

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency
Department of State, Bureau of Professional and Occupational Affairs, State Board of Osteopathic Medicine

(2) Agency Number: 16A
Identification Number: 16A-5325

IRRC Number: 2988

(3) PA Code Cite: 49 Pa. Code §§ 25.1, 25.231 and 25.701 – 25.711

(4) Short Title: **Athletic Trainer Licensure**

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: **Louis Lawrence Boyle, Assistant Regulatory Counsel, Department of State, P.O. Box 2649, Harrisburg, PA 17105-2649 (phone 717-783-7200) (fax 787-0251) llboyle@pa.gov.**

Secondary Contact: **Sabina Howell, Board Counsel, State Board of Osteopathic Medicine, Department of State, P.O. Box 2649, Harrisburg, PA 17105-2649 (phone 717-783-7200) (fax 787-0251) showell@pa.gov.**

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

Act 123 of 2011 replaced references in the act to “certified” athletic trainers with references to “licensed” athletic trainers. The Board now amends its regulations to conform to the act.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The proposed amendments are required to implement the act of December 22, 2011 (P.L. 567, No. 123) (Act 123). Section 7.1(d) of the Osteopathic Medical Practice Act (act) (63 P.S. § 271.7a (d)) authorizes the Board and the State Board of Medicine to jointly promulgate regulations relating to athletic trainers. Additionally, section 16 of the act (63 P.S. § 271.16) authorizes the Board to adopt regulations reasonably necessary to carry out the purposes of the act.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The regulation is required to implement Act 123 of 2011.

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(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation is needed to conform the Board's regulations to the terminology used in the amended act.

(11) 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 regulations.

This rulemaking would not be more stringent and would not overlap or conflict with any federal requirements.

(12) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

This rulemaking implements the statutorily-mandated revisions to licensure and would not put Pennsylvania at a competitive disadvantage.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This rulemaking would not affect other regulations of the Board or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

Because this rulemaking is merely implementing a change in terminology from "certification" to "licensure" as required by Act 123 of 2011, the Board did not send an exposure draft of the proposed rulemaking or solicit input from interested parties. However, the Board discussed the proposed rulemaking at a public meeting of the Board held on April 11, 2012. Public meetings of the Board are routinely attended by members of the regulated community and their professional associations, including the Pennsylvania Athletic Trainers' Society, which sent representatives to the April 11 meeting. This association contains members that are small businesses.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

There are 114 athletic trainers licensed by the State Board of Osteopathic Medicine. According to the Pennsylvania Department of Labor, the majority of athletic trainers work in general medical and surgical hospitals (24.9%), colleges and universities (19.4%), offices of other health care practitioners (14.2%) and other amusement and recreation industries (10.3%). A minority of athletic trainers work in offices of physicians (5.1%), elementary and secondary schools (3.1%), and 1.7% are self-employed. Finally, athletic trainers also work in outpatient care centers and for spectator sports organizations.

According to the Pennsylvania Athletic Trainers Society, more than 50% of athletic trainers work outside of the traditional school athletic settings. For example, athletic trainers work in physician offices as physician extenders. They also work in rural and urban hospitals, hospital emergency rooms, urgent and ambulatory care centers, military hospitals, rehabilitation clinics, youth leagues, commercial settings and professional sports teams.

Although many of the athletic trainers work in small businesses, the impact on these businesses is neutral because the regulation is merely incorporating the statutory language which changes “certified” athletic trainers to “licensed” athletic trainers.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

There are 114 athletic trainers licensed by the State Board of Osteopathic Medicine, including those who work for small businesses, that will be required to comply with the rulemaking.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The effect of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations is neutral because the regulation is merely incorporating the statutory language which changes “certified” athletic trainers to “licensed” athletic trainers.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

No adverse effects or costs have been associated with compliance with the rulemaking. The regulation is needed to conform the regulations to amendments made by Act 123 of 2011. Therefore, the benefits of the regulation outweigh any cost and adverse effects.

(19) 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. Explain how the dollar estimates were derived.

There are no costs or savings to the regulated community associated with compliance with the rulemaking.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to the local governments associated with compliance with the rulemaking.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to state government associated with implementation of the rulemaking.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This rulemaking would not require any significant additional recordkeeping or other paperwork. The Board has changed language on application forms for athletic trainers from certification to licensure, but this change was minor and was statutorily mandated.

(23) 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	N/A
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses						

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
State Board of Osteopathic Medicine	\$843,184.15	\$921,575.37	\$868,222.03	\$1,006,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The regulation will not have an adverse impact on small businesses (or any other size business for that matter) because the regulation is merely incorporating the statutory language which changes “certified” athletic trainers to “licensed” athletic trainers.

