

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Medicine, State Board of Osteopathic Medicine

(2) I.D. Number (Governor's Office Use)

16A-49155314 per LAW

IRRC Number:

2527

(3) Short Title

Athletic Trainers

(4) PA Code Cite

49 Pa. Code §§ 16.1, 16.13, 16.61 and 18.501 – 18.510, 49 Pa. Code §§ 25.231, 25.701-25.710

(5) Agency Contacts & Telephone Numbers

Primary Contact: Sabina I. Howell, Counsel
State Board of Medicine, Beth Sender Michlovitz, Counsel
State Board of Osteopathic Medicine (717) 783-7200
Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

Proposed Joint Rulemaking
 Final Order Adopting Regulation
 Policy Statement

(7) Is a 120-Day Emergency Certification Attached?

No
Yes: By the Attorney General
Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The proposed amendments define the certification, circumstances and protocol under which a certified athletic trainer may perform athletic training services, and defines the supervision and personal direction required by the standards of acceptable medical practice embraced by the medical community in the Commonwealth.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The proposed amendments implement Acts and 92 and 93 of 2001, which authorize the State Boards of Medicine and Osteopathic Medicine to jointly promulgate regulations to provide for the certification of athletic trainers and to establish procedures for the certification and protocols for the practice of athletic trainers.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Section 51.1(d) of the Medical Practice Act of 1985, 63 P. S. § 422.51a(d) and Section 7.1(d) of the Osteopathic Medical Practice Act, 63 P.S. §271.7a(d), mandate that the Boards jointly promulgate these amendments.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The proposed amendments will expand the utilization of athletic trainers in a manner comparable to other physician extenders of similar education and training. The proposed amendments will enhance patient access to care by allowing more flexible use of athletic trainers in all practice settings. The proposed amendments will further provide for the management and provision of care of injuries to a physically active person.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The proposed rulemaking has been mandated by legislative initiative.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Access by patients and physically active persons on a more rapid basis because of the latitude given to athletic trainers will improve patient safety. It will also support the provision of a better care for the physically active person by having a scope of practice clearly defined.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The proposed rulemaking would not adversely affect anyone.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

There are approximately 45,000 medical doctors and 6,000 osteopathic doctors who may refer patients to certified athletic trainers. In addition, there are approximately 1,400 athletic trainers currently certified by the State Board of Physical Therapy who will be subject to the amendments.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

In compliance with Executive Order 1996-1, in drafting and promulgating this proposed rulemaking, the Boards solicited input and suggestions from the regulated community and other parties who identified themselves as interested in the Boards' regulatory agendas. The Boards revised the amendments as a result of comments received.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

No costs or savings are generated by these amendments.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with

compliance, including any legal, accounting or consulting procedures which may be required.

No costs or savings are generated by these amendments.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

No costs or savings are generated by these amendments.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	N/A	N/A	N/A	N/A	N/A	
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	

(20a) Explain how the cost estimates listed above were derived.

N/A

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 2001-2002	FY -2 2002-2003	FY -1 2003-2004	Current FY 2004-2005
State Board of Medicine	\$3,241,114.5	\$3,861,200.20	\$4,208,232.09	\$8,774,000.00
State Board of Osteopathic Medicine	\$406,527.84	\$457,338.63	\$503,718.72	\$1,172,000.00

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The amendments are legislatively mandated.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Alternative regulation would mandate procedural and specialty processes that would even further hamper the provision of athletic training services to Commonwealth residents. This regulatory scheme replaces outdated regulations and strengthens the health care relationship between the medical doctor community and certified athletic trainers.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

These amendments clearly defines the scope of responsibility given to certified athletic trainers by medical doctors. It allows all physically active persons access to the same quality care provided to the Commonwealth's athletes, and further allows the physician/certified athletic trainer team to provide quality care to a much broader population. The amendments will not put the Commonwealth at a disadvantage.

Our bordering states regulate athletic trainers as noted below.

New Jersey regulates athletic trainers under its Board of Medical Examiners. The Athletic Trainer Advisory Commission has the direct oversight of athletic trainers. The licensure and training requirements are similar to those of these proposed regulations.

New York licensure requirements are set forth by the Department of Education law. The practice of the profession falls under the health professions laws. Athletic trainers appear to more closely perform their profession under the direction of physicians.

