

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-387
SENATE BILL 660

AN ACT TO LICENSE ATHLETIC TRAINERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 34.

"Athletic Trainers.

"§ 90-522. Title; purpose.

- (a) This Article may be cited as the 'Athletic Trainers Licensing Act'.
(b) The practice of athletic trainer services affects the public health, safety, and welfare. Licensure of the practice of athletic trainer services is necessary to ensure minimum standards of competency and to provide the public with safe athletic trainer services. It is the purpose of this Article to provide for the regulation of persons offering athletic trainer services.

"§ 90-523. Definitions.

The following definitions apply in this Article:

- (1) Athletic trainer. – A person who, under a written protocol with a physician licensed under Article 1 of Chapter 90 of the General Statutes and filed with the North Carolina Medical Board, carries out the practice of care, prevention, and rehabilitation of injuries incurred by athletes, and who, in carrying out these functions, may use physical modalities, including heat, light, sound, cold, electricity, or mechanical devices related to rehabilitation and treatment. A committee composed of two members of the North Carolina Medical Board and two members of the North Carolina Board of Athletic Trainer Examiners shall jointly define by rule the content, format, and minimum requirements for the written protocol required by this subdivision. The members shall be selected by their respective boards. The decision of this committee shall be binding on both Boards unless changed by mutual agreement of both Boards.
- (2) Board. – The North Carolina Board of Athletic Trainer Examiners as created by G.S. 90-524.
- (3) License. – A certificate that evidences approval by the Board that a person has successfully completed the requirements set forth in G.S.

90-528 entitling the person to perform the functions and duties of an athletic trainer.

- (4) Athletes.—Members of sports teams, including professional, amateur, and school teams; or participants in sports or recreational activities, including training and practice activities, that require strength, agility, flexibility, range of motion, speed, or stamina.

"§ 90-524. Board of Examiners created.

(a) The North Carolina Board of Athletic Trainer Examiners is created.

(b) Composition and Terms. – The Board shall consist of seven members who shall serve staggered terms. Four members shall be athletic trainers certified by the National Athletic Trainers' Association Board of Certification, Inc. One member shall be a licensed orthopedic surgeon, one member shall be a licensed family practice physician or pediatrician, and one member shall represent the public at large.

The initial Board members shall be selected on or before August 1, 1997, as follows:

- (1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint two certified athletic trainers and an orthopedic surgeon. The certified athletic trainers shall serve for terms of three years, and the orthopedic surgeon shall serve for a term of one year.
- (2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint two certified athletic trainers and a family practice physician or pediatrician. The certified athletic trainers and the family practice physician or pediatrician shall serve for terms of two years.
- (3) The Governor shall appoint for a three-year term a public member to the Board.

Upon the expiration of the terms of the initial Board members, each member shall be appointed for a term of three years and shall serve until a successor is appointed. No member may serve more than two consecutive full terms.

(c) Qualifications. – The athletic trainer members shall hold current licenses and shall reside or be employed in North Carolina. They shall have at least five years' experience as athletic trainers, including the three years immediately preceding appointment to the Board, and shall remain in active practice and in good standing with the Board as a licensee during their terms. The first athletic trainers appointed to the Board pursuant to this section shall be eligible for licensure under G.S. 90-529 and, upon appointment, shall immediately apply for a license.

(d) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms of Board members appointed by the General Assembly shall be filled in accordance with G.S. 120-122 and shall be filled within 45 days after the vacancy occurs. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(e) Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary

proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved.

(f) Compensation. – Each member of the Board shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 93B-5.

(g) Officers. – The officers of the Board shall be a chair, who shall be a licensed athletic trainer, a vice-chair, and other officers deemed necessary by the Board to carry out the purposes of this Article. All officers shall be elected annually by the Board for one-year terms and shall serve until their successors are elected and qualified.

(h) Meetings. – The Board shall hold at least two meetings each year to conduct business and to review the standards and rules for improving athletic training services. The Board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of Board members constitutes a quorum.

"§ 90-525. Powers of the Board.

