

Chapter 412

(House Bill 232)

AN ACT concerning

~~Health Occupations~~ – Athletic Trainers – Evaluation and Treatment Protocols – Approval

FOR the purpose of altering a certain provision of law to require the Athletic Trainer Advisory Committee to recommend to the State Board of Physicians approval, modification, or disapproval of individual evaluation and treatment protocols; authorizing, under certain circumstances, an athletic trainer to assume duties under an evaluation and treatment protocol after receiving a certain recommendation from the Committee; providing that certain specialized tasks may only be performed after an athletic trainer receives certain approval from the Board; authorizing the Board to disapprove, under certain circumstances, an evaluation and treatment protocol and specialized tasks included in an evaluation and treatment protocol; requiring the Board, under certain circumstances, to send certain notice to a primary supervising physician and an athletic trainer; requiring an athletic trainer who receives notice of a certain disapproval to cease practicing under a certain evaluation and treatment protocol or performing a certain specialized task; providing that a member of the Board is not civilly liable for certain actions and omissions; making a conforming change; ~~the definition of “practice athletic training” to include instruction to tactical athletes regarding the care and prevention of athletic injuries while engaging in tactical athletic activity; granting, except under certain circumstances, immunity from civil liability to a member of the State Board of Physicians for an act or omission relating to the approval of a certain evaluation and treatment protocol; authorizing an athletic trainer to assume certain duties under an evaluation and treatment protocol on the date of receipt by the Board of a written recommendation of approval from the Athletic Trainer Advisory Committee under certain circumstances; authorizing an athletic trainer, on receipt of a temporary practice letter, to practice a certain specialized task under certain circumstances if an evaluation and treatment protocol is pending approval by the Board; requiring the Board to send a certain notice to a certain primary supervising physician and certain athletic trainer if the Board disapproves a certain protocol or a certain specialized task under a certain protocol; requiring a certain athletic trainer to cease to practice under a certain protocol or to perform a certain specialized task after receiving a certain notice of disapproval; altering certain definitions; defining certain terms; and generally relating to the practice regulation of athletic trainers.~~

BY repealing and reenacting, with amendments,
 Article – Health Occupations
 Section ~~14-5D-01~~ 14-5D-06 and 14-5D-11
 Annotated Code of Maryland
 (2014 Replacement Volume and 2015 Supplement)

BY adding to

Article – Health Occupations

Section 14–5D–11.3

Annotated Code of Maryland

(2014 Replacement Volume and 2015 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health Occupations

~~14–5D–01.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) “Alternate supervising physician” means one or more physicians designated by the supervising physician to provide supervision of an athletic trainer.~~

~~(1) During the absence of the supervising physician; and~~

~~(2) In accordance with the evaluation and treatment protocol on file with the Board.~~

~~(c) “Athlete” means an individual who participates in an athletic activity.~~

~~(d) “Athletic activity” means exercise, recreation, sport, competition, or game that:~~

~~(1) Requires physical strength, range of motion, flexibility, control, speed, stamina, or agility; and~~

~~(2) Is associated with a setting as defined under this section[, an educational institution, or a professional, amateur, or recreational sports club or athletic organization].~~

~~(e) “Athletic injury” means an injury that affects an athlete’s participation or performance in an athletic activity.~~

~~(f) “Board” means the State Board of Physicians.~~

~~(g) “Committee” means the Athletic Trainer Advisory Committee established under § 14–5D–04 of this subtitle.~~

~~(h) “Educational institution” includes:~~

~~(1) The schools in the public elementary and secondary education system of the State;~~

~~(2) A noncollegiate educational institution governed under § 2-206 of the Education Article; and~~

~~(3) An institution of higher education as defined in § 10-101 of the Education Article.~~

~~(i) "Evaluation and treatment protocol" means a document that is executed by a physician and an athletic trainer that meets the requirements of § 14-5D-11 of this subtitle.~~

~~(j) "License" means a license issued by the Board to practice athletic training.~~

~~(k) "Licensed athletic trainer" means an individual who is licensed by the Board to practice athletic training.~~

~~(l) "Licensed health care practitioner" means an individual licensed, certified, or otherwise authorized to practice a health occupation under this article.~~

~~(m) "National certifying board" means the National Athletic Trainers' Association Board of Certification, Inc., or its successor organization.~~

~~(n) "Nonsupervising physician" means a physician licensed by the Board who is not the supervising physician of the licensed athletic trainer.~~

~~(o) "Outside referral" means a request for treatment from a nonsupervising physician or licensed health care practitioner.~~