Ohio regulates athletic trainers under the Occupational Therapy, Physical Therapy and Athletic Trainers Board. The licensure requirements, scope of practice and referral process from licensed physicians is not dissimilar to these proposed regulations.

Delaware provides for the supervision of athletic trainers in clinical settings by physical therapists, and in non-clinical settings by referral or consultation from a health care practitioner. The certification requirements do not appear to be as comprehensive as those of the proposed regulations.

Virginia licenses athletic trainers under their Board of Medicine. The certification and licensure process is similar to that of the proposed regulations. Virginia places supervision of athletic trainer's practice under the direction of licensed physical therapists and the patients; physician, or any doctor.

Regulatory Analysis Form

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings are scheduled.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No. The amendments will transfer reporting, record keeping and paperwork requirements from the State Board of Physical Therapy to the state boards of medicine as required by statutes but will not result in changes to existing requirements for certification or renewal with the except of a continuing education requirement for applicants for renewal of an athletic trainer certificate.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Boards have not identified any affected groups or persons that need to be accommodated in any way.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The amendments will become effective upon final-form publication.

(31) Provide the schedule for continual review of the regulation.

The Boards continuously monitor the effectiveness of its regulations.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

2527

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies

BY: *Angela M. Elliott*
(DEPUTY ATTORNEY GENERAL)

State Board of Medicine
(AGENCY)

BY: *David J. Devries*

NOV 10 5 2005

DOCUMENT/FISCAL NOTE NO. 16A-4915

NOV 10 2005

DATE OF APPROVAL

DATE OF ADOPTION:

DATE OF APPROVAL

BY: *[Signature]*

EXECUTIVE

(Deputy General Counsel
(Chief Counsel,
Independent Agency
Strike inapplicable
title)

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- Check if applicable. Copy not approved. Objections attached.
- Check if applicable. No Attorney General approval or objection within 30 day after submission.

PROPOSED JOINT RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MEDICINE
49 PA. CODE, CHAPTERS 16 & 17
ATHLETIC TRAINERS

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

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Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

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BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Osteopathic Medicine
(AGENCY)

BY: _____

DOCUMENT/FISCAL NOTE NO. 16A-49155314

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: *Oliver C. Bullock*
Oliver C. Bullock

(Deputy General Counsel
(Strike inapplicable title))

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR CHAIRPERSON)

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if applicable. No
Attorney General approval or
objection within 30 day after
submission.

PROPOSED JOINT RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF OSTEOPATHIC MEDICINE
49 PA. CODE, CHAPTER 25
ATHLETIC TRAINERS

The State Boards of Medicine and Osteopathic Medicine (Boards) propose to amend their regulations providing for the certification and regulation of athletic trainers, Chapters 16, 18 and Chapter 25 (relating to the State Board of Medicine General Provisions State Board of Medicine—Practitioners other than Medical Doctors; and State Board of Osteopathic Medicine), to read as set forth in Annex A.

A. Effective Date

The amendments will be effective upon publication as final-form regulations in the Pennsylvania Bulletin.

B. Statutory Authority

Section 51.1(d) of the Medical Practice Act of 1985 (63 P.S. § 422.51a (d) and section 7.1 (d) of the Osteopathic Medical Practice Act (63 P.S. § 271.7a(d) (medical practice acts) authorize the Boards to jointly promulgate regulations that establish approved education and training programs for certification and define the circumstances and protocol under which a certified athletic trainer may perform athletic training services.

C. Background and Purpose

Under provisions of the Physical Therapy Practice Act (*formerly* 63 P.S. §§ 1301, 1310.1 and 1310.2), the State Board of Physical Therapy certified and regulated athletic trainers in this Commonwealth.

Acts 92 and 93 of 2001 repealed these provisions insofar as they are inconsistent with the acts. Acts 92 and 93 amended the medical practice acts by adding section 51.1(d) (63 P.S. § 422.51a(d)) and section 7.1(d) (63 P.S. § 271.7a(d)) to provide for the certification and regulation of athletic trainers by the Boards. Acts 92 and 93, effective February 8, 2002, further provided that until the Boards adopt final regulations, the regulations of the State Board of Physical Therapy, 49 Pa. Code Chapter 40, Subchapter B (relating to athletic trainers), shall govern the activities of athletic trainers, which are not inconsistent with amendments to the medical practice acts. The Boards now propose these amendments to establish procedures for certification and protocols for the practice of athletic trainers.

