with the Board. (Status: Held in the Senate Appropriations Committee.)
 - e) AB 1510 (Dababneh), of 2017, would have established a registration program under a new Athletic Training Board (Board) within the Department of Consumer Affairs (DCA) and prohibited a person from practicing athletic training, as defined, or holding himself or herself out as an athletic trainer, unless they are registered with the Board. (Status: Held in Assembly Business and Professions Committee for procedural reasons.)
 - f) AB 161 (Chau) of 2015 would have established certification and training requirements for athletic trainers and prohibit individuals from calling themselves athletic trainers unless they meet those requirements. (Status: The bill was vetoed by Governor Brown.)

- g) AB 1890 (Chau) of 2014 was substantially similar to AB 161. (Status: The bill was vetoed by Governor Brown.)
- h) AB 864 (Skinner) of 2013 would have established the licensure and regulation of athletic trainers through the creation of an Athletic Trainer Licensing Committee under the Physical Therapy Board of California. (Status: The bill was held in the Assembly Committee on Appropriations.)
- i) SB 1273 (Lowenthal) of 2012 was substantially similar to AB 864. (Status: The bill failed passage in Senate Business and Professions Committee.)
- j) AB 374 (Hayashi) of 2011 as introduced would have established the Athletic Trainer Licensing Committee within the Medical Board of California to license and regulate athletic trainers commencing January 1, 2013, with a sunset date of January 1, 2018. The bill was later amended to provide title protection for athletic trainers. (Status: The bill was later amended to become a bill by Assemblymember Hill that dealt with funeral embalmers and signed by the Governor.)
- k) AB 1647 (Hayashi) of 2010 would have established certification and training requirements for athletic trainers and prohibited individuals from calling themselves athletic trainers unless they meet those requirements. (Status: The bill was vetoed by Governor Schwarzenegger.)
- l) SB 284 (Lowenthal) of 2007 would have enacted the Athletic Trainers Registration Act prohibiting a person from representing himself or herself as a “certified athletic trainer,” unless he or she is registered by an athletic training organization. (Status: The bill was vetoed by Governor Schwarzenegger.)
- m) SB 1397 (Lowenthal) of 2006 would have enacted the Athletic Trainers Certification Act, prohibiting a person from representing him or herself as an athletic trainer unless he or she is certified as an athletic trainer by an athletic training organization, as defined. (Status: The bill was vetoed by Governor Schwarzenegger.)
- n) AB 614 (Lowenthal) of 2003 would have required the DCA to submit a recommendation to the Legislature as to whether the state should license and regulate athletic trainers by January 1, 2006, if the DCA is provided with an occupational analysis of persons providing athletic trainer services by July 1, 2005. (Status: This bill was held in Senate Business and Professions Committee to allow JCBCCP to examine whether athletic trainers should be licensed as part of the "sunrise" process.)
- o) AB 2789 (Lowenthal) of 2002 would have required the Department of Consumer Affairs to review the need for licensing of athletic trainers and undertake an occupational analysis. (Status: This bill was held by the Assembly Committee on Appropriations.)

REGISTERED SUPPORT / OPPOSITION:**Support**

Azusa Pacific University

Board of Certification, INC.
Breg, INC.
California Athletic Trainers Association
California Coaches Association
California Interscholastic Federation
California Orthopedic Association
California State University, Fullerton
Citrus Community College District
Commission on Accreditation of Athletic Training Education
Cypress College
Gavilan College
Korey Stringer Institute
Los Angeles Rams
National Athletic Trainers' Association
National Football League
San Joaquin Delta College Athletics
Santa Barbara City College
Sierra College
Turlock Unified School District
University of California - San Francisco Orthotic and Prosthetic Centers
University of California, San Francisco
West Coast Sports Medicine Foundation
87 Individuals

Opposition

California Physical Therapy Association
Occupational Therapy Association of California (OTAC)
United Nurses Associations of California/union of Health Care Professionals

Analysis Prepared by: Brian Anderson / A.,E.,S., & T. / (916) 319-3450

From: [Lindsay Gullahorn](#)
To: Martin, Heather@DCA
Subject: AB 796 OTAC Opposition Letter
Date: Monday, April 10, 2023 9:08:41 PM
Attachments: [PastedGraphic-1.tiff](#)
[ab 796 coalition oppose letter Assm Arts.pdf](#)

WARNING: This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: lgullahorn@capitoladvocacy.com

Hi Heather. I hope you're doing well. I see that CBOT is planning to discuss AB 796 (Weber) on Thursday, so I wanted to share the attached coalition opposition letter from OTAC, the CA Physical Therapy Association, the CA Nurses Association and United Nurses Association of CA. We have significant concerns with a number of the provisions in the bill, including the overly broad scope of practice and the proposed placement of athletic trainers under CBOT.

Please let us know if you have any questions or would like to discuss.