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

No special provisions are required to address any particular group.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Because the final-omitted rulemaking is merely incorporating the statutory language which changes “certified” athletic trainers to “licensed” athletic trainers, no alternative regulatory provisions would accomplish the goals of the regulations.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

There is no impact at all upon small businesses. There are no reporting requirements; no schedules or deadlines; no need to consolidate or simplify; no need to establish different standards for small businesses; and no need to exempt small businesses from compliance with the rulemaking. Because the final-omitted rulemaking is merely incorporating the statutory language which changes “certified” athletic trainers to “licensed” athletic trainers, no regulatory flexibility analysis was necessary.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is not based upon any scientific data, studies, or references.

(29) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: N/A
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: Fall 2012
- D. The expected effective date of the final-form regulation: Fall 2012
- E. The date by which compliance with the final-form regulation will be required: Upon Publication
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings. The remaining board meeting dates in 2012 are: October 25 and December 12. More information can be found on the Board's website

([http://www.portal.state.pa.us/portal/server.pt/community/state board of osteopathic medicine/12517](http://www.portal.state.pa.us/portal/server.pt/community/state_board_of_osteopathic_medicine/12517)).

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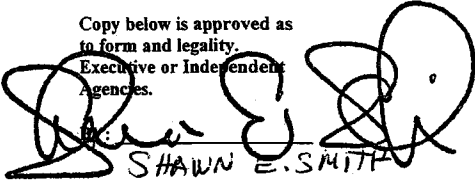
(Pursuant to Commonwealth Documents Law)

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.


SHAWN E. SMITH

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Osteopathic Medicine
(AGENCY)

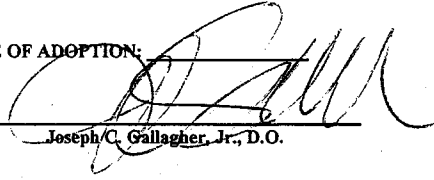
DOCUMENT/FISCAL NOTE NO. 16A-5325

DATE OF ADOPTION: _____

NOV 09 2012

DATE OF APPROVAL

DATE OF APPROVAL

BY: 
Joseph C. Gallagher, Jr., D.O.

~~Executive~~ Deputy General Counsel
Strike inapplicable title)

TITLE: Chairman
(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.

**FINAL RULEMAKING
(with PROPOSED RULEMAKING OMITTED)**

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

STATE BOARD OF OSTEOPATHIC MEDICINE

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

§§ 25.1, 25.231, 25.701-25.711

ATHLETIC TRAINERS

The State Board of Osteopathic Medicine (Board) amends § 25.1 (relating to definitions) in Subchapter A (relating to general provisions), § 25.231 (relating to schedule of fees) in Subchapter F (relating to fees), and the following sections in Subchapter M (relating to athletic trainers): §§ 25.701 (relating to purpose), 25.702 (relating to definitions), 25.703 (relating to certification requirement), 25.704 (relating to application for certification), 25.705 (relating to educational requirements), 25.706 (relating to examination requirement), 25.707 (relating to temporary certification), 25.708 (relating to renewal of certificate), 25.709 (practice standards for athletic trainers), 25.710 (relating to refusal, suspension or revocation of certificate) and 25.711 (relating to continuing education) to read as set forth in Annex A. The Board makes these changes to conform the Board’s regulations to the amendments made to the Osteopathic Medical Practice Act (“act”), act of October 5, 1978, as amended by Act 123 of December 22, 2011 (P.L. 567, effective February 20, 2012).

Effective Date

The amendments will be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin.

Statutory Authority

The proposed amendments are mandated by the December 22, 2011 amendments to the act at sections 2 and 7.1, 63 P.S. §§ 271.2 and 271.7a. Furthermore, section 16 of the act, 63 P.S. § 271.16, authorizes the Board to adopt and revise regulations reasonably necessary to carry out the purposes of the act.

Omission of Proposed Rulemaking

Under section 204(3) of the Act of July 31, 1968 (P.L. 769, No. 240) known as the Commonwealth Documents Law (CDL) (45 P.S. § 1204), the Board may omit the procedures for proposed rulemaking in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) if the Board for good cause finds that the specified procedures are impracticable, unnecessary or contrary to the public interest. The Board finds for good cause that publication of this rulemaking as proposed is unnecessary because this regulation is limited to implementing the statutory requirements, and it does not interpret the statute or make any other changes not contained in Act 123 of 2011. As such, the Board is required to promulgate these regulations, and therefore the procedures for making comments are unnecessary.

