

No. 2011-123

AN ACT

SB 957

Amending the act of October 5, 1978 (P.L.1109, No.261), entitled "An act requiring the licensing of practitioners of osteopathic medicine and surgery; regulating their practice; providing for certain funds and penalties for violations and repeals," further providing for definitions, for State Board of Osteopathic Medicine, for athletic trainers and for reasons for refusal, revocation or suspension of license.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definitions of "athletic training services," "board-regulated practitioner," "certified athletic trainer," "direction," "referral" and "written protocol" in section 2 of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, amended or added December 10, 2001 (P.L.863, No.93) and July 4, 2008 (P.L.589, No.46), are amended and the section is amended by adding a definition to read:

Section 2. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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"Athletic training services." The management and provision of care of injuries to a physically active person as defined in this act with the direction of a licensed physician. The term includes the rendering of emergency care, development of injury prevention programs and providing appropriate preventative and supporting devices for the physically active person. The term also includes the assessment, management, treatment, rehabilitation and reconditioning of the physically active person whose conditions are within the professional preparation and education of a **[certified] licensed** athletic trainer. The term also includes the use of modalities such as mechanical stimulation, heat, cold, light, air, water, electricity, sound, massage and the use of therapeutic exercises, reconditioning exercise and fitness programs. Athletic training services shall not include surgery, invasive procedures or prescription of any controlled substance.

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"Board-regulated practitioner." An osteopathic physician, physician assistant, respiratory therapist or **[certified] licensed** athletic trainer or an applicant for a license or certificate issued by the board.

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["Certified athletic trainer." A person who is certified to perform athletic training services by the State Board of Medicine or the State Board of Osteopathic Medicine.]

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"Direction." Supervision over the actions of a **[certified] licensed** athletic trainer via referral by prescription to treat conditions for a physically active person from a licensed physician, dentist or podiatrist or written protocol

approved by a supervising physician, dentist or podiatrist, except that the physical presence of the supervising physician, dentist or podiatrist is not required if the supervising physician, dentist or podiatrist is readily available for consultation by direct communication, radio, telephone, facsimile, telecommunications or via other electronic means.

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"Licensed athletic trainer." A person who is licensed to perform athletic training services by the State Board of Medicine or the State Board of Osteopathic Medicine.

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"Referral." An order from a licensed physician, dentist or podiatrist to a [certified] *licensed* athletic trainer for athletic training services. An order may be written or oral, except that an oral order must be reduced to writing within 72 hours of issuance.

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"Written protocol." A written agreement developed in conjunction with one or more supervising physicians which identifies and is signed by the supervising physician and the [certified] *licensed* athletic trainer. It describes the manner and frequency in which the [certified] *licensed* athletic trainer regularly communicates with the supervising physician. It includes standard operating procedures developed in agreement with the supervising physician and [certified] *licensed* athletic trainer that the [certified] *licensed* athletic trainer follows when not directly supervised on site by the supervising physician.

Section 2. Section 2.1(a) of the act, amended July 4, 2008 (P.L.589, No.46), is amended to read:

Section 2.1. State Board of Osteopathic Medicine.

(a) The State Board of Osteopathic Medicine shall consist of the Commissioner of Professional and Occupational Affairs or his designee; the Secretary of Health or his designee; two members appointed by the Governor who shall be persons representing the public at large; one member appointed by the Governor who shall be a respiratory therapist, a perfusionist, a physician assistant or a [certified] *licensed* athletic trainer; and six members appointed by the Governor who shall be graduates of a legally incorporated and reputable college of osteopathic medicine and shall have been licensed to practice osteopathic medicine under the laws of this Commonwealth and shall have been engaged in the practice of osteopathy in this Commonwealth for a period of at least five years. All professional and public members of the board shall be appointed by the Governor with the advice and consent of a majority of the members elected to the Senate. The Governor shall assure that respiratory therapists, perfusionists, physician assistants and [certified] *licensed* athletic trainers are appointed to four-year terms on a rotating basis.

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Section 3. Section 7.1 of the act, added December 10, 2001 (P.L.863, No.93), is amended to read:

Section 7.1. Athletic trainers.

(a) An athletic trainer [certified] *licensed* by the board may, under the direction of a physician, podiatrist or dentist, provide athletic training

services to a physically active person under the care of a physician, dentist or podiatrist. An athletic trainer **[certified] licensed** under this section shall refer a physically active person with conditions outside the scope of athletic training services to a physician, dentist or podiatrist.