~~(p) (1) "Practice athletic training" means application of the following principles and methods for managing athletic injuries for athletes in good overall health under the supervision of a licensed physician:~~

~~(i) Prevention;~~

~~(ii) Clinical evaluation and assessment;~~

~~(iii) Immediate care; and~~

~~(iv) Treatment, rehabilitation, and reconditioning.~~

~~(2) "Practice athletic training" includes:~~

~~(i) Organization and administration of an athletic training program; [and]~~

~~(ii) Instruction to coaches, athletes, parents, medical personnel, and community members regarding the care and prevention of athletic injuries; AND~~

~~(H) INSTRUCTION TO TACTICAL ATHLETES REGARDING THE CARE AND PREVENTION OF ATHLETIC INJURIES WHILE ENGAGING IN TACTICAL ATHLETIC ACTIVITY.~~

~~(3) "Practice athletic training" does not include:~~

~~(i) The practice of:~~

~~1. Chiropractic, including adjustments, manipulation, or high velocity mobilizations of the spine or extremities;~~

~~2. Massage therapy;~~

~~3. Medicine;~~

~~4. Occupational therapy;~~

~~5. Physical therapy; or~~

~~6. Podiatry;~~

~~(ii) The reconditioning of systemic neurologic injuries, conditions, or disease; or~~

~~(iii) Except for the conditioning of an athlete under the supervision of a treating physician, the treatment, rehabilitation, or reconditioning of nonathletic injuries or disease.~~

~~(e) "Setting" means [a]:~~

~~(1) [Location where an athletic activity, as defined in subsection (d) of this section, is being held] AN EDUCATIONAL INSTITUTION;~~

~~(2) A PROFESSIONAL, AN AMATEUR, OR A RECREATIONAL SPORTS CLUB OR ATHLETIC ORGANIZATION;~~

~~(2)(3) [Health] A HEALTH or fitness club;~~

~~(3)(4) [Clinic] A CLINIC or hospital;~~

~~(4)(5) [Corporation] A CORPORATION; or~~

~~[(5)](6) [Government] A GOVERNMENT agency.~~

~~(R) "STATE OR LOCAL PUBLIC SAFETY EMPLOYEE" MEANS AN INDIVIDUAL WHO IS:~~

~~(1) A CAREER OR VOLUNTEER MEMBER OF:~~

~~(I) A FIRE DEPARTMENT;~~

~~(II) AN AMBULANCE COMPANY OR SQUAD; OR~~

~~(III) A RESCUE COMPANY OR SQUAD;~~

~~(2) A LAW ENFORCEMENT OFFICER;~~

~~(3) A CORRECTIONAL OFFICER; OR~~

~~(4) A MEMBER OF THE MARYLAND NATIONAL GUARD.~~

~~[(r)](S) "Supervising physician" means a physician who has been approved by the Board to supervise one or more athletic trainers.~~

~~[(s)](T) "Supervision" means the responsibility of a physician to provide ongoing and immediately available instruction, in person, by telephone, or by other electronic means, that is adequate to ensure the safety and welfare of a patient and is appropriate to the setting.~~

~~(U) "TACTICAL ATHLETE" MEANS AN ATHLETE WHO PARTICIPATES IN TACTICAL ATHLETIC ACTIVITY.~~

~~(V) "TACTICAL ATHLETIC ACTIVITY" MEANS HIGH RISK ACTION OR MOVEMENT THAT REQUIRES PHYSICAL STRENGTH, RANGE OF MOTION, FLEXIBILITY, CONTROL, SPEED, STAMINA, AGILITY, OR AN AEROBIC OR ANAEROBIC FITNESS LEVEL THAT IS:~~

~~(1) REQUIRED AS PART OF THE JOB PERFORMANCE OF A STATE OR LOCAL PUBLIC SAFETY EMPLOYEE OR AN ACTIVE DUTY MEMBER OF THE UNITED STATES ARMED FORCES; AND~~

~~(2) ASSOCIATED WITH A SETTING.~~

14-5D-06.

(a) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board regulations to carry out this subtitle;

(2) Develop and recommend to the Board continuing education requirements for license renewal;

(3) Provide the Board with recommendations concerning the practice of athletic training;

(4) Develop and recommend to the Board an evaluation and treatment protocol for use by an athletic trainer and the physician with whom the athletic trainer practices;

(5) [Provide advice and recommendations] RECOMMEND to the Board [on] APPROVAL, MODIFICATION, OR DISAPPROVAL OF individual evaluation and treatment protocols [when requested];

(6) Keep a record of its proceedings; and

(7) Submit an annual report to the Board.