Background and Need for Amendment

In 2011, the Pennsylvania General Assembly amended the act to delete references to “certified” athletic trainers and replace them with “licensed” athletic trainers. Furthermore, the

General Assembly defined the term “licensed athletic trainer” in Act 123, which definition now appears at § 25.702 (relating to definitions).

The significance of changing “certified” to “licensed” is explained on the website of the National Athletic Trainer Association Board of Certification, Inc. (BOC). (In addition to the information provided in the definition of BOC in § 25.702, the BOC was incorporated in 1989 to provide a certification program for entry-level Athletic Trainers (ATs). The BOC establishes and regularly reviews both the standards for the practice of athletic training and the continuing education requirements for BOC Certified ATs. The BOC has the only accredited certification program for ATs in the United States and also administers the BOC certification examination for ATs.) On the BOC’s website, www.bocatc.org, the BOC defines and distinguishes between the terms “licensure” and “certification” under Frequently Asked Questions about State Regulation. The BOC defines “licensure” as “the most restrictive form of professional and occupational regulation. Licensure is often referred to as right-to-practice. Under licensure laws, it is illegal for a person to practice a profession without first meeting state standards.” The BOC defines “certification” as the status under which “the state grants title protection (right-to-title) to persons meeting predetermined standards. Those without certification may perform the duties of the occupation, but may not use the title.” In Pennsylvania, the term “licensure” is the appropriate term applying to athletic trainers.

Description of Amendments

Section 2 of Act 123 of 2011, 63 P.S. § 271.2, included in the definitions of the act an amendment to the definition of “Board-regulated practitioner.” As with other definitions, Act 123 changed the word “certified” to “licensed” in this definition. Although the definition of “Board-regulated practitioner” is found in section 2 of the act, it is not found in the definitions in Subchapter A (relating to general provisions). Because the definition of “Board-regulated practitioner” makes reference to an osteopathic physician, a physician assistant, a respiratory therapist and an athletic trainer as well as an applicant for a license or certificate issued by the Board, the Board places this definition in § 25.1 (relating to definitions) because its application to various licensees applies to many sections of the regulations at Chapter 25. To implement the provision of section 2 of Act 123, the Board uses the terms “licensed athletic trainer” in this definition.

At Subchapter F (relating to fees), the Board amends the reference to “application for athletic trainer certification” to “application for athletic trainer license” at § 25.231 (relating to schedule of fees) to follow the similar changes that Act 123 made to change the words “certification” to “licensure.”

Likewise, in Subchapter M (relating to athletic trainers), at § 25.701 (relating to purpose), the Board changes the word “certification” to “licensure.”

Also in Subchapter M, at § 25.702 (relating to definitions), the Board follows the other definitions in section 2 of Act 123 by changing “certified” to “licensed” in the definitions of “Athletic training services,” “Direction,” “Referral,” and “Written protocol.” Furthermore,

because section 2 of Act 123 deleted the definition of “Certified athletic trainer” from the definitions in the act, the Board deletes “Certified athletic trainer” from the definitions at § 25.702. In similar fashion, because section 2 of Act 123 added a new definition of “Licensed athletic trainer,” the Board adds this definition at § 25.702.

At § 25.703 (relating to certification requirement), the Board changes the title of the section from “Certification requirement” to “Licensure requirement” to follow the changes from certification to licensure in Act 123. Likewise, to track the statutory mandate at section 7.1(c) of Act 123, the Board, at § 25.703(a) substitutes the title of “licensed athletic trainer,” and the abbreviations of “A.T.L.” or “L.A.T” for the title of “certified athletic trainer” as well as the abbreviations of “A.T.C” and “C.A.T.”

As with other regulations in Subchapter M, the Board substitutes the word “certified” with “licensed” in §§ 25.703 (a), (b) and (d) because the General Assembly did so throughout Act 123. Although not shown in the Annex because no changes were made in § 25.703(b)(1), the Board does not delete the word “certified” because other medical professionals, such as physician assistants, are certified by the Board, and the term “certification” appears in Subchapter C (relating to physician assistant provisions) of Chapter 25. The Board deletes § 25.703(c), because there are no more athletic trainers with licenses or certificates from the State Board of Physical Therapy, and the former regulation grandfathering certificateholders under the Physical Therapy Practice Act prior to July 14, 2007 no longer applies. In § 25.703(d), the Board replaces the words “Athletic training certificateholders” with “Athletic trainers licensed to practice” because it refers to athletic trainers licensed by the State Board of Osteopathic Medicine, and subsection 7.1(b.1)(1) of Act 123 contained a cross reference to athletic trainers licensed by the State Board of Medicine.

