

CHAPTER 30

(HB 109)

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 ~~licensed~~~~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 ~~licensed~~~~certified~~ athletic trainer may use physical modalities, such as heat, light, sound, cold, or electricity, or mechanical devices. A ~~licensed~~~~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) "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.

➔Section 2. KRS 311.901 is amended to read as follows:

- (1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the ~~licensure~~~~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 ~~licensed~~~~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, composed 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 ~~licensure~~~~certifications~~;
 - (b) ~~Licensure~~~~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 ~~licensed~~~~certified~~ athletic trainers who shall each be selected by the board from a list of three (3) ~~licensed~~~~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. KRS 311.903 is amended to read as follows:

A ~~licensed~~~~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 ~~licensed~~~~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. KRS 311.905 is amended to read as follows:

- (1) To be **licensed**~~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 **licensure**~~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 **license**~~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 **licensed**~~certified~~ athletic trainer **licensed**~~certified~~ under KRS 311.900 to 311.928.
- (5) Upon petition to the board, **licensed**~~certified~~ athletic trainers may be granted inactive status for a period of time not to exceed three (3) years. **Licensed**~~Certified~~ athletic trainers shall not practice athletic training while under inactive status. Inactive athletic trainers may apply for an active **license**~~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 July 12, 2006, shall be automatically **licensed**~~certified~~ under KRS 311.900 to 311.928 without meeting the requirements of subsection (1) of this section.

➔Section 5. KRS 311.907 is amended 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 **licensure**~~certification~~ as an athletic trainer under this section, the executive director may issue to the applicant, on behalf of the board, a temporary **license**~~certificate~~. The temporary **license**~~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 **license**~~certificate~~ is canceled by the executive director. The executive director may cancel the temporary **license**~~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 **license**~~certificate~~.
- (2) The executive director shall present to the board the application for **licensure**~~certification~~ made by the holder of the temporary **license**~~certificate~~. If the board issues a regular **license**~~certificate~~ to the holder of a temporary **license**~~certificate~~, the fee paid in connection with the temporary **license**~~certificate~~ shall be applied to the regular **license**~~certificate~~ fee.

- (3) If the executive director cancels a temporary *license*~~[certificate]~~, he or she shall promptly notify, by United States certified mail, the holder of the temporary *license*~~[certificate]~~ at the last known address on file with the board. The temporary *license*~~[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. KRS 311.909 is amended to read as follows:

- (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the *license*~~[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 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 *licensure*~~[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 *licensure*~~[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 KRS 311.903;
 - (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 *licensed*~~[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 *licensure*~~[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 *licensure*~~[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 *licensure*~~[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 Trainers 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. KRS 311.911 is amended 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 *license*~~[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 160.445 is amended to read as follows:

- (1) (a) The Kentucky Board of Education or organization or agency designated by the board to manage interscholastic athletics shall require each interscholastic coach to complete a sports safety course consisting of training on how to prevent common injuries. The content of the course shall include but not be limited to emergency planning, heat and cold illnesses, emergency recognition, head injuries including concussions, neck injuries, facial injuries, and principles of first aid. The course shall also be focused on safety education and shall not include coaching principles.
- (b) The state board or its agency shall:
 - 1. Establish a minimum timeline for a coach to complete the course;
 - 2. Approve providers of a sports safety course;
 - 3. Be responsible for ensuring that an approved course is taught by qualified professionals who shall either be ~~certified~~ athletic trainers, registered nurses, physicians, or physician's assistants licensed to practice in Kentucky; and
 - 4. Establish the minimum qualifying score for successful course completion.
- (c) A course shall be reviewed for updates at least once every thirty (30) months and revised if needed.
- (d) A course shall be able to be completed through hands-on or online teaching methods in ten (10) clock hours or less.
- (e)
 - 1. A course shall include an end-of-course examination with a minimum qualifying score for successful course completion established by the board or its agency.
 - 2. All coaches shall be required to take the end-of-course examination and shall obtain at least the minimum qualifying score.
- (f) Beginning with the 2009-2010 school year, and each year thereafter, at least one (1) person who has completed the course shall be at every interscholastic athletic practice and competition.
- (2) (a) Beginning with the 2012-2013 school year, and each year thereafter, the state board or its agency shall require each interscholastic coach to complete training on how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person suspected of having a concussion.

