

CHAPTER 248

(HB 651)

AN ACT relating to athletic trainers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.900 is amended to read as follows:

As used in KRS 311.900 to 311.928:

- (1) *"Athlete" means an individual, referee, coach, or athletic staff member who participates in sports, games, or recreational activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina, and who is associated with a sport, game, or recreational activity that is conducted in association with an educational institution or professional, amateur, or recreational sports club or organization;*
- (2) *"Athletic injury" means:*
 - (a) *An injury or condition, excluding medical conditions such as internal infections, internal injuries, fractures, and spinal cord injuries except in an acute situation sustained by an athlete that affects the individual's participation or performance in sports, games, or recreation; or*
 - (b) *An injury or condition that is within the scope of practice of an athletic trainer identified by a physician licensed under KRS Chapter 311, a physical therapist licensed under KRS Chapter 327, an occupational therapist licensed under KRS Chapter 319A, or a chiropractor licensed under KRS Chapter 312 that is likely to benefit from athletic training services that have been approved by a physician supervising the athletic trainer;*
- (3) *"Athletic trainer" means a person with specific qualifications, as set forth in KRS 311.900 to 311.928 who is certified to practice athletic training and who, upon the supervision of a physician licensed under KRS Chapter 311, carries out the practice of preventing, recognizing, evaluating, managing, disposing, treating, reconditioning, or rehabilitating athletic injuries. In carrying out these functions, the certified athletic trainer may use physical modalities, such as heat, light, sound, cold, or electricity, or mechanical devices. A certified athletic trainer shall practice only in those areas in which he or she is competent by reason of his or her training or experience;*
- ~~(4) [311.916, who, upon the advice and consent of a team physician, carries out the practice of prevention or physical rehabilitation, or both, of injuries incurred by participating athletes at an educational institution, professional athletic organization, or other bona fide athletic organization. In carrying out these functions the athletic trainer is authorized to use whatever physical modalities as are deemed necessary by a team physician; and~~
- ~~(2) ["Council" means the Kentucky Athletic Trainers Advisory Council;~~
- (5) *"Board" means the Kentucky Board of Medical Licensure;*
- (6) *"Supervising physician" means a physician licensed by the board; and*
- (7) *"Supervision" means advising, consenting to, and directing the activities of an athletic trainer through written or oral orders by a physician licensed to practice under KRS Chapter 311. Each team of physicians and athletic trainers shall ensure that the referral of athletic injuries is appropriate to the athletic trainer's level of training and experience[on Athletic Trainers].*

SECTION 2. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the certification and regulation of athletic trainers. The regulations shall include but shall not be limited to the establishment of fees and continuing education requirements. The board shall require, as a part of any continuing educational requirement, that persons certified as athletic trainers complete an educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome. The course on the human immunodeficiency virus shall be approved by the Cabinet for Health and Family Services and shall be given in accordance with KRS 214.610.*

- (2) *There is hereby created the Kentucky Athletic Trainers Advisory Council, comprised of nine (9) members, appointed by the Governor. The council shall review and make recommendations to the board regarding all matters relating to athletic trainers that come before the board, including but not limited to:*
- (a) *Applications for athletic training certifications;*
 - (b) *Certification renewal requirements;*
 - (c) *Approval of supervising physicians;*
 - (d) *Disciplinary investigations or action, when specifically requested by one (1) of the board's panels established under KRS 311.591; and*
 - (e) *Promulgation of administrative regulations.*
- (3) *Except for initial appointments, members of the council shall be appointed by the board for four (4) year terms and shall consist of:*
- (a) *Five (5) practicing certified athletic trainers who shall each be selected by the board from a list of three (3) certified athletic trainers submitted by the Kentucky Athletic Trainers Society, Inc. for each vacancy;*
 - (b) *Two (2) supervising physicians;*
 - (c) *One (1) member of the board; and*
 - (d) *One (1) citizen at large.*
- (4) *The chair of the council shall be elected by a majority vote of the council members and shall preside over meetings. The meetings shall be held quarterly. Additional meetings may be held on the call of the chair or upon the written request of four (4) council members.*
- (5) *Initial appointments shall be for staggered terms. Three (3) members shall serve a four (4) year term, two (2) members shall serve a three (3) year term, two (2) members shall serve a two (2) year term, and two (2) members shall serve a one (1) year term.*
- (6) *Members of the council shall not be compensated for their service, but shall receive reimbursement for expenditures relating to attendance at committee meetings, consistent with state policies for the reimbursement of travel expenses for state employees.*
- (7) *A council member may be removed by the board for good cause or if he or she misses two (2) consecutive council meetings without good cause.*
- (8) *Upon the death, resignation, or removal of any member, the vacancy for the unexpired term shall be filled by the board in the same manner as the original appointment.*
- (9) *The quorum required for any meeting of the council shall be five (5) members. No action by the council or its members shall have any effect, unless a quorum of the council is present at the meeting where the action is taken.*
- (10) *The board shall not be required to implement or adopt the recommendations of the council.*

SECTION 3. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

A Certified Athletic Trainer:

- (1) *Shall not use spinal or pelvic manipulations or spinal or pelvic chiropractic adjustments;*
- (2) *May dispense, but shall not prescribe, over-the-counter or prescription medications only to an adult athlete and with the supervision of a physician licensed under KRS Chapter 311, and shall maintain accurate records identifying the medication, dose, amount, directions, condition for which the medication is being used, identity of the supervising physician, lot number, and expiration date;*
- (3) *Shall not dispense over-the-counter or prescription medications to a minor athlete;*
- (4) *Shall not perform invasive procedures;*
- (5) *Shall conform to the standard of care required of an ordinary competent and careful certified athletic trainer in exercising reasonable care for the health and safety of the athlete;*

- (6) *Shall not work in an industrial setting, except in the capacity of screening injuries and referring patients to an occupational therapist licensed under KRS Chapter 319A, a physical therapist licensed under KRS Chapter 327, a chiropractor licensed under KRS Chapter 312, or a physician licensed under KRS Chapter 311;*
- (7) *Shall not seek reimbursement from the federal government for physical therapy services performed by an athletic trainer;*
- (8) *Shall not seek reimbursement from the federal government for occupational therapy services performed by an athletic trainer;*
- (9) *Shall not seek reimbursement from the federal government for chiropractic services performed by an athletic trainer;*
- (10) *Shall not prescribe medications, including controlled substances; and*
- (11) *Shall not independently bill any patient or other payer for services rendered by the athletic trainer.*

SECTION 4. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) *To be certified by the board as an athletic trainer, an applicant shall:*
 - (a) *Submit a completed application form with the required fee on a form prescribed by the board;*
 - (b) *Be of good character and reputation; and*
 - (c)
 - 1. *Be certified and in good standing as an athletic trainer by the National Athletic Trainers Association Board of Certification, Inc., or its successor; or*
 - 2. *Be authorized to practice as an athletic trainer in another state and be in good standing in that state, if that state has standards equivalent to those of this Commonwealth.*
- (2) *Any person who is issued initial certification as an athletic trainer shall be registered for three (3) years, or for the completion of the current three (3) year cycle. The person shall then apply to the board for triennial renewal and shall submit all information requested by the board and pay a renewal fee as prescribed by the board.*
- (3) *No person shall hold himself or herself out as an athletic trainer or perform any of the activities of an athletic trainer as prescribed in KRS 311.900 to 311.928, without first obtaining a certificate under KRS 311.900 to 311.928.*
- (4) *Nothing in this section shall be construed to limit:*
 - (a) *The activities, services, and use of title on the part of a person in the employ of the federal government, to the extent the person is operating within the specific parameters of that employment; or*
 - (b) *The activities or services of a student athletic trainer or someone in a similar educational position, if the service is not for compensation and is carried out under the supervision of a physician and a certified athletic trainer certified under KRS 311.900 to 311.928.*
- (5) *Upon petition to the board, certified athletic trainers may be granted inactive status for a period of time not to exceed three (3) years. Certified athletic trainers shall not practice athletic training while under inactive status. Inactive athletic trainers may apply for an active certificate after paying a fee as prescribed in administrative regulations promulgated by the board.*
- (6) *Persons who are certified by the board and are in good standing as athletic trainers on the effective date of this Act shall be automatically certified under KRS 311.900 to 311.928 without meeting the requirements of subsection (1) of this section.*

SECTION 5. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) *If the executive director of the board, based upon verified information contained in the application, determines that an applicant is eligible for certification as an athletic trainer under this section, the executive director may issue to the applicant, on behalf of the board, a temporary certificate. The temporary certificate shall be nonrenewable and shall entitle the holder to practice as an athletic trainer for a*

maximum of six (6) months from the date of issuance, unless the temporary certificate is canceled by the executive director. The executive director may cancel the temporary certificate:

- (a) *At any time, without a hearing, for reasons deemed sufficient after appropriate consultation with the president of the board;*
 - (b) *Immediately, upon direction by the board; or*
 - (c) *Upon the board's denial of the holder's application for a regular certificate.*
- (2) *The executive director shall present to the board the application for certification made by the holder of the temporary certificate. If the board issues a regular certificate to the holder of a temporary certificate, the fee paid in connection with the temporary certificate shall be applied to the regular certificate fee.*
- (3) *If the executive director cancels a temporary certificate, he or she shall promptly notify, by United States certified mail, the holder of the temporary certificate at the last known address on file with the board. The temporary certificate shall be terminated and of no further force or effect three (3) days after the date the notice was sent by certified mail.*