As in § 25.703, the Board, in the title of § 25.704 (relating to application for certification) replaces the word “certification” with “licensure.” Likewise in § 25.704(b), the Board also substitutes “licensure” for “certification.”

Similarly, the Board substitutes “licensure” for “certification” in § 25.705 (relating to educational requirements). Because the BOC only issues credentials for Certified Athletic Trainers (ATC), the Board did not change that title to Licensed Athletic Trainer in § 25.705(2). Because the BOC only issues credentials for Certified Athletic Trainers (ATC), the Board did not change that title to Licensed Athletic Trainer in § 18.505(2). Because the Board makes no changes to subsection 18.505(2), it does not appear in the Annex.

In § 25.706 (relating to examination requirement), the Board substitutes the word “certificate” with “license” and also substitutes the word “certified” with “licensed” in compliance with the changes mandated by Act 123. Because the BOC administers the certification examination for athletic trainers, the Board does not change the terms “certification examination” in this section or in § 25.707 (relating to temporary certification).

In § 25.707 (relating to temporary certification), the Board again, in the title, replaces the word “certification” with “licensure.” Likewise, the Board substitutes the word “certificate”

with “license,” the word “certified” with “licensed,” and the word “certification” with “license” or “licensure,” as appropriate.

Similarly, in § 25.708 (relating to renewal of certificate), the Board substitutes the word “certificate” in the title with “license.” Likewise, throughout this section, the Board substitutes the words “certificate” or “certificates” with “license” or “licenses,” and substitutes the words “certificateholder” with “licensee” and “certification” with “license” to comply with the changes made by Act 123.

In § 25.709 (relating to practice standards for athletic trainers), after changing the word “certified” to “licensed,” the Board adds the words “certified or licensed” in subsections 25.709(a) and (b) because, according to the BOC, some states still use the term “certified” to refer to athletic trainers. Therefore, to encompass athletic trainers in all states that certify or license athletic trainers, the Board uses both terms. As noted in § 25.703(b)(2) (relating to certification requirement), athletic trainers from other states may be in Pennsylvania on a visiting basis, so it is appropriate to encompass athletic trainers who are either certified or licensed. Also, in § 18.509(b), an athletic trainer may be in Pennsylvania if the athletic trainer is working in a team setting, so the Board uses both terms “certified or licensed.”

In § 25.710 (relating to refusal, suspension or revocation of certificate), the Board again changes “certificate” in the title to “license” and also did so throughout this section where appropriate. Likewise, in § 25.711 (relating to continuing education), the Board changes the word “certificate” to “license” to comply with Act 123.

Fiscal Impact

The proposed regulation should not have any fiscal impact on the Commonwealth, the general public or political subdivisions.

Paperwork Requirements

The proposed regulations do not create additional paperwork for the Board, the Board’s licensees or the general public.

Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (RRA) (71 P.S. § 745.5a(c)), on March 4, 2013, the Board submitted copies of the final rulemaking, with proposed rulemaking omitted, to the Independent Regulatory Review Commission (IRRC), and the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC). On the same date, the Board submitted a copy of the regulation to the Office of Attorney General under the Commonwealth Attorneys Act (71 P.S. §§ 732-101--732-506).

Under section 5.1(j.2) of the RRA (71 P.S. § 745.5a(j.2)), the final rulemaking was approved by the HPLC on _____, and deemed approved by the SCP/PLC on _____. Under section 5.1(e) of the RRA (71 P.S. § 745.5a(e)), IRRC met on _____, and approved the final rulemaking.

Additional Information

For additional information about the final rulemaking, interested parties may contact Regulatory Unit Counsel, Department of State, by mail at P.O. Box 2649, Harrisburg, PA 17105-2649, or by email at st-osteopathic@pa.us or by telephone at (717) 783-7200. Please reference No. 16A-5325 (athletic trainers), when submitting questions.

Findings

The Board finds that:

- (1) Public notice of the Board's intention to amend its regulations under the procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) has been omitted under the authority of section 204 of the CDL (45 P.S. § 1204), because public comment is unnecessary due to the fact that this regulation is limited to implementing the statutory requirements, and it does not interpret the statute or make any other changes not contained in Act 123 of 2011.
- (2) The amendment of the Board's regulations in the manner provided in this order is necessary and appropriate for the administration of the act.

Order

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board at 49 Pa. Code §§ 25.1, 25.231 and 25.701 – 25.711 are amended to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.
- (c) The Board shall certify this order and Annex and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE

Subchapter A. GENERAL PROVISIONS

§ 25.1. Definitions.

