

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PHYSICAL THERAPY [49 PA. CODE CH. 40]

Athletic Trainers; Class A and B Certification

The State Board of Physical Therapy (Board), amends its regulations in §§ 40.72, 40.75, 40.81—40.84, 40.86—40.88, 40.101 and 40.102 pertaining to athletic trainers to read as set forth in Annex A.

A. Effective Date

These amendments are effective upon publication in the *Pennsylvania Bulletin*.

B. Background

Notice of proposed rulemaking was published at 25 Pa.B. 2278 (June 10, 1995) following which the Board accepted public comment for 30 days. Approximately 217 persons and organizations submitted written comments regarding the proposed amendments. Commentators included the Pennsylvania Physical Therapy Association and the Pennsylvania Athletic Trainers Society and athletic trainers. Comments were also received from the House Committee on Professional Licensure (House Committee) and the Independent Regulatory Review Commission (IRRC). The Senate Committee on Consumer Protection and Professional Licensure (Senate Committee) reserved its comments.

Final regulations were delivered to IRRC and the House and Senate Committees in September 1996. The Board addressed several issues raised on the proposed rulemaking but several issues remained unresolved. IRRC sent a list of specific questions to the Board that still needed to be addressed. The rulemaking was thereafter withdrawn by the Department for further review. The Athletic Trainer Advisory Committee consulted with IRRC staff in developing final language to address commentators' concerns and, thereafter, in accordance with section 10.2(a) of the Physical Therapy Practice Act (act) (63 P. S. § 1310.2(a)), recommended final rulemaking.

C. Consideration of Comments to Proposed Rulemaking

The following is a section by section analysis of the comments, the Board's response to comments and the changes made from proposed to final rulemaking. The Board developed its response to commentators with the advice and consultation of the Athletic Trainers Advisory Committee.

§ 40.72. Definitions

Currently, in § 40.72(iv) "amateur athletic organization" is defined as one which requires documentation of a preparticipation medical examination as a condition of participation in its activities. As proposed, the Board intended to also include an organization which did not require this documentation but which by policy required documentation of medical examinations when athletes sustained injuries during its activities. Several commentators opposed the phrase "during the event" as unduly restrictive. IRRC recommended clarifying language to respond to this concern. The Board has revised the

language to clarify its intent to broaden the range of organizations that will meet the requirements to be classified as an amateur athletic organization. The Board intends the scope of the language to include pre-, during and post-event activity, so that "relating to an athletic event" will include the athlete's preparation and participation in the event as well as subsequent activity.

As proposed, the definition of "athletic trainer" clarified that athletic trainers provide services to athletes, not to athletic programs. At the suggestion of IRRC, the Board deletes "limits the rendering of" and amends the phrase to read "provides athletic training services." The Board does not believe this change will significantly affect the intent of the section and will serve to clarify it.

Also, as suggested by IRRC, the Board is amending the definition to authorize an athletic trainer to provide services under the direction of a dentist or podiatrist as well as a physician.

IRRC also suggested that the Board consider adding additional definitions of "professional organization" and "educational institution," the two other entities for which certified athletic trainers provide services to athletes. IRRC reasoned that the definitions would be important if the Board places different restrictions on the type of services that may be provided at different events. The Board responds that it does not intend to regulate the practice of the athletic trainer based on the location in which the services are provided.

The Board also added a definition of "NATABOC" and included a doctor of osteopathy in the definition of "physician."

§ 40.82. Application for Certification

The Board had proposed to add the phrase "unless otherwise has met the requirements as stated in § 40.83," as an exception to the existing requirement that an applicant be 20 years of age. IRRC questioned the purpose of the amendment as proposed since § 40.83 lists the qualifications that must be met to obtain Class A certification. IRRC questioned the need for a minimum age requirement, or alternatively recommended that, if the Board elects to retain the minimum age requirement, the proposed phrase be deleted. In promulgating the original athletic trainer certification requirement, the Board adopted the requirement of § 40.12 of the regulations for the licensure of physical therapists. However, if a person did meet the requirement before the age of 20, the Board would review a request for waiver. In accordance with the IRRC recommendation, the phrase is deleted in the final-form regulations.

