

SENATE BILL 870

J2

EMERGENCY BILL

2lr2275

CF 2lr2812

By: **Senator Conway (Chair, Education, Health, and Environmental Affairs Committee)**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Physicians – Athletic Trainer Advisory Committee – Sunset**
3 **Extension, Program Evaluation, and Revisions**

4 FOR the purpose of continuing the Athletic Trainer Advisory Committee in accordance
5 with the provisions of the Maryland Program Evaluation Act (Sunset Law) by
6 extending to a certain date the termination provision relating to the statutory
7 and regulatory authority of the Committee; requiring the chair of the
8 Committee to serve in an advisory capacity to the State Board of Physicians and
9 present to the Board a certain annual report; prohibiting certain individuals
10 from providing certain services to the Committee or the Board under certain
11 circumstances; prohibiting certain individuals from being appointed to the
12 Committee under certain circumstances; requiring the Committee to submit a
13 certain annual report to the Board; requiring the Board to consider all
14 recommendations of the Committee, provide a certain explanation to the
15 Committee under certain circumstances, and provide a certain report to the
16 Committee a certain number of times each year; altering the conditions under
17 which the Board is required to waive certain education requirements; altering
18 the contents of an evaluation and treatment protocol; authorizing an athletic
19 trainer to accept an outside referral from certain individuals under certain
20 circumstances; authorizing a certain alternate supervising physician to assume
21 a certain role under certain circumstances; prohibiting certain physicians,
22 hospitals, institutions, alternative health systems, and other employers from
23 employing certain individuals unless a certain condition is met; providing
24 penalties for the violation of certain provisions of law; requiring certain
25 physicians and employers to notify the Board within a certain period of time of
26 the termination of an athletic trainer for certain reasons; requiring certain
27 physicians and athletic trainers to notify the Board of the termination of a
28 certain relationship under an evaluation and treatment protocol; requiring
29 certain licensees to notify the Board in writing of certain changes; requiring the
30 Board to disclose the filing of certain charges or certain notice on the Board's

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Web site; requiring the Board to create and maintain certain profiles on certain
 2 licensees that include certain information and a certain statement within a
 3 certain period of time under certain circumstances; requiring the Board to
 4 forward a certain copy of a licensee's profile under certain circumstances;
 5 requiring the Board to maintain a certain Web site relating to licensee profile
 6 information; requiring the Board to provide a certain mechanism for certain
 7 notification and correction of certain inaccuracies in a licensee's profile; defining
 8 certain terms; altering certain definitions; making this Act an emergency
 9 measure; and generally relating to the Athletic Trainer Advisory Committee.

10 BY repealing and reenacting, with amendments,
 11 Article – Health Occupations
 12 Section 14–5D–01, 14–5D–05(e), 14–5D–06, 14–5D–08(d), 14–5D–11, and
 13 14–5D–20
 14 Annotated Code of Maryland
 15 (2009 Replacement Volume and 2011 Supplement)

16 BY adding to
 17 Article – Health Occupations
 18 Section 14–5D–05(f), 14–5D–11.1, 14–5D–11.2, 14–5D–12.1, and 14–5D–16.1
 19 Annotated Code of Maryland
 20 (2009 Replacement Volume and 2011 Supplement)

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

23 **Article – Health Occupations**

24 14–5D–01.

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

26 (B) “ALTERNATE SUPERVISING PHYSICIAN” MEANS ONE OR MORE
 27 PHYSICIANS DESIGNATED BY THE SUPERVISING PHYSICIAN TO PROVIDE
 28 SUPERVISION OF AN ATHLETIC TRAINER:

29 (1) DURING THE ABSENCE OF THE SUPERVISING PHYSICIAN; AND

30 (2) IN ACCORDANCE WITH THE EVALUATION AND TREATMENT
 31 PROTOCOL ON FILE WITH THE BOARD.

32 [(b)] (C) “Athlete” means an individual who participates in an athletic
 33 activity.

34 [(c)] (D) “Athletic activity” means exercise, recreation, sport, competition, or
 35 game that:

1 (1) Requires physical strength, range of motion, flexibility, control,
2 speed, stamina, or agility; **[and] OR**

3 (2) Is associated with **A SETTING AS DEFINED UNDER THIS**
4 **SECTION**, an educational institution, or a professional, amateur, or recreational sports
5 club or athletic organization.