D. Description of Proposed Regulations

With regard to the State Board of Medicine the proposal would amend § 16.1 (relating to definitions) to define “treatment regimen” in order to describe the service provided by athletic trainers. This term is also of a broad enough nature that the clinical service provided by other board-regulated practitioners could come under this umbrella term. It provides flexibility to the Board in regulating its licensees and ensures uniformity in regulation. The proposal would also amend § 16.61 (relating to

unprofessional and immoral conduct) by replacing the term “physician” with “Board-regulated practitioners”, so that athletic trainers and other practitioners licensed by the Board would be subject to the regulation.

The Boards propose to amend § 16.13 and § 25.31 to carry-over of the fees currently in place under the regulations of the State Board of Physical Therapy in § 40.5 (relating to fees).

The Boards also propose to add a new Subchapter H to Chapter 18 and a new Subchapter M to Chapter 25 (relating to certification and regulation of athletic trainers).

Sections 18.501 and 25.701 (relating to purpose) would provide a general statement. Sections 18.502 and 25.702 (relating to definitions) would define key terms used throughout the subchapters.

Sections 18.503 and 25.703 (relating to certification requirements) would set forth the requirement for certification of persons using the title of or performing athletic trainer services in this Commonwealth. These sections would also provide for exclusions for persons authorized under other law, persons employed by visiting athletic teams or organizations competing in this Commonwealth and students in training.

Sections 18.504 and 25.704 (relating to application for certification) would delineate the documentation and information required for a completed application for certification.

Sections 18.505, 18.506, 25.705 and 25.706 would set forth the educational and examination requirements for certification. The requisite education could be met by having graduated from an accredited education program for athletic trainers or holding a current credential as a certified athletic trainer from the Board of Certification, Inc. (BOC) or another accrediting body approved by the Board. Applicants must achieve a passing score on the BOC examination, or an equivalent examination approved by the Board.

Sections 18.507 and 25.707 (relating to temporary certification) provide for temporary certification for applicants who have completed their education and have applied to take the examination. An applicant may practice under a temporary certificate under direct supervision for up to one year or until certification.

Section 18.508 and 25.708 (relating to renewal of certification) provide for biennial renewal of certificates in accordance with the renewal period of each Board. The Boards would also adopt the continuing education requirement of BOC. The continuing education would have to be completed during the first biennial period following the effective date of the regulations in order to renew a certification for the following biennium. By adopting the continuing education requirements of a nationally recognized professional organization, the Board can assure that state-of-the-art

information and education will keep certificate holders in the Commonwealth at the forefront of clinical skills.

Sections 18.509 and 25.709 (relating to practice standards for athletic trainers) would require that athletic trainers certified by the Boards, regarding referrals and protocols for treatment, retention of records and circumstances under which consultation or referral to a physician, dentist or podiatrist is required. Subsection (a) would also make these standards applicable to an athletic trainer certified by any other state, commonwealth, Canadian province or territory or the District of Columbia when providing services to a team or organization in the Commonwealth.

Sections 18.510(a) and 25.710(a) (relating to refusal, suspension or revocation of certificate) would authorize the Boards to impose disciplinary action against athletic trainers under section 41 of the Medical Practice Act (63 P.S. §422.41) and 49 Pa. Code § 16.61 and section 15(b) of the Osteopathic Practice Act (63 P.S. § 271.15(b)). Subsections (b) provide for the applicability of 2 Pa.C.S. §§ 501-508 and 701-704 (relating to the Administrative Agency Law) to the activities of and proceedings before the Boards related to athletic trainers. The language is included to direct applicants and certificate holders to the procedural provisions that govern the Boards' actions.

E. Compliance with Executive Order 1996-1

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

F. Fiscal Impact and Paperwork Requirements

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions because is proposal will transfer regulatory authority over athletic trainers from the State Board of Physical Therapy to the Boards. For this reason also the proposal will impose no additional paperwork requirements on the public sector.