§ 40.83. Class A Certification

Currently, § 40.83 permits applicants to meet the education and training requirements for Class A certification through either an accredited education program or an internship program. The Board proposed to revise the standards for alternatives to completing an accredited program. The amendment was intended to provide two acceptable avenues to students pursuing a career in athletic training: a curriculum-based educational program or a nonaccredited internship program. IRRC suggested that the changes in § 40.83(1)(ii) would not clearly identify the requirements for the two types of programs. IRRC also asked the Board to consider adopting NATABOC standards. In response to IRRC's concerns, the

Board has restructured the subsection to adopt NATABOC standards and clearly identify the requirements of each option.

§ 40.84. Class B Certification

Commentators supported the deletion of Class B certification to bring the Commonwealth's certification in line with National standards. However, IRRC suggested that the Board consider further amending § 40.84 to provide a procedure by which Class B certifications could be upgraded to Class A. The Board agrees with IRRC and has added language authorizing Class B athletic trainers who desire to become Class A athletic trainers and who meet the qualifications in § 40.83 to submit an application with the Board.

§ 40.87. Scope of Duties

As proposed, § 40.87 was reorganized with separate scope of duties for Class A and Class B certifications. IRRC recommended that the Board provide a clear distinction of what duties may be performed by Class A and Class B athletic trainers, under what circumstances those duties may be performed, and any limitations or restrictions if different standards of practice are imposed in different practice settings. In response, the Board notes that Class A athletic trainers may provide therapeutic exercise and therapeutic modalities, including heat, light, cold, sound, electricity or mechanical devices in treating athletes, while a Class B athletic trainer may not provide therapeutic exercise or therapeutic modalities.

Emergency Care

Commentators, including the Pennsylvania Physical Therapy Association and IRRC, suggested that the authority under § 40.87(a)(2) and (b)(2) to provide emergency care be clarified to indicate that an athletic trainer may provide emergency care, including foot and oral trauma to athletes, provided this care is "within the scope of the training and education of an athletic trainer." The Board has adopted this change.

The Board has also amended language to authorize Class A and B athletic trainers to provide care under the direction of a podiatrist or dentist as well as a physician.

§ 40.88. Direction and Recordkeeping

The Board had proposed to move the requirement of physician supervision to a new § 40.88 and rename the heading of "physician direction." The Board also proposed a new subsection (b) requiring documentation of physician direction by written policies and procedures.

A commentator suggested that athletic trainers should be permitted to take direction from a podiatrist and dentist, noting that the trainer has an accepted role in providing emergency care for foot and oral trauma and that follow-up care is often required. IRRC also suggested that the Board consider this addition for podiatrists, given the education and licensing requirements to become a podiatrist. The Board adopted these suggestions in § 40.88 allowing athletic trainers to provide services to athletes under the direction of dentists and podiatrists for conditions within the athletic trainer's scope of duties.

At the suggestion of IRRC, the proposed phrase "unless otherwise permitted by statute" in § 40.88(a) is deleted, because no statute currently permits the practice.

IRRC found unclear the language "maintains written policies and procedures" in relation to documenting physician direction. IRRC questioned whether the intent in this paragraph is to require athletic trainers to keep a log of the physician directions. The Board does not intend to

specify the contents of recordkeeping. However, athletic trainers must practice in accordance with standard operating procedures developed and agreed upon by a physician and an athletic trainer. Thus, the Board has changed the terminology to clarify this point.

The Board has changed the title of this section to "Direction and Standard Operating Procedures" to reflect more accurately the scope of this section.

D. Compliance with Executive Order 1996-1, Regulatory Review and Promulgation

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directive of Executive Order 1996-1, Regulatory Review and Promulgation. The final-form regulations address a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

E. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 25 Pa.B. 2278 to IRRC and to the House Committee and Senate Committee for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Board has provided IRRC and the House and Senate Committees with a copy of the comments received as well as other documentation.

In preparing these final-form regulations, the Board has considered comments received from IRRC and the House and Senate Committees and the public.

On May 2, 1997, the Board delivered its final-form regulations to IRRC and the House and Senate Committees.

These final-form regulations were disapproved by the House Committee on May 14, 1997, and approved by the Senate Committee on May 13, 1997. IRRC met on May 22, 1997, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

F. Fiscal Impact

These final-form regulations will have no fiscal impact upon the Commonwealth, local governments or the public.

G. Paperwork Requirements

These final-form regulations will not necessitate any legal, accounting, reporting or other paperwork requirements.

H. Sunset Date

The Board continually monitors the effectiveness of its regulations through communications with the regulated population; accordingly, no sunset date has been set.