SECTION 6. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may revoke, suspend, deny, decline to renew, limit, or restrict the certification of an athletic trainer or may impose fines of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) per violation including for the costs of any proceedings; reprimand; or place an athletic trainer on probation for no more than five (5) years upon proof that the athletic trainer:*
- (a) *Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for certification or renewal thereof;*
 - (b) *Practiced or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for certification;*
 - (c) *Has been convicted by any court of a misdemeanor offense involving moral turpitude or convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States;*
 - (d) *Has become addicted to or is an abuser of alcohol, drugs, or any illegal substances;*
 - (e) *Developed a physical or mental disability or other condition that presents a danger in continuing to provide athletic training services to patients, the public, or other health care personnel;*
 - (f) *Knowingly made, caused to be made, or aided or abetted in the making of a false statement in any document executed in connection with the practice of athletic training;*
 - (g) *Performed any act or service as an athletic trainer without proper supervision by a licensed physician;*
 - (h) *Exceeded the scope of medical services or procedures described by the supervising physician in the application required under Section 3 of this Act;*
 - (i) *Aided, assisted, or abetted another in the unlawful practice of medicine, osteopathy, chiropractics, or any healing art, including the unlawful practice of athletic training;*
 - (j) *Willfully violated a confidential communication;*
 - (k) *Performed the services of an athletic trainer in an unprofessional, incompetent, or grossly or chronically negligent manner;*
 - (l) *Has been removed, suspended, expelled, or placed on probation by any health care facility for unprofessional conduct, incompetence, negligence, or violation of any provision of KRS 311.900 to 311.928;*
 - (m) *Violated any applicable provision of an administrative regulation relating to athletic training practice;*

- (n) *Violated any term of probation or other disciplinary order issued by the board or an agreed order defined in KRS 311.550;*
 - (o) *Failed to complete the required number of hours of approved continuing education; or*
 - (p) *Willfully violated any provision of KRS 311.900 to 311.928 or acted outside of the certified athletic trainer's scope of practice.*
- (2) *All disciplinary proceedings against an athletic trainer shall be conducted in accordance with the provisions of KRS 311.591, 311.592, 311.593, and 311.599; KRS Chapter 13B; and any related administrative regulations promulgated under KRS Chapter 311, except that the provisions which apply to physicians shall apply to athletic trainers.*
 - (3) *Notwithstanding any of the requirements for certification established by KRS 311.900 to 311.928, the board, after providing the applicant with reasonable notice of its intended action and a reasonable opportunity to be heard, may deny certification to an applicant without a prior evidentiary hearing upon a finding that the applicant has violated any provisions of KRS 311.900 to 311.928 or is otherwise unfit to practice. Orders denying certification may be appealed pursuant to KRS 311.593.*
 - (4) *The board may impose restrictions on the scope of practice of an athletic trainer after providing the applicant with reasonable notice of its intended action and a reasonable opportunity to be heard. The Athletic Trainer Advisory Council may make recommendations on such restrictions.*
 - (5) *The provisions of this chapter shall not be construed as preventing or restricting the practices, services, or activities of a person licensed in accordance with the provisions of another law of the Commonwealth from engaging in the profession or occupation for which he or she is licensed.*

SECTION 7. A NEW SECTION OF KRS 311.900 TO 311.928 IS CREATED TO READ AS FOLLOWS:

- (1) *At any time when an inquiry panel established under KRS 311.591 has probable cause to believe that an athletic trainer has violated the terms of an agreed order as defined in KRS 311.550 or a disciplinary order, or that an athletic trainer's practice constitutes a danger to the health, welfare, or safety of his or her patients or the general public, the inquiry panel may issue an emergency order in accordance with KRS 13B.125 suspending, limiting, or restricting the athletic trainer's certification.*
- (2) *For the purposes of a hearing conducted under KRS 13B.125 on an emergency order issued under this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.*
- (3) *An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the emergency hearing or the emergency order shall become void.*
- (4) *An order of temporary suspension, restriction, or limitation shall not be maintained after a final order as defined in KRS 311.550 is served on the charged athletic trainer pursuant to the proceeding on the complaint. An appeal of an emergency order shall not prejudice the board from proceeding with the complaint.*

Section 8. KRS 311.928 is amended to read as follows:

No provision of KRS 311.900 to ~~311.928~~~~[311.926]~~ shall be construed so as to limit or prevent any person duly licensed or certified under the laws of this state from practicing the profession for which he was licensed or certified.

Section 9. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement

or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

- (4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10)
 - (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
 - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11)
 - (a)
 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
 - (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
 - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (21) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (22) Any person who violates *subsection (3) of Section 4 of this Act* ~~KRS 311.914~~ shall be guilty of a violation.
- (23) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (24)
 - (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;
 - (b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
- (25) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (26) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (27) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (28) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (29) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).

Section 10. The following KRS sections are repealed:

- 311.902 Advisory Council on Athletic Trainers -- Appointment -- Removal -- Vacancies.
- 311.904 Organization -- Meetings -- Quorum.
- 311.906 Council to serve without compensation -- Reimbursement for expenses.
- 311.908 Certification by Board of Medical Licensure.
- 311.910 Records -- Roster of certified athletic trainers.
- 311.912 Fees.
- 311.914 Acting as athletic trainer without certification prohibited.
- 311.916 Applicant qualifications -- Nonresident applicants -- Reciprocal licensing.
- 311.918 Application -- Certificate -- Temporary certificate.
- 311.920 Grounds for refusal to issue certificate, suspension or revocation.
- 311.922 Hearing on denial of application.
- 311.924 Appeal to District Court.

311.926 Certificates to persons actively engaged as athletic trainer on June 17, 1978.

Approved April 24, 2006.