G. Sunset Date

The Boards continuously monitor the effectiveness of their regulations. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act, (71 P.S. §745.5(a)), on March 8, 2006, the Boards submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure

Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Boards, the General Assembly, and the Governor of comments, recommendations or objections raised.

I. Public Comment

Interested persons are invited to submit written comments, recommendations, or objections regarding the proposed regulation to Sabina I. Howell, Board Counsel, State Board of Medicine or Beth Sender Michlovitz, Counsel, State Board of Osteopathic Medicine P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649 within 30 days following publication of the proposed rulemaking in the Pennsylvania Bulletin.

Charles D. Hummer, Jr., M.D.
Chairperson
State Board of Medicine

Oliver Bullock, D.O.
Chairperson
State Board of Osteopathic Medicine

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 16. STATE BOARD OF MEDICINE

Subchapter A. BASIC DEFINITIONS AND INFORMATION

§16.1. Definitions.

The following words and terms, when used in this chapter and Chapters 17 and 18 (relating to State Board of Medicine—medical doctors; and State Board of Medicine—practitioners other than medical doctors), have the following meanings, unless the context clearly indicates otherwise:

Treatment regimen – The provision of care and practice of a component of the healing arts by a board-regulated practitioner.

Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION

PROVISIONS

§16.13. Licensure, certification, examination and registration fees.

(h) *Athletic Trainer*

Application for certification.....\$20

Biennial Renewal.....\$37

(i) Verification or Certification:

Verification of status.....\$15

Certification of records.....\$25

[(i)](j) Examination Fees:

The State Board of Medicine has adopted nationally recognized examinations in each licensing class. Fees are established by the National owners/providers of the examinations and are indicated in the examination applications.

Subchapter E. MEDICAL DISCIPLINARY PROCESS AND PROCEDURES

COMPLAINTS

§16.61. Unprofessional and immoral conduct.

(a) A [physician] Board-regulated practitioner who engages in unprofessional or immoral conduct is subject to disciplinary action under section 41 of the act (63 P. S. § 422.41). Unprofessional conduct includes, but is not limited to, the following:

(1) Revealing personally identifiable facts, obtained as the result of a [physician] practitioner-patient relationship, without the prior consent of the patient, except as authorized or required by statute.

(2) Violating a statute, or a regulation adopted thereunder, which imposes a standard for the practice of [medicine] the healing arts as regulated by the Board in this Commonwealth. The Board, in reaching a decision on whether there has

been a violation of a statute, rule or regulation, will be guided by adjudications of the agency or court which administers or enforces the standard.

(3) Performing a medical act or treatment regimen incompetently or performing a medical act or treatment regimen which the [physician] Board-regulated practitioner knows or has reason to know that [he] the practitioner is not competent to perform.

(4) Unconditionally guaranteeing that a cure will result from the performance of medical services or treatment regimen.

(5) Advertising of a medical business which is intended to or has a tendency to deceive the public.

(6) Practicing [medicine] the healing arts fraudulently, or with reckless indifference to the interests of a patient on a particular occasion, or with negligence on repeated occasions.

(7) Practicing [medicine] the healing arts while the ability to practice is impaired by alcohol, drugs or physical or mental disability.

(9) Continuing to practice while the [physician's] Board-regulated practitioner's license or certificate has expired, is not registered or is suspended or revoked.

(13) Charging a patient or a third-party payor for a medical service or treatment regimen not performed. This paragraph does not apply to charging for an unkept office visit.

(18) Failing to make available to the patient or to another designated health care practitioner, upon a patient's written request, the medical record or a copy of the medical record relating to the patient which is in the possession or under the control of the [physician] Board-regulated practitioner; or failing to complete those forms or reports, or components of forms or reports, which are required to be completed by the [physician] Board-regulated practitioner as a precondition to the reimbursement or direct payment of the medical expenses of a patient by a third party. Reasonable fees may be charged for making available copies, forms or reports. Prior payment for professional services to which the records relate—this does not apply to fees charged for reports—may not be required as a condition for making the records available. A physician may withhold information from a patient if, in the reasonable exercise of his professional judgment, he believes release of the information would adversely affect the patient's health.

(b) Immoral conduct includes, but is not limited to, the following:

(1) Misrepresentation or concealment of a material fact in obtaining a license [to practice medicine] or a certificate issued by the Board or a reinstatement thereof.