The training shall be approved by the state board or its agency and may be included in the sports safety course required under subsection (1)(a) of this section.

- (b) The board or its agency shall develop guidelines and other pertinent information or adopt materials produced by other agencies to inform and educate student athletes and their parents or legal guardians of the nature and risk of concussion and head injury, including the continuance of play after concussion or head injury. Any required physical examination and parental authorization shall include acknowledgement of the education information required under this paragraph.
 - (c) Upon request, the board or its agency shall make available to the public any training materials developed by the board or agency used to satisfy the requirements of paragraph (a) of this subsection. The board or its agency shall not be held liable for the use of any training materials so disseminated.
- (3) (a) A student athlete suspected by an interscholastic coach, school athletic personnel, or contest official of sustaining a concussion during an athletic practice or competition shall be removed from play at that time and shall not return to play prior to the ending of the practice or competition until the athlete is evaluated to determine if a concussion has occurred. The evaluation shall be completed by a physician or a licensed health care provider whose scope of practice and training includes the evaluation and management of concussions and other brain injuries. A student athlete shall not return to play on the date of a suspected concussion absent the required evaluation.
- (b) A student athlete may return to play if it is determined no concussion has occurred.
 - (c) A student athlete deemed to be concussed shall not return to participate in any athletic practice or competition occurring on the day of the injury. The injured student athlete shall not be allowed to participate in any subsequent practice or athletic competition unless written clearance from a physician is provided.
- (4) (a) The state board or its agency shall adopt rules governing interscholastic athletics conducted by local boards of education to require each school that participates in interscholastic athletics to develop a venue-specific emergency action plan to deal with serious injuries and acute medical conditions in which the condition of the patient may deteriorate rapidly. The plan shall:
- 1. Include a delineation of role, methods of communication, available emergency equipment, and access to and plan for emergency transport; and
 - 2. Be in writing, reviewed by the principal of the school, distributed to all appropriate personnel, posted conspicuously at all venues, and reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletics.
- (b) Each school shall submit annual written verification of the existence of a venue-specific emergency action plan to the state board or its agency.
- (5) Each school shall maintain complete and accurate records of its compliance with this section and shall make the records available for review by the state board or its agency upon request.

➔Section 9. KRS 319B.090 is amended to read as follows:

Nothing in this chapter or in the administrative regulations promulgated by the board pursuant to this chapter shall be interpreted to limit or restrict:

- (1) A licensed health care practitioner or provider from engaging in the full scope of practice authorized by the license for that person's profession, training, or services;
- (2) A person licensed as a physical therapist under KRS Chapter 327 or as an occupational therapist under KRS Chapter 319A from engaging in that person's profession pursuant to his or her education and training;
- (3) A person ~~licensed~~^{certified} as an athletic trainer under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (4) A person licensed as a physician under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (5) A person licensed as a chiropractor under KRS Chapter 312 from engaging in that person's profession pursuant to his or her education and training;

- (6) A person licensed as a pharmacist under KRS Chapter 315 from engaging in that person's profession pursuant to his or her education and training;
- (7) A person certified as a therapeutic shoe fitter by a nationally recognized board from engaging in that person's profession pursuant to his or her education and training and within that person's scope of practice as defined by the certifying board;
- (8) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting, or adjusting any noncustom fabricated and fitted device including but not limited to over-the-counter devices, so long as such individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical condition, and so long as such individual meets one (1) of the following criteria for the device:
 - (a) Documented training from a manufacturer or training from a licensed or certified orthotist, prosthetist, or pedorthist;
 - (b) Certification or registration as a fitter of orthotic, prosthetic, or pedorthic devices from a nationally recognized board or association such as the Board of Certification/Accreditation, International (BOC), the National Community Pharmacists Association (NCPA), or the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC); or
 - (c) Direct supervision by a trained and experienced, or certified, or registered, fitter of orthotic, prosthetic, or pedorthic devices; or
- (9) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting, or adjusting any noncustom fabricated and fitted pedorthic devices including but not limited to diabetic shoes, so long as the individual meets the criteria of either subsection (8)(a) or (8)(b) of this section, and so long as the individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical problem.

Signed by Governor March 19, 2013.