

Chapter 314

(Senate Bill 870)

AN ACT concerning

State Board of Physicians – Athletic Trainer Advisory Committee – ~~Sunset Extension, Program Evaluation, and Revisions~~ Education, Supervision, and Administration

FOR the purpose of ~~continuing the Athletic Trainer Advisory Committee in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination provision relating to the statutory and regulatory authority of the Committee; requiring the chair of the Committee to serve in an advisory capacity to the State Board of Physicians and present to the Board a certain annual report; prohibiting certain individuals from providing certain services to the Committee or the Board under certain circumstances; prohibiting certain individuals from being appointed to the Committee under certain circumstances; requiring the Committee to submit a certain annual report to the Board; requiring the Board to consider all recommendations of the Committee, provide a certain explanation to the Committee under certain circumstances, and provide a certain report to the Committee a certain number of times each year; altering the conditions under which the Board is required to waive certain education requirements; altering the date by which certain individuals need to be certified to qualify for the waiver of certain education requirements under certain provisions of law; altering the contents of an evaluation and treatment protocol; authorizing an athletic trainer to accept an outside referral from certain individuals under certain circumstances; authorizing a certain alternate supervising physician to assume a certain role under certain circumstances; prohibiting certain physicians, hospitals, institutions, alternative health systems, and other employers from employing certain individuals unless a certain condition is met; providing penalties for the violation of certain provisions of law; requiring certain physicians and employers to notify the Board within a certain period of time of the termination of an athletic trainer for certain reasons; requiring certain physicians and athletic trainers to notify the Board of the termination of a certain relationship under an evaluation and treatment protocol; requiring certain licensees to notify the Board in writing of certain changes; requiring the Board to disclose the filing of certain charges or certain notice on the Board's Web site; requiring the Board to create and maintain certain profiles on certain licensees that include certain information and a certain statement within a certain period of time under certain circumstances; requiring the Board to forward a certain copy of a licensee's profile under certain circumstances; requiring the Board to maintain a certain Web site relating to licensee profile information; requiring the Board to provide a certain mechanism for certain~~

~~notification and correction of certain inaccuracies in a licensee's profile; defining certain terms; altering certain definitions; making this Act an emergency measure; and generally relating to the Athletic Trainer Advisory Committee.~~

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14-5D-01, ~~14-5D-05(e), 14-5D-06, 14-5D-08(d), and 14-5D-11, and 14-5D-20~~

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 14-5D-05(e), 14-5D-06, and 14-5D-20

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations

Section ~~14-5D-05(f), 14-5D-11.1, 14-5D-11.2, and 14-5D-12.1, and 14-5D-16.1~~

Annotated Code of Maryland

(2009 Replacement Volume and 2011 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.

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

[(c)] (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~~ **OR**

(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.

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

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

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

[(g)] (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.

[(h)] (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.

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

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

(L) “LICENSED HEALTH CARE PRACTITIONER” MEANS:

(1) ~~A CHIROPRACTOR LICENSED UNDER TITLE 3 OF THIS ARTICLE,~~

~~(2) A NURSE PRACTITIONER CERTIFIED UNDER TITLE 8 OF THIS ARTICLE; AN INDIVIDUAL LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO PRACTICE A HEALTH OCCUPATION UNDER THIS ARTICLE.~~

~~(3) A PHYSICAL THERAPIST LICENSED UNDER TITLE 13 OF THIS ARTICLE;~~

~~(4) A PHYSICIAN ASSISTANT LICENSED UNDER TITLE 15 OF THIS ARTICLE; OR~~

~~(5) A PODIATRIST LICENSED UNDER TITLE 16 OF THIS ARTICLE.~~

[(k)] (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.

[(l)] (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.

(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; [or]

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.

[(m)] (Q) “Setting” means a:

(1) Location where an athletic activity, as defined in subsection **[(c)] (D)** of this section, is being held;

(2) Health or fitness club;

(3) Clinic or hospital;

(4) Corporation; or

(5) Government agency.

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

[(n)] (S) “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.

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

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

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

~~(II) PRESENT TO THE BOARD THE COMMITTEE'S ANNUAL REPORT.~~

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

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

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 to the Board on individual evaluation and treatment protocols when requested; ~~and~~

(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 PROVIDE A WRITTEN EXPLANATION OF THE BOARD'S REASONS FOR REJECTING OR MODIFYING THE COMMITTEE'S RECOMMENDATIONS; AND~~

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

14-5D-08.

(d) The Board shall waive the education requirements under this section if an individual [was certified by] ~~HAS MET THE EDUCATION REQUIREMENTS NECESSARY TO BE CREDENTIALED AS A CERTIFIED ATHLETIC TRAINER SET FORTH BY~~ the National Athletic Trainers' Association Board of Certification, Inc., [before January 1, 2004,] ~~OR ITS SUCCESSOR ORGANIZATION, ON OR BEFORE OCTOBER 1, 2012~~, and is currently in good standing.

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 ~~OR AS PROVIDED IN SUBSECTION (D) OF THIS SECTION~~.

(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 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; [and]
- (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.

14-5D-11.1.

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

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

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

14-5D-11.2.

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

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

14-5D-12.1.

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

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

~~14-5D-16.1.~~

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

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

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

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

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

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

~~(5) THE PUBLIC ADDRESS OF THE LICENSEE.~~

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

~~(D) THE BOARD:~~

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

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

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

~~(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.~~

14-5D-20.

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

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

Approved by the Governor, May 2, 2012.