CHAPTER 18. STATE BOARD OF MEDICINE – PRACTITIONERS OTHER
THAN MEDICAL DOCTORS
SUBCHAPTER H. ATHLETIC TRAINERS

§ 18.501 Purpose.

This subchapter implements section 51.1 of the act (63 P.S. §422.51a) to provide for the certification and practice standards of athletic trainers.

§ 18.502 Definitions.

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

Approved athletic training education programs – An athletic training education program that is accredited by a Board-approved nationally recognized accrediting agency.

Athletic training services – The management and provision of care of injuries to a physically active person, with the direction of a licensed physician.

- (i) The term includes the rendering of emergency care, development of injury prevention programs and providing appropriate preventative and supportive devices for the physically active person.
- (ii) 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.

- (iii) 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 exercise, reconditioning exercise, and fitness programs.
- (iv) The term does not include surgery, invasive procedures or prescription of any controlled substance.

BOC – The Board of Certification, Inc., a national credentialing organization for athletic trainers.

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

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 by other electronic means.

Physically active person – An individual who participates in organized, individual or team sports, athletic games or recreational sports activities.

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.

Standing written prescription – A portion of the written protocol or a separate document from a supervising physician, dentist or podiatrist, which includes an order to treat approved individuals in accordance with the protocol.

Written protocol – A written agreement or other document developed in conjunction with one or more supervising physicians, which identifies and is signed by the supervising physician and the certified athletic trainer, and describes the manner and frequency in which the certified athletic trainer regularly communicates with the supervising physician and 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 onsite by the supervising physician.

§ 18.503. Certification requirement.

- (a) A person may not use the title “athletic trainer” or “certified athletic trainer” or use any abbreviation including “A.T.,” “A.T.C.” or “C.A.T.” or any similar designation to indicate that the person is an athletic trainer, or perform the duties thereof, unless that person has been certified by the Board.
- (b) Subsection (a) does not apply to the following:
- (1) A person trained and licensed or certified under any other law from engaging in the licensed or certified practice in which the person is trained.

(2) An athletic trainer from another state, province, territory or the District of Columbia, who is employed by an athletic team or organization that is competing in this Commonwealth only on a visiting basis, from providing athletic training services, provided the practice of the athletic trainer is limited to the members of the team or organization.

(3) An athletic training student practicing athletic training that is coincidental to required clinical education and is within the scope of the student's education and training.

(c) Athletic training certificate holders certified under the Physical Therapy Practice Act (63 P.S. §§1301 – 1313) prior to _____ (Editor's note: The blank refers to the effective date of adoption of this proposed rulemaking) are deemed certified by the Board.

(d) Athletic training certificate holders certified by the State Board of Osteopathic Medicine are deemed certified by the Board.

§ 18.504. Application for certification.

- (a) The applicant shall submit the following on forms supplied by the Board:
- (1) A completed application and the fee set forth in § 16.13 (relating to licensure, certification, examination and registration fees).
 - (2) Verification of professional education in athletic training in accordance with §18.505 (relating to educational requirements).
 - (3) Documentation of passage of the national examination in accordance with §18.506 (relating to examination requirement).

- (4) Documentation of practice as an athletic trainer, if licensed or certified in any other jurisdiction, and verification as to whether there has been any disciplinary action taken in that jurisdiction.

(b) To qualify for certification, an applicant shall be at least 20 years of age and may not be addicted to alcohol or hallucinogenic, narcotic or other drugs which tend to impair judgment or coordination.

§ 18.505. Educational requirements.

An applicant for certification shall comply with one of the following:

- (1) Be a graduate of an accredited educational program for athletic trainers.
(2) Hold and maintain current credentialing as a certified athletic trainer (ATC®) from the BOC or another credentialing body approved by the Board.

§ 18.506. Examination requirement.

An applicant for a certificate to practice as a certified athletic trainer shall submit to the Board written evidence that the applicant has passed the BOC certification examination for athletic trainers, or its equivalent as determined by the Board.

§ 18.507. Temporary certification.

An applicant who is a graduate of an approved athletic training program accredited by the Commission for Accreditation of Allied Health Education Programs (CAAHEP), and who has applied to take the certification examination may be granted a temporary certificate to practice athletic training under the onsite direct supervision of a

certified athletic trainer. The temporary certification expires 1 year from issuance or upon certification as an athletic trainer by the Board, whichever comes first.

