

No. 2001-93

## AN ACT

SB 371

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," providing for certification of athletic trainers by the State Board of Osteopathic Medicine; and making repeals.

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

Section 1. The definitions of "board" and "board-regulated practitioner" in section 2 of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, are amended and the section is amended by adding definitions 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 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.***

**"Board." The State Board of Osteopathic [Medical Examiners] *Medicine* in the Department of State. Any reference in any statute or rule to the State Board of Osteopathic Examiners shall, on and after the effective date of this act, be construed to be a reference to the State Board of Osteopathic [Medical Examiners] *Medicine*.**

**"Board-regulated practitioner." An osteopathic physician, physician assistant, [or] respiratory care practitioner *or certified 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 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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***“Physically active person.”*** An individual who participates in organized, individual or team sports, athletic games or recreational sport activity.

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***“Referral.”*** An order from a licensed physician, dentist or podiatrist to a certified 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 athletic trainer. It describes the manner and frequency in which the certified athletic trainer regularly communicates with the supervising physician. It includes standard operating procedures developed in agreement with the supervising physician and certified athletic trainer that the certified athletic trainer follows when not directly supervised on site by the supervising physician.

Section 2. Section 2.1(a) of the act, amended July 2, 1993 (P.L.418, No.59), 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 [either] a respiratory care practitioner [or], a physician assistant *or a certified athletic trainer*; and six members appointed by the Governor who shall be graduates of a legally incorporated and reputable college of osteopathy 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 care practitioners [and], physician assistants *and certified athletic trainers* are appointed to four-year terms on a rotating basis. [so that of every two appointments to a four-year term one is a physician assistant and one is a respiratory care practitioner.]

\* \* \*

Section 3. The act is amended by adding a section to read:

**Section 7.1. Athletic trainers.**

*(a) An athletic trainer certified 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 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.*

*(c) An athletic trainer who meets the requirements of this section shall be certified, may use the title "athletic trainer" or the abbreviation for the title, "A.T.C.," and may perform athletic training services. A person who is not certified under this section may not use the designation of certified athletic trainer, athletic trainer or any of the listed abbreviations for that title, including "C.A.T." or "A.T.C.," 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; and*

*(2) define the circumstances and protocol under which a certified 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 of athletic trainers. Jurisdiction will be determined by the type of physician who supervises and directs the certified athletic trainer. Certified 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 December 20, 1985 (P.L.398, No.108), 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 certification of a physician assistant, *respiratory care practitioner or certified athletic trainer* for any or all of the following reasons:**

**(1) Failing to demonstrate the qualification for 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 certification 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 certification to serve as a physician assistant revoked or suspended or having other disciplinary action taken, or his application for certification 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. The practice of athletic training shall not include the practice of physical therapy as defined by the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act; however, that exclusion shall not operate to prohibit the rendering of athletic services as defined in the act.

Section 6. The following acts and parts of acts are repealed insofar as they are inconsistent with this act:

The act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act.

The act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985.

Section 7. This act shall take effect in 60 days.

APPROVED—The 10th day of December, A.D. 2001.

MARK S. SCHWEIKER