I. Statutory Authority

The final-form regulations are adopted under sections 3(a) and 10.2 of the act, which provide the Board with authority to pass upon the qualifications of applicants for certification as athletic trainers and to adopt regulations concerning the certification, renewal, revocation or suspension of athletic trainers.

J. Additional Information

Individuals who desire information are invited to submit inquiries to Beth Sender Michlovitz, Counsel, State Board of Physical Therapy, Post Office Box 2649, Harrisburg, PA 17105-2649, (717) 783-7134.

K. Findings

The Board hereby finds that:

(1) Public notice of the Board's intention to adopt the regulations were given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This amendment does not enlarge the purpose of proposed rulemaking published at 25 Pa.B. 2278.

(4) The final-form regulations adopted herein are necessary and appropriate for the administration of sections 3 and 10.2 of the act.

L. Order

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 40, are amended by amending §§ 40.72, 40.75, 40.81—40.84, 40.87, 40.101 and 40.102; by deleting § 40.86; and by adding § 40.88 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(c) The Board shall certify this order and Annex A and shall deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* as required by law.

(d) This order and Annex A shall take effect upon publication in the *Pennsylvania Bulletin*.

BARBARA A. AFFLERBACH,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 2790 (June 7, 1997).)

Fiscal Note: 16A-377. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY

**Subchapter B. ATHLETIC TRAINERS
GENERAL PROVISIONS**

§ 40.72. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Physical Therapy Practice Act (63 P. S. §§ 1301—1313).

Amateur athletic organization—An organization which meets the following criteria:

(i) Has officially designated coaches who have the responsibility for the athletic activities of the organization.

(ii) Has a regular schedule of practices or workouts which are supervised by the officially designated coaches.

(iii) Has an established schedule of competitive events or exhibitions.

(iv) Has a policy requiring documentation of having passed a preparticipation medical examination by a licensed physician as a condition for participation in the athletic activities of the organization, or documentation of having athletes who sustain injuries relating to an athletic event be examined by a physician.

Athletic trainer—A person who has been certified as an athletic trainer under § 40.83 or § 40.84 (relating to Class A certification; and Class B certification), and who, under the direction of a licensed physician, dentist or podiatrist, provides athletic training services to athletes who participate in an athletic activity which is conducted by an educational institution, professional athletic organization or amateur athletic organization.

Athletic training—The prevention and management of injuries to athletes in accordance with the classification at which the athletic trainer is certified.

Board—The State Board of Physical Therapy.

CEU—Continuing Education Unit, whereby one unit is granted for every 10 hours of required study.

Class A certification examination—The certification examination prepared and administered by NATA, as revised after 1984.

Committee—The Athletic Trainer Advisory Committee created by section 10.1 of the act (63 P. S. § 1310.1).

Conditioning—Programs designed to enhance an athlete's physiological flexibility, muscle strength and endurance, neuromuscular coordination and cardio-respiratory endurance that will assist in improving performance specific to the sport in which the athlete participates.

Direction—The opportunity or ability of the physician to provide or exercise control over the actions of the athletic trainer except that physical presence of the physician is not required if the physician is readily available for consultation by direct communications, radio, telephone or telecommunications.

NATA—The National Athletic Trainer's Association, Inc.

NATABOC—National Athletic Trainers Board of Certification, Inc.

Physician—A medical doctor or doctor of osteopathy.

§ 40.75. Listing of Board-approved programs.

A current listing of approved athletic training educational programs in this Commonwealth under § 40.83 will be maintained by the Board.

CERTIFICATION

§ 40.81. Certification of athletic trainers; practice; names.

(a) Athletic trainers in this Commonwealth will be certified by the Board as follows:

(1) By the issuance of a Class A certificate to an applicant who meets the requirements of certification under § 40.83 (relating to Class A certification).

(2) By the issuance of a temporary certificate to an applicant who meets the requirements under §§ 40.101—40.103 (relating to temporary certificates).

(b) No person may represent himself as a certified athletic trainer in this Commonwealth unless the person is certified by the Board under section 10.2 of the act (63 P. S. § 1310.2) and this subchapter.

(c) No person or business entity may utilize in connection with a business name or activity the words "certified athletic trainer" or "certified athletic training," the letters "C.A.T." or similar words and related abbreviations which imply that certified athletic training services are being provided unless the services are provided by a certified athletic trainer under the act and this subchapter.

§ 40.82. Application for certification.