§ 18.508. Renewal of certification.

(a) A certification issued under this subchapter expires on December 31 of every even-numbered year unless renewed for the next biennium.

(b) Biennial renewal forms and other forms and literature to be distributed by the Board will be forwarded to the last mailing address given to the Board.

(c) To retain the right to engage in practice, the certificateholder shall renew certification in the manner prescribed by the Board and pay the required fee prior to the expiration of the next biennium.

(d) When a certification is renewed after December 31 of an even numbered year, a penalty fee of \$5 for each month or part of a month of practice beyond the renewal date will be charged in addition to the renewal fee.

(e) Continuing education requirements are as follows.

(1) Beginning with the biennial period commencing on the next biennial renewal period following—[Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking], athletic trainers shall complete the continuing education requirements prescribed by the BOC.

(2) Applicants for renewal of a certificate shall provide a signed statement verifying that the continuing education requirement has been met.

(3) Proof of completion of the required continuing education shall be retained for 2 years after completion.

§ 18.509. Practice standards for athletic trainers.

(a) Athletic trainers certified by the Board or by the proper licensing authority of any other state, province, territory or the District of Columbia shall comply with the following:

(1) Ensure that the physically active person has secured a written referral or is subject to a written protocol for treatment by a certified athletic trainer from a licensed physician, dentist or podiatrist.

(2) Comply strictly with conditions or restrictions that may be placed on the course of athletic training services by the referring physician, dentist or podiatrist.

(3) Ensure that the physically active person has undergone a medical diagnostic examination or has had the results of a recently performed medical diagnostic examination reviewed by a licensed physician.

- (4) Keep a copy of the referral and the results of the medical diagnostic examination in the physically active person's file.
- (5) Consult promptly with the referring physician, dentist or podiatrist regarding a new ailment or condition or a worsened ailment or condition of the physically active person.
- (6) Consult with the referring physician, dentist or podiatrist upon request of either the referring physician, dentist or podiatrist or the physically active person.
- (7) Refer a physically active person with conditions outside the scope of athletic training services to a licensed physician, dentist or podiatrist.

(b) Athletic trainers certified by the Board, or by the proper licensing authority of any other state, province, territory or the District of Columbia who are working in a team setting, treating injuries which arise in the course of practices or team sports events, may treat the participant at the events under the conditions of the referral, or the standing written prescription or written protocol.

(c) An athletic trainer shall obtain the standing written prescription or protocol annually from the supervising physician, dentist or podiatrist and review it annually. The standing written prescription or written protocol shall be retained at or near the treatment location or facility. An individual referral from a supervising physician, dentist or podiatrist is required in the absence of a standing written prescription or written protocol.

§ 18.510. Refusal, suspension or revocation of certificate.

(a) The Board may refuse to issue a certificate, and after notice and hearing, may suspend or revoke the certificate of a person who is subject to disciplinary action under section 41 of the act (63 P.S. § 422.41) as set forth in § 16.61 (relating to unprofessional and immoral conduct).

(b) Actions taken by the Board regarding the refusal, suspension or revocation of a certificate are taken subject to the right of notice, hearing and adjudication and appeal under 2 Pa.C.S. §§ 501 – 508 and 701 – 704 (relating to the Administrative Agency Law).

CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE

SUBCHAPTER F. FEES

§ 25.231. Schedule of fees.

An applicant for a license, certificate, registration or service shall pay the following fees at the time of application:

* * *

Uncertified verification of any license, <u>certification</u> or permit.....	\$15
Certification of any licenses, <u>certifications</u> , examination grades or hours.....	\$25
<u>Application for athletic trainer certification.....</u>	<u>\$20</u>
<u>Biennial renewal – athletic trainer.....</u>	<u>\$37</u>

* * *

SUBCHAPTER M. ATHLETIC TRAINERS

§ 25.701. Purpose.

This subchapter implements section 7.1 of the act (63 P.S. §271.7a) to provide for the certification of athletic trainers.

§ 25.702. Definitions.

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

Approved athletic training education programs – An athletic training education program that is accredited by a Board-approved nationally recognized accrediting agency.

Athletic training services – The management and provision of care of injuries to a physically active person, with the direction of a licensed physician.