* * * * *

Board-regulated practitioner—An osteopathic physician, physician assistant, respiratory therapist or licensed athletic trainer or an applicant for a license or certificate issued by the Board.

* * * * *

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:

* * * * *

Application for athletic trainer [certification] license\$20

* * * * *

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] licensure 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:

* * * * *

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

* * * * *

(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] licensed athletic trainer.

* * * * *

[*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] licensed 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, 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.

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

* * * * *

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.

* * * * *

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] licensed athletic trainer, describes the manner and frequency in which the [certified] licensed athletic trainer regularly communicates with the supervising physician and includes standard operating procedures, developed in agreement with the supervising physician and [certified] licensed athletic trainer, which the [certified] licensed athletic trainer follows when not directly supervised onsite by the supervising physician.

§ 25.703. [Certification] Licensure requirement.

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

(b) Except as otherwise provided by this subsection, a person may not perform the duties of an athletic trainer unless that person has been [certified] licensed by the Board. This provision is not intended to prevent the following:

* * * * *

(c) [Former athletic training certificateholders under the Physical Therapy Practice Act (63 P. S. §§ 1301—1313) prior to July 14, 2007, are deemed certified by the Board.

(d) Athletic training certificateholders certified] Athletic trainers licensed by the State Board of Medicine are deemed [certified] licensed by the Board.

§ 25.704. Application for [certification] licensure.

* * * * *

(b) To qualify for [certification] licensure, 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] licensure shall comply with one of the following:

* * * * *

§ 25.706. Examination requirement.

An applicant for a [certificate] license to practice as a [certified] licensed 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] licensure.

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

§ 25.708. Renewal of [certificate] license.

(a) A [certificate] license issued under this subchapter shall be renewed biennially. An application form will be mailed to the most recent address of the [certificateholder] licensee as it appears on the records of the Board. The [certificateholder] licensee shall complete the renewal application and return it to the Board with a renewal fee before December 31 of the year in which the application was received. [Certificates] Licenses other than temporary [certificates] licenses expire on December 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] license of renewal for the next biennial period.

(b) When a [certification] license 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, as set forth in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401—225).

(c) As a condition of renewal, a [certificateholder] licensee shall comply with the continuing education requirements in § 25.711 (relating to continuing education).

§ 25.709. Practice standards for athletic trainers.

(a) Athletic trainers [certified] licensed by the Board or certified or licensed by the proper licensing or certification authority of another 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 prescription from a licensed physician, dentist or podiatrist or is subject to a written protocol for treatment by a certified or licensed athletic trainer from a licensed physician.

* * * * *

(b) Athletic trainers [certified] licensed by the Board or certified or licensed by the proper licensing authority of another 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.

* * * * *

§ 25.710. Refusal, suspension or revocation of [certificate] license.

(a) The Board may refuse to issue a [certificate] license, and after notice and hearing, may suspend or revoke the [certificate] license 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] license 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).

§ 25.711. Continuing education.

* * * * *

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

* * * * *

Commentators list:

1. Robert S. Stasak
225 Oak Street
Wind Gap, PA 18091



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF OSTEOPATHIC MEDICINE

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-4858

March 4, 2013

The Honorable Silvan B. Lutkewitte, III, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Omitted Regulation
State Board of Osteopathic Medicine
16A-5325: Athletic Trainers

Dear Chairman Lutkewitte:

Enclosed is a copy of a final omitted rulemaking package of the State Board of 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,

A handwritten signature in black ink, appearing to read "S. Garloni".

Samuel J. Garloni, D.O., Chairperson
State Board of Osteopathic Medicine

SJG/DOC:ld

Enclosure

cc: Katie True, Commissioner
Bureau of Professional and Occupational Affairs
Rebecca Oyler, Director of Policy, Department of State
Steven V. Turner, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Teresa Lazo, Counsel
State Board of Osteopathic Medicine
State Board of Osteopathic Medicine

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-5325
 SUBJECT: ATHLETIC TRAINERS
 AGENCY: DEPARTMENT OF STATE
 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
 STATE BOARD OF OSTEOPATHIC MEDICINE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- X 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

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RECEIVED
IRRC

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
3/4/13	<i>Michele Warren</i>	MAJORITY CHAIR <u>Julie Harhart</u>
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
3/4/13	<i>May Walmer</i>	MAJORITY CHAIR <u>Robt. M. Tomlinson</u>
3/4/13	<i>K. Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
3-4-13	<i>M. Mummert</i>	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)