Thank you,
Lindsay

Lindsay Gullahorn
Capitol Advocacy
1301 I Street
Sacramento, CA 95814
916-221-8708 mobile
916-444-0400 main
www.capitoladvocacy.com



April 3, 2023

The Honorable Sharon Quirk-Silva
Chair, Assembly Committee on Arts, Entertainment,
Sports & Tourism
State Capitol
Sacramento, CA 95814

RE: AB 796 (Weber)/OPPOSE

Dear Asm Quirk-Silva:

On behalf of the members of the California Physical Therapy Association (CPTA), the Occupational Therapy Association of California (OTAC), the California Nurses Association (CNA), and the United Nurses Association of California/United Health Care Professionals (UNAC/UHCP), we are writing in opposition to AB 796, which creates a licensure scheme for athletic trainers. We have numerous concerns with this legislation, just as we have had with other similar unsuccessful legislative efforts over the last 20 years.

- 1) Lack of necessity.** The level of regulation proposed by the bill is unnecessary. While many other states have in place a title protection or licensing scheme for athletic trainers, there is NO current crisis in California due to not having a new bureaucracy in place for athletic trainers. We have heard repeatedly the argument that young athletes involved in high school and club sports do not have Athletic Trainers on the sidelines during their activities and, therefore, are at risk, but AB 796 doesn't address this concern in any way. Such a bill would mandate that Athletic Trainers be available at such events and would specify how this was to be funded. AB 796 does nothing to address this concern and, instead, calls for creation of a licensing scheme that allows athletic trainers to treat patients. Another oft-repeated argument is that anyone in California can call themselves an "athletic trainer" without having appropriate credentials. This could be easily addressed through a title protection/certification requirement, exactly like that contained in AB 2410 (Cunningham) of 2020, which received no "NO" votes and made it to the Governor's desk.
- 2) The scope of practice defined in this bill is overly broad.** It allows one licensed under this act to work with nearly any person or patient for nearly any physical condition. Today, athletic trainers are specifically educated and trained to work with athletes who have undergone a

preparticipation screening by a physician and are participating in an organized sports activity, with any restrictions or directions noted by the physician. The broadness of this legislation puts public safety at risk because it allows athletic trainers to work with all in our population, with no preparticipation screen, and to provide care to the generalized population instead of that for which they are known to treat---athletes participating in organized activities in athletic settings with an individualized protocol tailored to an athlete's specific and personal needs.

- 3) **The supervision of an athletic trainer as outlined in the bill is insufficient.** AB 796 allows athletic trainers to assess and treat patients so long as they have an ill-defined relationship with a physician somewhere and with no limitations other than those defined by the athletic trainer himself or herself. Today, athletic trainers work under the supervision of a physician at his or his direction under a plan developed specifically for the individual athlete. AB 796 also concerningly allows physicians to supervise an unspecified number of athletic trainers and does not require physician supervision of athletic trainers to be in person or synchronous, which further endangers the patients receiving care from an athletic trainer. Lastly, as an example, when the Legislature changed the law to afford patients the clear right to access physical therapy directly, it placed a 45-day, 12-visit limit on any treatment provided before a required check-in by the patient with his or her physician---this, for a profession of masters'- and doctoral-level professionals for which such "direct access" was already allowed in an overwhelming majority of states across the country.
- 4) The conditions of this bill would allow the athletic trainer to assess and evaluate a patient's condition, then offer treatment. Working under the direction of a protocol when no physician is present would effectively require the athletic trainer to, in essence, diagnose a patient's condition to correctly apply the proper treatment protocol. **The ability to "diagnose" is well outside of the education and training of an athletic trainer.**
- 5) **The bill inappropriately places a committee for athletic trainers under the California Board of Occupational Therapy for regulation.** Licensing boards are supported through fees on the professionals regulated. In this case, there is no real nexus between athletic trainers and occupational therapists. Further, the bill specifies that physicians are responsible for supervising athletic trainers. Therefore, a committee dedicated to athletic trainers should be placed under the Medical Board of California, which regulates the physicians responsible in the bill for supervising athletic trainers.
- 6) The argument that other states prohibit California athletic trainers from traveling with their sports teams unless there is a licensing scheme in this state has not, to our knowledge, affected any single California sports team. If this were the case, however, title protection and a requirement for athletic trainers to be certified would meet the requirements of other states, just as do the certification requirements used by other states currently. Instead, the language of this bill goes far beyond addressing this issue and instead would allow athletic trainers to work with all patients for conditions well beyond sports-related injuries, triage, and prevention.

For all the reasons above, we believe AB 796 in its current form is unnecessary and flawed, and we urge your "NO" vote.

We also urge your awareness and closer look at AB 2410 (Cunningham) of 2020, which we believe satisfies the major arguments offered by AB 796's sponsors without creating a larger, unnecessary regulatory scheme to address this issue.

Please feel free to contact us if you have any questions or would like to further discuss our position.

Sincerely,



Richard S. Katz, PT, DPT, MA, President
California Physical Therapy Association



Puneet Maharaj, Dir. of Government Relations
CA Nurses Association/National Nurses United



Bryant Edwards, OTD, MA/OTR/L, BCP, MPH
Occupational Therapy Association of California



Eric Robles, Political and Legislative Director
United Nurses Ass'n of CA/United Health
Care Professionals

cc: Honorable Members, Sen. Committee on Arts, Entertainment, Sports & Tourism
Brian Anderson, Asm. Comm. on Arts, Ent., Sports & Tourism
Vincent Chee, Consultant, Asm. Business & Professions Comm.
Bill Lewis/Nick Dokoozlian, Assembly Republican Caucus