- (i) The term includes the rendering of emergency care, development of injury prevention programs and providing appropriate preventative and supportive devices for the physically active person.
- (ii) 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.
- (iii) 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 exercise, reconditioning exercise and fitness programs.
- (iv) Athletic training services shall not include surgery, invasive procedures or prescription of any controlled substance.

BOC - The Board of Certification, Inc., a national credentialing organization for athletic trainers.

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

Direction – Supervision over the actions of a certified athletic trainer by means of 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 by other electronic means.

Physically active person – An individual who participates in organized, individual or team sports, athletic games or recreational sports activities.

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.

Standing written prescription – A portion of the written protocol or a separate document from a supervision physician, dentist or podiatrist which includes an order to treat approved individuals in accordance with the protocol.

Written protocol – A written agreement or other document developed in conjunction with one or more supervising physicians, which identifies and is signed by the supervising physician and the certified athletic trainer, describes the manner and frequency in which the certified athletic trainer regularly communicates with the supervising physician and includes standard operating procedures, developed in agreement with the supervising physician and certified athletic trainer, which the certified athletic trainer follows when not directly supervised on-site by the supervising physician.

§ 25.703. Certification requirement.

(a) A person may not use the title of “athletic trainer” or “certified athletic trainer” or use any abbreviation including “A.T.C.”, “C.A.T.”, or “A.T.” or any similar designation to indicate that the person is an athletic trainer, or perform the duties thereof, unless that person has been certified by the Board.

(b) Subsection (a) does not apply to the following:

(1) A person trained and licensed or certified under any other law from engaging in the licensed or certified practice in which the person is trained.

(2) An athletic trainer from another state, province, territory or the District of Columbia, who is employed by an athletic team or organization that is competing in this Commonwealth on a visiting basis, who provides athletic training services to the members of their respective athletic team or organization.

(3) An athletic training student who practices athletic training that is coincidental to required clinical education and is within the scope of the student’s education and training.

(c) Former athletic training certificate holders under the Physical Therapy Practice Act (63 P.S. §§1301 – 1313) prior to _____ (Editor’s Note: The blank refers to the effective date of adoption of this proposed rulemaking) are deemed certified by the Board. Renewal of certification may be accomplished through renewal with the Board or with the State Board of Medicine.

(d) Athletic training certificate holders certified by the State Board of Medicine are deemed certified by the Board.

§ 25.704. Application for certification.

- (a) The applicant shall submit the following on forms supplied by the Board:
- (1) A completed application and the fee set forth in §25.231 (relating to schedule of fees).
 - (2) Verification of professional education in athletic training in accordance with §25.705 (relating to educational requirements).
 - (3) Documentation of passage of the national examination in accordance with §25.706 (relating to examination requirement).
 - (4) Documentation of practice as an athletic trainer, if licensed or certified in any other jurisdiction, and verification as to whether there has been any disciplinary action taken in that jurisdiction.
- (b) To qualify for certification, an applicant shall be at least 20 years of age and may not be addicted to alcohol or hallucinogenic, narcotic or other drugs which tend to impair judgment or coordination.

§ 25.705. Educational requirements.

An applicant for certification shall comply with one of the following:

- (1) Be a graduate of an accredited educational program for athletic trainers.
- (2) Hold current credentialing as a Certified Athletic Trainer (ATC®) from the BOC or another credentialing body approved by the Board.

§ 25.706. Examination requirement.

An applicant for a certificate to practice as a certified athletic trainer shall submit to the Board written evidence that the applicant has passed the BOC certification examination for athletic trainers or its equivalent, as determined by the Board.

§ 25.707. Temporary certification.

An applicant who is a graduate of an accredited education program for athletic trainers and who has applied to take the certification examination may be granted a temporary certificate to practice athletic training under the on site direct supervision of a certified athletic trainer. The temporary certification expires 1 year from issuance or upon certification as an athletic trainer by the Board, whichever comes first, and may not be renewed.

§ 25.708. Renewal of certificate.

(a) A certificate issued under this subchapter shall be renewed biennially. An application form will be mailed to the most recent address of the certificate holder as it appears on the records of the Board. The certificateholder shall complete the renewal application and return it to the Board with a renewal fee before October 31 of the year in which the application was received. Certificates other than temporary certificates shall expire on October 31 of each even-numbered year. Upon receipt of an application and renewal fee, the Board will verify the accuracy of the application and issue to the applicant a certificate of renewal for the next biennial period.