6 **[(d)] (E)** “Athletic injury” means an injury that affects an athlete’s
7 participation or performance in an athletic activity.

8 **[(e)] (F)** “Board” means the State Board of Physicians.

9 **[(f)] (G)** “Committee” means the Athletic Trainer Advisory Committee
10 established under § 14–5D–04 of this subtitle.

11 **[(g)] (H)** “Educational institution” includes:

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

14 (2) A noncollegiate educational institution governed under § 2–206 of
15 the Education Article; and

16 (3) An institution of higher education as defined in § 10–101 of the
17 Education Article.

18 **[(h)] (I)** “Evaluation and treatment protocol” means a document that is
19 executed by a physician and an athletic trainer that meets the requirements of §
20 14–5D–11 of this subtitle.

21 **[(i)] (J)** “License” means a license issued by the Board to practice athletic
22 training.

23 **[(j)] (K)** “Licensed athletic trainer” means an individual who is licensed by
24 the Board to practice athletic training.

25 **(L) “LICENSED HEALTH CARE PRACTITIONER” MEANS:**

26 (1) **A CHIROPRACTOR LICENSED UNDER TITLE 3 OF THIS**
27 **ARTICLE;**

28 (2) **A NURSE PRACTITIONER CERTIFIED UNDER TITLE 8 OF THIS**
29 **ARTICLE;**

- 1 3. Medicine;
- 2 4. Occupational therapy; [or]
- 3 5. Physical therapy; **OR**
- 4 **6. PODIATRY;**

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

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

10 **[(m)] (Q)** “Setting” means a:

- 11 (1) Location where an athletic activity, as defined in subsection **[(c)]**
12 **(D)** of this section, is being held;
- 13 (2) Health or fitness club;
- 14 (3) Clinic or hospital;
- 15 (4) Corporation; or
- 16 (5) Government agency.

17 **(R) “SUPERVISING PHYSICIAN” MEANS A PHYSICIAN WHO HAS BEEN**
18 **APPROVED BY THE BOARD TO SUPERVISE ONE OR MORE ATHLETIC TRAINERS.**

19 **[(n)] (S)** “Supervision” means the responsibility of a physician to provide
20 ongoing and immediately available instruction, **IN PERSON, BY TELEPHONE, OR BY**
21 **OTHER ELECTRONIC MEANS**, that is adequate to ensure the safety and welfare of a
22 patient and is appropriate to the setting.

23 14–5D–05.

24 (e) **(1)** From among its members, the Committee shall elect a chair every
25 2 years.

26 **(2) THE CHAIR SHALL:**

27 **(I) SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A**
28 **REPRESENTATIVE OF THE COMMITTEE; AND**

1 **(II) PRESENT TO THE BOARD THE COMMITTEE'S ANNUAL**
2 **REPORT.**

3 **(F) (1) AN INDIVIDUAL MAY NOT PROVIDE SERVICES TO THE**
4 **COMMITTEE OR THE BOARD FOR REMUNERATION UNLESS 3 YEARS HAVE**
5 **PASSED SINCE THE TERMINATION OF THE INDIVIDUAL'S APPOINTMENT TO THE**
6 **COMMITTEE.**

7 **(2) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE COMMITTEE**
8 **IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD**
9 **FOR REMUNERATION WITHIN THE PRECEDING 3 YEARS.**

10 14-5D-06.

11 **(A)** In addition to the powers set forth elsewhere in this subtitle, the
12 Committee shall:

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

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

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

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

22 (5) Provide advice and recommendations to the Board on individual
23 evaluation and treatment protocols when requested; [and]

24 (6) Keep a record of its proceedings; **AND**

25 **(7) SUBMIT AN ANNUAL REPORT TO THE BOARD.**

26 **(B) THE BOARD SHALL:**

27 **(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE AND**
28 **PROVIDE A WRITTEN EXPLANATION OF THE BOARD'S REASONS FOR REJECTING**
29 **OR MODIFYING THE COMMITTEE'S RECOMMENDATIONS; AND**

1 **(2) PROVIDE TO THE COMMITTEE ONCE A YEAR A REPORT ON**
2 **THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

3 14-5D-08.