(b) The Board shall:

(1) Consider all recommendations of the Committee; and

(2) Provide to the Committee an annual report on the disciplinary matters involving licensees.

14-5D-11.

(a) Nothing in this title may be construed to authorize an athletic trainer to practice except under the supervision of a licensed physician and in an approved setting.

(b) Before an athletic trainer may practice athletic training, the athletic trainer shall:

(1) Obtain a license under this subtitle;

(2) Enter into a written evaluation and treatment protocol with a licensed physician; and

(3) ~~Obtain~~ **EXCEPT AS PROVIDED IN § 14-5D-11.3(A) OF THIS SUBTITLE, OBTAIN** Board approval of the evaluation and treatment protocol.

(c) An evaluation and treatment protocol shall:

(1) Describe the qualifications of the licensed physician and licensed athletic trainer;

(2) Describe the settings where the athletic trainer may practice;

(3) Describe the physician supervision mechanisms that the physician will use to give direction to the athletic trainer;

(4) Specify the treatment procedures the athletic trainer may perform;

(5) Describe tasks the athletic trainer may not perform;

(6) Describe specialized tasks the supervising physician is delegating to the athletic trainer to perform with documentation of competencies, certification, credentials, or any other requirements established by the Board to support the delegation of the specialized tasks;

(7) Indicate whether the athletic trainer may accept outside referrals from nonsupervising physicians and other licensed health care practitioners;

(8) Designate an alternate supervising physician, if appropriate or necessary; and

(9) Contain an attestation that states the supervising physician will be responsible for providing ongoing and immediately available instruction that is adequate to ensure the safety and welfare of a patient and is appropriate to the setting.

(d) An athletic trainer may accept an outside referral from a nonsupervising physician or licensed health care practitioner if:

(1) The supervising physician specifies in the evaluation and treatment protocol that the athletic trainer may accept referrals from a nonsupervising physician or licensed health care practitioner;

(2) The nonsupervising physician or licensed health care practitioner has seen the athlete and has written an order for the care of the athlete; and

(3) The treatment procedures to be used by the athletic trainer are:

(i) Within the scope of practice of an athletic trainer; and

(ii) Included in the evaluation and treatment protocol that the athletic trainer has entered into with the supervising physician.

(e) In the event of a sudden departure, incapacity, or death of a supervising physician, a designated alternate supervising physician may assume the role of the supervising physician by submitting an evaluation and treatment protocol to the Board within 15 days of the event.

~~(F) A MEMBER OF THE BOARD IS IMMUNE FROM CIVIL LIABILITY FOR ANY ACT OR OMISSION WHEN APPROVING AN EVALUATION AND TREATMENT PROTOCOL AS PROVIDED UNDER SUBSECTION (B)(3) OF THIS SECTION IF THE MEMBER OF THE BOARD IS ACTING IN GOOD FAITH WHEN APPROVING THE EVALUATION AND TREATMENT PROTOCOL.~~

~~14-5D-11.3.~~

~~(A) IN THIS SECTION, "PENDING" MEANS THAT AN EVALUATION AND TREATMENT PROTOCOL THAT INCLUDES SPECIALIZED TASKS IN A SETTING THAT DOES NOT MEET THE REQUIREMENTS UNDER § 14-5D-11 OF THIS SUBTITLE HAS BEEN EXECUTED AND SUBMITTED TO THE BOARD FOR ITS APPROVAL, BUT:~~

~~(1) THE COMMITTEE HAS NOT MADE A RECOMMENDATION TO THE BOARD AS PROVIDED UNDER § 14-5D-06 OF THIS SUBTITLE; OR~~

~~(2) THE BOARD HAS NOT MADE A FINAL DECISION REGARDING THE EVALUATION AND TREATMENT PROTOCOL.~~

~~(B) AN ATHLETIC TRAINER MAY ASSUME THE DUTIES UNDER AN EVALUATION AND TREATMENT PROTOCOL ON THE DATE OF RECEIPT BY THE BOARD OF A WRITTEN RECOMMENDATION OF APPROVAL OF THE PROTOCOL FROM THE COMMITTEE AS PROVIDED UNDER § 14-5D-06 OF THIS SUBTITLE IF:~~

~~(1) THE EVALUATION AND TREATMENT PROTOCOL DOES NOT INCLUDE SPECIALIZED TASKS; OR~~

~~(2) THE EVALUATION AND TREATMENT PROTOCOL INCLUDES SPECIALIZED TASKS THAT THE BOARD HAS PREVIOUSLY APPROVED UNDER § 14-5D-11 OF THIS SUBTITLE.~~