The Board shall have the power and duty to:

- (1) Administer this Article.
- (2) Issue interpretations of this Article.
- (3) Adopt, amend, or repeal rules as may be necessary to carry out the provisions of this Article.
- (4) Employ and fix the compensation of personnel that the Board determines is necessary to carry into effect the provisions of this Article and incur other expenses necessary to effectuate this Article.
- (5) Examine and determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure.
- (6) Issue, renew, deny, suspend, or revoke licenses and carry out any disciplinary actions authorized by this Article.
- (7) In accordance with G.S. 90-534, set fees for licensure, license renewal, and other services deemed necessary to carry out the purposes of this Article.
- (8) Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining licensees exist.
- (9) Maintain a record of all proceedings and make available to licensees and other concerned parties an annual report of all Board action.
- (10) Develop standards and adopt rules for the improvement of athletic training services in the State.
- (11) Adopt a seal containing the name of the Board for use on all licenses and official reports issued by it.

"§ 90-526. Custody and use of funds; contributions.

(a) All fees payable to the Board shall be deposited in the name of the Board in financial institutions designated by the Board as official depositories and shall be used to pay all expenses incurred in carrying out the purposes of this Article.

(b) The Board may accept grants, contributions, bequests, and gifts that shall be kept in a separate fund and shall be used by it to enhance the practice of athletic trainers.

"§ 90-527. License required; exemptions from license requirement.

(a) On or after January 1, 1998, no person shall practice or offer to practice as an athletic trainer, perform activities of an athletic trainer, or use any card, title, or abbreviation to indicate that the person is an athletic trainer unless that person is currently licensed as provided by this Article.

(b) The provisions of this Article do not apply to:

- (1) Licensed, registered, or certified professionals, such as nurses, physical therapists, and chiropractors if they do not hold themselves out to the public as athletic trainers.
- (2) A physician licensed under Article 1 of Chapter 90 of the General Statutes.
- (3) A person serving as a student-trainer or in a similar position under the supervision of a physician or licensed athletic trainer.
- (4) An athletic trainer who is employed by, or under contract with, an organization, corporation, or educational institution located in another state and who is representing that organization, corporation, or educational institution at an event held in this State.
- (5) Boxing trainers, if they do not hold themselves out to the public as athletic trainers.

"§ 90-528. Application for license; qualifications; issuance.

(a) An applicant for a license under this Article shall make a written application to the Board on a form approved by the Board and shall submit to the Board an application fee along with evidence that demonstrates good moral character and graduation from an accredited four-year college or university in a course of study approved by the Board.

(b) The applicant shall also pass the examination administered by the National Athletic Trainers' Association Board of Certification, Inc.

(c) When the Board determines that an applicant has met all the qualifications for licensure and has submitted the required fee, the Board shall issue a license to the applicant. A license is valid for a period of one year from the date of issuance and may be renewed subject to the requirements of this Article.

"§ 90-529. Athletic trainers previously certified.

The Board shall issue a license to practice as an athletic trainer to a person who applies to the Board on or before August 1, 1998, and furnishes to the Board on a form approved by the Board proof of good moral character, graduation from an accredited four-year college or university in a course of study approved by the Board, and a current certificate from the National Athletic Trainers' Association Board of Certification, Inc.

"§ 90-530. Athletic trainers not certified.

(a) A person who has been actively engaged as an athletic trainer since August 1, 1994, and who continues to practice up to the time of application, shall be eligible for licensure without examination by paying the required fee and by demonstrating the following:

- (1) Proof of good moral character.
- (2) Proof of practice in this State since August 1, 1994.

- (3) Proof of graduation from an accredited four-year college or university in a course of study approved by the Board.
- (4) Fulfillment of any other requirements set by the Board.

An application made pursuant to this section shall be filed with the Board on or before August 1, 1998.

(b) A person is 'actively engaged' as an athletic trainer if the person is a salaried employee of, or has contracted with, an educational institution, an industry, a hospital, a rehabilitation clinic, or a professional athletic organization or another bona fide athletic organization and the person performs the duties of an athletic trainer.

"§ 90-531. Reciprocity with other states.

A license may be issued to a qualified applicant holding an athletic trainer license in another state if that state recognizes the license of this State in the same manner.

"§ 90-532. License renewal.

Every license issued under this Article shall be renewed during the month of January. On or before the date the current license expires, any person who desires to continue practice shall apply for a license renewal and shall submit the required fee. Licenses that are not renewed shall automatically lapse. In accordance with rules adopted by the Board, a license that has lapsed may be reissued within five years from the date it lapsed. A license that has been expired for more than five years may be reissued only in a manner prescribed by the Board.

"§ 90-533. Continuing education.