4 (d) The Board shall waive the education requirements under this section if
5 an individual [was certified by] **HAS MET THE EDUCATION REQUIREMENTS**
6 **NECESSARY TO BE CREDENTIALLED AS A CERTIFIED ATHLETIC TRAINER SET**
7 **FORTH BY** the National Athletic Trainers' Association Board of Certification, Inc.,
8 [before January 1, 2004,] **OR ITS SUCCESSOR ORGANIZATION**, and is currently in
9 good standing.

10 14-5D-11.

11 (a) Nothing in this title may be construed to authorize an athletic trainer to
12 practice except under the supervision of a licensed physician and in an approved
13 setting **OR AS PROVIDED IN SUBSECTION (D) OF THIS SECTION.**

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

16 (1) Obtain a license under this subtitle;

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

19 (3) Obtain Board approval of the evaluation and treatment protocol.

20 (c) An evaluation and treatment protocol shall:

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

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

24 (3) Describe the physician supervision mechanisms that the physician
25 will use to give direction to the athletic trainer; [and]

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

27 **(5) DESCRIBE TASKS THE ATHLETIC TRAINER MAY NOT**
28 **PERFORM;**

29 **(6) DESCRIBE SPECIALIZED TASKS THE SUPERVISING PHYSICIAN**
30 **IS DELEGATING TO THE ATHLETIC TRAINER TO PERFORM WITH**
31 **DOCUMENTATION OF COMPETENCIES, CERTIFICATION, CREDENTIALS, OR ANY**

1 OTHER REQUIREMENTS ESTABLISHED BY THE BOARD TO SUPPORT THE
2 DELEGATION OF THE SPECIALIZED TASKS;

3 (7) INDICATE WHETHER THE ATHLETIC TRAINER MAY ACCEPT
4 OUTSIDE REFERRALS FROM NONSUPERVISING PHYSICIANS AND OTHER
5 LICENSED HEALTH CARE PRACTITIONERS;

6 (8) DESIGNATE AN ALTERNATE SUPERVISING PHYSICIAN, IF
7 APPROPRIATE OR NECESSARY; AND

8 (9) CONTAIN AN ATTESTATION THAT STATES THE SUPERVISING
9 PHYSICIAN WILL BE RESPONSIBLE FOR PROVIDING ONGOING AND IMMEDIATELY
10 AVAILABLE INSTRUCTION THAT IS ADEQUATE TO ENSURE THE SAFETY AND
11 WELFARE OF A PATIENT AND IS APPROPRIATE TO THE SETTING.

12 (D) AN ATHLETIC TRAINER MAY ACCEPT AN OUTSIDE REFERRAL FROM
13 A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER IF:

14 (1) THE SUPERVISING PHYSICIAN SPECIFIES IN THE EVALUATION
15 AND TREATMENT PROTOCOL THAT THE ATHLETIC TRAINER MAY ACCEPT
16 REFERRALS FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE
17 PRACTITIONER;

18 (2) THE NONSUPERVISING PHYSICIAN OR LICENSED HEALTH
19 CARE PRACTITIONER HAS SEEN THE ATHLETE AND HAS WRITTEN AN ORDER FOR
20 THE CARE OF THE ATHLETE; AND

21 (3) THE TREATMENT PROCEDURES TO BE USED BY THE ATHLETIC
22 TRAINER ARE:

23 (I) WITHIN THE SCOPE OF PRACTICE OF AN ATHLETIC
24 TRAINER; AND

25 (II) INCLUDED IN THE EVALUATION AND TREATMENT
26 PROTOCOL THAT THE ATHLETIC TRAINER HAS ENTERED INTO WITH THE
27 SUPERVISING PHYSICIAN.

28 (E) IN THE EVENT OF A SUDDEN DEPARTURE, INCAPACITY, OR DEATH
29 OF A SUPERVISING PHYSICIAN, A DESIGNATED ALTERNATE SUPERVISING
30 PHYSICIAN MAY ASSUME THE ROLE OF THE SUPERVISING PHYSICIAN BY
31 SUBMITTING AN EVALUATION AND TREATMENT PROTOCOL TO THE BOARD
32 WITHIN 15 DAYS OF THE EVENT.