~~(C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IF AN EVALUATION AND TREATMENT PROTOCOL IS PENDING, ON RECEIPT OF A TEMPORARY PRACTICE LETTER FROM THE BOARD, AN ATHLETIC TRAINER MAY PRACTICE THE SPECIALIZED TASK IF:~~

~~(1) THE PRIMARY SUPERVISING PHYSICIAN PREVIOUSLY HAS BEEN APPROVED TO SUPERVISE ONE OR MORE ATHLETIC TRAINERS IN THE PERFORMANCE OF THE SPECIALIZED TASK; AND~~

~~(2) THE ATHLETIC TRAINER PREVIOUSLY HAS BEEN APPROVED BY THE BOARD TO PERFORM THE SPECIALIZED TASK.~~

~~(D) IF THE BOARD DENIES THE PENDING EVALUATION AND TREATMENT PROTOCOL OR A SPECIALIZED TASK UNDER THE PROTOCOL, THE BOARD SHALL PROVIDE THE PRIMARY SUPERVISING PHYSICIAN AND THE ATHLETIC TRAINER WITH WRITTEN NOTICE OF THE DISAPPROVAL.~~

~~(E) AN ATHLETIC TRAINER WHO RECEIVES NOTICE THAT THE BOARD HAS DISAPPROVED AN EVALUATION AND TREATMENT PROTOCOL OR A SPECIALIZED TASK UNDER THE EVALUATION AND TREATMENT PROTOCOL IMMEDIATELY SHALL CEASE:~~

~~(1) TO PRACTICE UNDER THE PROTOCOL; OR~~

~~(2) TO PERFORM THE SPECIALIZED TASK.~~

14-5D-11.3.

(A) (1) AN ATHLETIC TRAINER MAY ASSUME THE DUTIES UNDER AN EVALUATION AND TREATMENT PROTOCOL AFTER RECEIVING A WRITTEN RECOMMENDATION OF APPROVAL FROM THE COMMITTEE IF:

(I) THE EVALUATION AND TREATMENT PROTOCOL DOES NOT INCLUDE SPECIALIZED TASKS; OR

(II) THE EVALUATION AND TREATMENT PROTOCOL INCLUDES SPECIALIZED TASKS THAT THE BOARD PREVIOUSLY HAS APPROVED UNDER § 14-5D-11 OF THIS SUBTITLE.

(2) IF AN EVALUATION AND TREATMENT PROTOCOL INCLUDES SPECIALIZED TASKS THAT HAVE NOT BEEN PREVIOUSLY APPROVED BY THE BOARD UNDER § 14-5D-11 OF THIS SUBTITLE, AN ATHLETIC TRAINER MAY ONLY PERFORM THE SPECIALIZED TASK AFTER RECEIVING WRITTEN APPROVAL FROM THE BOARD.

(B) THE BOARD MAY DISAPPROVE AN EVALUATION AND TREATMENT PROTOCOL OR A SPECIALIZED TASK INCLUDED IN THE EVALUATION AND TREATMENT PROTOCOL IF THE BOARD DETERMINES THAT:

(1) THE EVALUATION AND TREATMENT PROTOCOL DOES NOT MEET THE REQUIREMENTS OF § 14-5D-11(C) OF THIS SUBTITLE;

(2) THE ATHLETIC TRAINER IS UNABLE TO PERFORM THE SPECIALIZED TASK SAFELY; OR

(3) THE SPECIALIZED TASK IS OUTSIDE THE PRACTICE SCOPE OF AN ATHLETIC TRAINER.

(C) IF THE BOARD DISAPPROVES AN EVALUATION AND TREATMENT PROTOCOL OR A SPECIALIZED TASK INCLUDED IN AN EVALUATION AND TREATMENT PROTOCOL, THE BOARD SHALL SEND TO THE PRIMARY SUPERVISING PHYSICIAN AND THE ATHLETIC TRAINER WRITTEN NOTICE OF THE DISAPPROVAL.

(D) AN ATHLETIC TRAINER WHO RECEIVES NOTICE OF A DISAPPROVAL UNDER SUBSECTION (C) OF THIS SECTION SHALL IMMEDIATELY CEASE PRACTICING UNDER THE EVALUATION AND TREATMENT PROTOCOL OR PERFORMING THE SPECIALIZED TASK.

(E) AN INDIVIDUAL MEMBER OF THE BOARD IS NOT CIVILLY LIABLE FOR ANY ACT OR OMISSION RELATING TO THE APPROVAL, MODIFICATION, OR DISAPPROVAL OF AN EVALUATION AND TREATMENT PROTOCOL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Approved by the Governor, May 10, 2016.