(b) Continuing education requirements are as follows:

(1) Beginning with the biennial period commencing on the next biennial renewal period following _____ [Editor's note: the blank refers to the effective date of adoption of proposed rulemaking] athletic trainers shall complete the continuing education requirements prescribed by the BOC.

(2) Applicants for renewal of a certificate shall provide a signed statement verifying that the continuing education requirement has been met.

(3) Proof of completion of the required continuing education shall be retained for 4 years after completion.

§ 25.709. Practice standards for athletic trainers.

(a) Athletic trainers certified by the Board or by the proper licensing or certification authority of any other state, province, territory or the District of Columbia shall comply with the following:

- (1) Ensure that the physically active person has secured a written referral or is subject to a written protocol for treatment by a certified athletic trainer from a licensed physician, dentist, or podiatrist.
- (2) Comply strictly with conditions or restrictions that may be placed on the course of athletic training services by the referring physician, dentist or podiatrist.
- (3) Ensure that the physically active person has undergone a medical diagnostic examination or has had the results of a recently performed medical diagnostic examination reviewed by a licensed physician, dentist or podiatrist.
- (4) Keep a copy of the referral and the results of the medical diagnostic examination in the physically active person's file.

- (5) Consult promptly with the referring physician, dentist or podiatrist regarding a new ailment or condition or a worsened ailment or condition of the physically active person.
 - (6) Consult with the referring physician, dentist or podiatrist upon request of either the referring physician, dentist or podiatrist or the physically active person.
 - (7) Refer a physically active person with conditions outside the scope of athletic training services to a licensed physician, dentist or podiatrist.
- (b) Athletic trainers certified by the Board or by the proper licensing authority of any other state, province, territory or the District of Columbia who are working in a team setting, treating injuries which arise in the course of practices or team sports events, may treat the participant at the events under the conditions of the referral, the standing written prescription or written protocol.
- (c) The supervising physician, dentist or podiatrist shall provide the standing written prescription or written protocol annually to the athletic trainer and review it annually. This standing written prescription or protocol shall be in writing and retained at or near the treatment location or facility. An individual referral from a supervising physician, dentist or podiatrist is required in the absence of a written protocol.

§ 25.710. Refusal, suspension or revocation of certificate.

(a) The Board may refuse to issue a certificate, and after notice and hearing, may suspend or revoke the certificate of a person who is subject to disciplinary action under section 15(b) of the act (63 P.S. § 271.15(b)).

(b) Actions taken by the Board regarding the refusal, suspension or revocation of a certificate are taken subject to the right of notice, hearing and adjudication and appeal under 2 Pa. C.S. §§501-508 and 701-704 (relating to Administrative Agency Law).



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MEDICINE
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
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March 8, 2006

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101


Re: Proposed Joint Regulation
State Board of Medicine and Osteopathic Medicine
16A-4915: Athletic Trainers

Dear Chairman McGinley:

Enclosed is a copy of a proposed joint rulemaking package of the State Board of Medicine and Osteopathic Medicine pertaining to athletic trainers.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,


Charles D. Hummer, Jr., Chairperson
State Board of Medicine

CDH/SIH:sb

Enclosure

cc: Albert H. Masland, Chief Counsel
Department of State
Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Gerald S. Smith, Senior Counsel in Charge
Department of State
Sabina I. Howell, Counsel
State Board of Medicine
State Board of Medicine
Beth Sender Michlovitz, Counsel
State Board of Osteopathic Medicine

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

I.D. NUMBER: 16A-4915
SUBJECT: Athletic Trainers
AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

- Proposed Regulation
 Final Regulation
 Final Regulation with Notice of Proposed Rulemaking Omitted
 120-day Emergency Certification of the Attorney General
 120-day Emergency Certification of the Governor
 Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
3/8/06	<i>Sandra J. Hoyer</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
3/8/06	<i>May Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
3/8/06	<i>J. Belmont</i>	INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL
3/8/06	<i>Marisa Garas</i>	LEGISLATIVE REFERENCE BUREAU

March 8, 2006