[(b) Any athletic trainer who holds a valid certificate issued by the State Board of Physical Therapy under the act of October 10, 1975 (P.L.383, No.110), known as the "Physical Therapy Practice Act," relating to the practice of athletic training, prior to the effective date of this act shall, on and after the effective date hereof, be deemed to be certified by the State Board of Medicine or State Board of Osteopathic Medicine as provided for in this act.]

(b.1) Transitional rule.—

(1) Any athletic trainer who holds a valid certificate issued by the board or the State Board of Medicine, relating to the practice of athletic training, prior to the effective date of this subsection shall, on or after the effective date of this subsection, be deemed to be licensed by the board or the State Board of Medicine as provided in this act.

(2) Paragraph (1) shall not apply in the case of a certification that was expired or revoked prior to the effective date of this subsection.

(c) An athletic trainer who meets the requirements of this section shall be **[certified] licensed**, may use the title "athletic trainer" or the abbreviation for the title, **["A.T.C.,"] "A.T.L.,"** and may perform athletic training services. A person who is not **[certified] licensed** under this section may not use the designation of **[certified] licensed** athletic trainer, athletic trainer or any of the listed abbreviations for that title, including **["C.A.T." or "A.T.C.,"] "L.A.T." or "A.T.L.,"** or any similar designation. This section shall not prohibit any person trained and licensed or certified under any other law from engaging in the licensed or certified practice in which the person is trained.

(d) The State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations which:

(1) establish approved education and training programs for **[certification] licensure**; and

(2) define the circumstances and protocol under which a **[certified] licensed** athletic trainer may perform athletic training services.

[Until such regulations are promulgated by the State Board of Osteopathic Medicine and the State Board of Medicine, the athletic trainer shall be regulated by the regulations, duly promulgated by the State Board of Physical Therapy prior to the enactment of this amendatory act governing the activities of certified athletic trainers, which are not inconsistent with this act.]

(e) Notwithstanding any provision of this act to the contrary, doctors of medicine may supervise and direct the activities of athletic trainers to the same extent as physicians regulated by this act.

(f) The State Board of Osteopathic Medicine shall be responsible for the **[certification] licensure** of athletic trainers. Jurisdiction will be determined by the type of physician who supervises and directs the **[certified] licensed** athletic trainer. **[Certified] Licensed** athletic trainers supervised by a doctor

of osteopathy shall fall within the jurisdiction of the State Board of Osteopathic Medicine.

Section 4. Section 15(b) of the act, amended July 4, 2008 (P.L.589, No.46), is amended to read:

Section 15. Reasons for refusal, revocation or suspension of license.

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(b) The board shall have authority to refuse, revoke or suspend the license of a physician assistant [or], respiratory therapist[,] or [**the certification of a certified**] athletic trainer for any or all of the following reasons:

(1) Failing to demonstrate the qualification for licensure or certification contained in this act or regulations of the board.

(2) Making misleading, deceptive, untrue or fraudulent representations in his serving as a physician assistant; practicing fraud or deceit in obtaining a license to serve as a physician assistant; or making a false or deceptive biennial registration with the board.

(3) Conviction of a felony in this Commonwealth or any other state, territory or country. Conviction as used in this paragraph shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere, or receiving probation without verdict, disposition in lieu of trial, or an Accelerated Rehabilitative Disposition in the disposition of felony charges.

(4) Having his license to serve as a physician assistant revoked or suspended or having other disciplinary action taken, or his application for licensure refused, revoked or suspended by the proper certifying authority of another state, territory or country.

(5) Being unable to serve as a physician assistant with reasonable skill and safety to the physician's patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

(6) In enforcing paragraph (5), the board shall, upon probable cause, have authority to compel a physician assistant to submit to a mental or physical examination by physicians designated by it. Failure of a physician assistant to submit to such examination shall constitute an admission of the allegations against him unless the failure is due to circumstances beyond his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician assistant affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent assistance of a physician in the physician's practice of medicine, with reasonable skill and safety to the physician's patients.

(7) Violating a lawful regulation promulgated by the board or violating a lawful order of the board, previously entered by the board in a disciplinary proceeding.

(8) Knowingly rendering medical care and services except under the supervision and direction of the supervising physician.

(9) Being guilty of immoral or unprofessional conduct shall include any departure from, or the failure to conform to, the standards of

acceptable and prevailing practice for physician assistants, in which proceeding actual injury to a patient need not be established.

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Section 5. References to certification or certified athletic trainers contained in regulations promulgated under this act and in effect on the effective date of this section shall be deemed to be references to licensure or licensed athletic trainers after the effective date of this section.

Section 6. This act shall take effect in 60 days.

APPROVED—The 22nd day of December, A.D. 2011

TOM CORBETT