The applicant shall submit evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met the following criteria:

- (1) Is at least 20 years of age.
- (2) Is of good moral character.
- (3) Is not addicted to alcohol or hallucinogenic, narcotic or other drugs which tend to impair judgment or coordination.
- (4) Has the professional requirements for Class A certification under § 40.83 (relating to Class A certification).

§ 40.83. Class A certification.

An applicant for Class A certification shall submit evidence of meeting one of the following groups of requirements:

- (1) The applicant has accomplished the following:
 - (i) Received a baccalaureate degree from a regionally accredited institution of higher education in the United States.
 - (ii) Has successfully completed the certification examination administered by the NATABOC.
 - (iii) Fulfilled either:
 - (A) The requirements of an educational program that meets the standards of the NATABOC.
 - (B) The requirements of an internship route for certification as delineated by the NATABOC.
- (2) The applicant holds a valid license, certificate or registration to practice athletic training in another State or territory of the United States or the District of Columbia if:
 - (i) The requirements for licensure, certification or registration in that jurisdiction were, on the date of issuance, substantially equal to the requirements in paragraph (1).
 - (ii) The jurisdiction accords similar privileges to persons certified in this Commonwealth.

§ 40.84. Previously issued Class B certificates.

- (a) A certified Class B athletic trainer who desires to become a Class A certified athletic trainer who meets the qualifications in § 40.83 (relating to Class A certification) may submit an application to the Board.
- (b) Previously issued Class B certificates will remain valid and will be renewable in accordance with § 40.131 (relating to renewal of certificate.)

§ 40.86. (Reserved).

§ 40.87. Scope of duties.

(a) *Class A certification.* A person holding Class A certification for athletic training may, under the direction of a physician, podiatrist or dentist, provide therapeutic care to injured athletes by utilizing modalities such as heat, light, sound, cold, electricity or mechanical devices; may provide therapeutic exercise; and may:

(1) Prevent injuries to athletes through the administration of conditioning and assessment procedures which determine physical capacity for participation in athletic activities.

(2) Provide emergency care including care of foot and oral trauma within the scope of training and education of the athletic trainer.

(3) Perform tests and measurements within the scope of athletic training necessary to evaluate injuries to athletes.

(4) Provide physical support for athletic activity by utilizing conventions such as braces or tape.

(5) Administer normal exercise for reconditioning an athlete.

(b) *Class B certification.* A person holding Class B certification for athletic training may, under the direction of a physician, podiatrist or dentist, provide the following services:

(1) Prevent injuries to athletes through the administration of conditioning and assessment procedures which determine physical capacity for participation in athletic activities.

(2) Provide emergency care including care of foot and oral trauma within the scope of training and education of the athletic trainer.

(3) Perform tests and measurements within the scope of athletic training necessary to evaluate injuries to athletes.

(4) Provide physical support for athletic activity by utilizing conventions such as braces or tape.

(5) Administer normal exercise for reconditioning an athlete.

(6) Apply cold or superficial heat in the prevention or treatment of injuries.

§ 40.88. Direction and standard operating procedures.

(a) A certified athletic trainer may provide athletic training services only under the direction of a physician, a dentist or a podiatrist for the treatment of conditions that are within the scope of duties of athletic training.

(b) An athletic trainer shall practice in accordance with standard operating procedures developed in agreement with a physician, dentist or podiatrist and an athletic trainer.

TEMPORARY CERTIFICATES

§ 40.101. Temporary certificates; applicants for examination.

(a) The Board will issue temporary certificates to applicants who have applied to take the certification examination under § 40.83 (relating to Class A certification), if the applications for temporary certification are made on forms supplied by the Board and if the applicant meets the following requirements:

(1) Fulfills, to the satisfaction of the Board, the requirements to take the examination under § 40.85(a) (relating to Class A certification examination).

(2) Works only under the direct supervision of an athletic trainer who is certified at Class A after receiving a temporary certificate. For the purposes of this paragraph, the term "direct supervision" means the opportunity or ability of the athletic trainer to exercise control over the actions of the temporary certificate holder.

(b) Temporary certificates issued under this section shall expire and be surrendered to the Board immediately upon failure of the first examination. An extension until the release of the results of the second examination may be granted at the Board's discretion.

§ 40.102. Temporary certificates issued at the Board's discretion.

The Board may issue a temporary certificate to an individual who has applied to be certified under § 40.83

(relating to Class A certification) but whose employment within this Commonwealth begins prior to the time of approval of the endorsement application. A temporary certificate issued under this section will expire 120 days after the date of issuance unless the Board, in its discretion, grants an extension.

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