1 **14-5D-11.1.**

2 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LICENSED
3 PHYSICIAN MAY NOT EMPLOY OR SUPERVISE AN INDIVIDUAL PRACTICING
4 ATHLETIC TRAINING WITHOUT A LICENSE OR WITHOUT AN APPROVED
5 EVALUATION AND TREATMENT PROTOCOL.

6 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL,
7 AN INSTITUTION, AN ALTERNATIVE HEALTH SYSTEM, OR ANY OTHER EMPLOYER
8 MAY NOT EMPLOY AN INDIVIDUAL PRACTICING ATHLETIC TRAINING WITHOUT A
9 LICENSE OR WITHOUT AN APPROVED EVALUATION AND TREATMENT PROTOCOL.

10 (C) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 ON A
11 PERSON WHO EMPLOYS OR SUPERVISES AN INDIVIDUAL WITHOUT A LICENSE OR
12 WITHOUT AN APPROVED EVALUATION AND TREATMENT PROTOCOL.

13 **14-5D-11.2.**

14 (A) A PHYSICIAN OR AN EMPLOYER SHALL NOTIFY THE BOARD WITHIN
15 10 DAYS OF THE TERMINATION OF AN ATHLETIC TRAINER FOR REASONS THAT
16 WOULD BE GROUNDS FOR DISCIPLINE UNDER THIS SUBTITLE.

17 (B) A SUPERVISING PHYSICIAN AND AN ATHLETIC TRAINER SHALL
18 NOTIFY THE BOARD OF THE TERMINATION OF THE RELATIONSHIP UNDER AN
19 EVALUATION AND TREATMENT PROTOCOL.

20 **14-5D-12.1.**

21 (A) A LICENSEE SHALL NOTIFY THE BOARD IN WRITING OF A CHANGE
22 IN NAME OR ADDRESS WITHIN 60 DAYS AFTER THE CHANGE.

23 (B) A LICENSEE WHO FAILS TO COMPLY WITH SUBSECTION (A) OF THIS
24 SECTION IS SUBJECT TO AN ADMINISTRATIVE PENALTY OF \$100.

25 **14-5D-16.1.**

26 (A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL
27 DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO
28 THE PUBLIC ON THE BOARD'S WEB SITE.

29 (B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL
30 PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:

1 **(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE**
2 **THAT INCLUDES A COPY OF THE CHARGING DOCUMENT UNTIL THE BOARD HAS**
3 **TAKEN ACTION UNDER § 14-5D-14 OF THIS SUBTITLE BASED ON THE CHARGES**
4 **OR HAS RESCINDED THE CHARGES;**

5 **(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE**
6 **BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD**
7 **THAT INCLUDES A COPY OF THE PUBLIC ORDER;**

8 **(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL**
9 **DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR**
10 **JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR**
11 **PERIOD;**

12 **(4) A DESCRIPTION OF A CONVICTION OR AN ENTRY OF A PLEA OF**
13 **GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING**
14 **MORAL TURPITUDE REPORTED TO THE BOARD UNDER § 14-5D-14(B) OF THIS**
15 **SUBTITLE; AND**

16 **(5) THE PUBLIC ADDRESS OF THE LICENSEE.**

17 **(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS**
18 **SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S**
19 **PROFILE OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER**
20 **WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING**
21 **THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT**
22 **BY THE BOARD.**

23 **(D) THE BOARD:**

24 **(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S**
25 **PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE**
26 **PROFILE TO THE PERSON; AND**

27 **(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE**
28 **POINT OF ENTRY AT WHICH ALL LICENSEE PROFILE INFORMATION IS**
29 **AVAILABLE TO THE PUBLIC ON THE INTERNET.**

30 **(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION**
31 **AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S**
32 **PROFILE.**

33 **(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES**
34 **FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION**

1 **TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE**
2 **WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES**
3 **FINAL.**

4 14-5D-20.

5 Subject to the evaluation and reestablishment provisions of the Maryland
6 Program Evaluation Act and subject to the termination of this title under § 14-702 of
7 this title, this subtitle and all rules and regulations adopted under this subtitle shall
8 terminate and be of no effect after July 1, [2013] **2023**.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
10 measure, is necessary for the immediate preservation of the public health or safety,
11 has been passed by a yea and nay vote supported by three-fifths of all the members
12 elected to each of the two Houses of the General Assembly, and shall take effect from
13 the date it is enacted.