(a) As a condition of license renewal, a licensee must meet the continuing education requirements set by the Board. The Board shall determine the number of hours and subject matter of continuing education required as a condition of license renewal. The Board shall determine the qualifications of a provider of an educational program that satisfies the continuing education requirement.

(b) The Board shall grant approval to a continuing education program or course upon finding that the program or course offers an educational experience designed to enhance the practice of athletic trainer, including the continuing education program of the National Athletic Trainers' Association.

(c) If a continuing education program offers to teach licensees to perform advanced skills, the Board may grant approval for the program when it finds that the nature of the procedure taught in the program and the program facilities and faculty are such that a licensee fully completing the program can reasonably be expected to carry out those procedures safely and properly.

"§ 90-534. Expenses and fees.

(a) All salaries, compensation, and expenses incurred or allowed to carry out the purposes of this Article shall be paid by the Board exclusively out of the fees received by the Board as authorized by this Article or funds received from other sources. In no case shall any salary, expense, or other obligation of the Board be charged against the State treasury.

(b) The schedule of fees shall not exceed the following:

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| (1) | <u>Issuance of a license</u> | <u>\$100.00</u> |
| (2) | <u>License renewal</u> | <u>50.00</u> |

(3) Reinstatement of lapsed license 75.00

(4) Reasonable charges for duplication services and material.

"§ 90-535. Hiring of athletic trainers by school units.

Local school administrative units may hire persons who are not licensed under this Article. The persons hired may perform the activities of athletic trainers in the scope of their employment but may not claim to be licensed under this Article. The persons hired may not perform the activities of athletic trainers outside the scope of this employment unless they are authorized to do so under G.S. 90-527(b).

"§ 90-536. Disciplinary authority of the Board; administrative proceedings.

(a) Grounds for disciplinary action against a licensee shall include the following:

(1) Giving false information or withholding material information from the Board in procuring a license to practice as an athletic trainer.

(2) Having been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to practice as an athletic trainer or that indicates that the person has deceived or defrauded the public.

(3) Having a mental or physical disability or using a drug to a degree that interferes with the person's fitness to practice as an athletic trainer.

(4) Engaging in conduct that endangers the public health.

(5) Being unfit or incompetent to practice as an athletic trainer by reason of deliberate or negligent acts or omissions regardless of whether actual injury to a patient is established.

(6) Willfully violating any provision of this Article or rules adopted by the Board.

(7) Having been convicted of or pled guilty or no contest to an offense under State or federal narcotic or controlled substance laws.

(b) In accordance with Article 3A of Chapter 150B of the General Statutes, the Board may require remedial education, issue a letter of reprimand, restrict, revoke, or suspend any license to practice as an athletic trainer in North Carolina or deny any application for licensure if the Board determines that the applicant or licensee has committed any of the above acts or is no longer qualified to practice as an athletic trainer. The Board may reinstate a revoked license or remove licensure restrictions when it finds that the reasons for revocation or restriction no longer exist and that the person can reasonably be expected to practice as an athletic trainer safely and properly.

"§ 90-537. Enjoining illegal practices.

If the Board finds that a person who does not have a license issued under this Article claims to be an athletic trainer or is engaging in practice as an athletic trainer in violation of this Article, the Board may apply in its own name to the Superior Court of Wake County for a temporary restraining order or other injunctive relief to prevent the person from continuing illegal practices. The court may grant injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of a violation.

"§ 90-538. Penalties.

A person who does not have a license issued under this Article who either claims to be an athletic trainer or engages in practice as an athletic trainer in violation of this Article is guilty of a Class 1 misdemeanor. Each act of unlawful practice constitutes a distinct and separate offense.

"§ 90-539. Reports; immunity from suit.

A person who has reasonable cause to suspect misconduct or incapacity of a licensee, or who has reasonable cause to suspect that a person is in violation of this Article, shall report the relevant facts to the Board. Upon receipt of a charge, or upon its own initiative, the Board may give notice of an administrative hearing or may, after diligent investigation, dismiss unfounded charges. A person who, in good faith, makes a report pursuant to this section shall be immune from any criminal prosecution or civil liability resulting therefrom.

"§ 90-540. No third-party reimbursement required.

Nothing in this Article shall be construed to require direct third-party reimbursement to persons licensed under this Article."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 8:40 a.m. this 13th day of August, 1997