

LICENSURE OF ATHLETIC TRAINERS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Paul Ray

LONG TITLE

General Description:

This bill enacts the Athletic Trainer Licensing Act.

Highlighted Provisions:

This bill:

- ▶ enacts the Athletic Trainer Licensing Act;
- ▶ provides for the licensing of athletic trainers;
- ▶ establishes qualifications for an athletic trainer license;
- ▶ establishes the Athletic Trainer Licensing Board and its duties and responsibilities;
- ▶ provides exemptions from licensure;
- ▶ defines unprofessional conduct; and
- ▶ establishes the scope of practice of an athletic trainer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-307, as last amended by Chapters 156 and 280, Laws of Utah 2004

ENACTS:

58-40a-101, Utah Code Annotated 1953

58-40a-102, Utah Code Annotated 1953



28 **58-40a-103**, Utah Code Annotated 1953
 29 **58-40a-104**, Utah Code Annotated 1953
 30 **58-40a-105**, Utah Code Annotated 1953
 31 **58-40a-106**, Utah Code Annotated 1953
 32 **58-40a-107**, Utah Code Annotated 1953
 33 **58-40a-108**, Utah Code Annotated 1953
 34 **58-40a-109**, Utah Code Annotated 1953
 35 **58-40a-110**, Utah Code Annotated 1953
 36 **58-40a-111**, Utah Code Annotated 1953
 36a ~~H~~→ **58-40a-112, Utah Code Annotated 1953** ←~~H~~

37
 38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **58-1-307** is amended to read:

40 **58-1-307. Exemptions from licensure.**

41 (1) Except as otherwise provided by statute or rule, the following persons may engage
 42 in the practice of their occupation or profession, subject to the stated circumstances and
 43 limitations, without being licensed under this title:

44 (a) a person serving in the armed forces of the United States, the United States Public
 45 Health Service, the United States Department of Veterans Affairs, or other federal agencies
 46 while engaged in activities regulated under this chapter as a part of employment with that
 47 federal agency if the person holds a valid license to practice a regulated occupation or
 48 profession issued by any other state or jurisdiction recognized by the division;

49 (b) a student engaged in activities constituting the practice of a regulated occupation or
 50 profession while in training in a recognized school approved by the division to the extent the
 51 activities are supervised by qualified faculty, staff, or designee and the activities are a defined
 52 part of the training program;

53 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,
 54 fellowship, apprenticeship, or on-the-job training program approved by the division while
 55 under the supervision of qualified persons;

56 (d) an individual residing in another state and licensed to practice a regulated
 57 occupation or profession in that state, who is called in for a consultation by an individual
 58 licensed in this state, and the services provided are limited to that consultation;

59 (e) an individual who is invited by a recognized school, association, society, or other
60 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a
61 regulated occupation or profession if the individual does not establish a place of business or
62 regularly engage in the practice of the regulated occupation or profession in this state;

63 (f) an individual licensed under the laws of this state, other than under this title, to
64 practice or engage in an occupation or profession, while engaged in the lawful, professional,
65 and competent practice of that occupation or profession;

66 (g) an individual licensed in a health care profession in another state who performs that
67 profession while attending to the immediate needs of a patient for a reasonable period during
68 which the patient is being transported from outside of this state, into this state, or through this
69 state;

70 (h) an individual licensed in another state or country who is in this state temporarily to
71 attend to the needs of an athletic team or group, except that the practitioner may only attend to
72 the needs of the athletic team or group, including all individuals who travel with the team or
73 group in any capacity except as a spectator;

74 (i) an individual licensed and in good standing in another state, who is in this state:

75 (i) temporarily, under the invitation and control of a sponsoring entity;

76 (ii) for a reason associated with a special purpose event, based upon needs that may
77 exceed the ability of this state to address through its licensees, as determined by the division;
78 and

79 (iii) for a limited period of time not to exceed the duration of that event, together with
80 any necessary preparatory and conclusionary periods; and

81 [~~(j) an individual who:~~]

82 [~~(i) is certified as an athletic trainer by the National Athletic Trainers Association
83 Board of Certification or another entity approved by the division;~~]

84 [~~(ii) is employed or officially associated with an educational institution, a professional
85 sports organization, or a bona fide amateur sports organization; and]~~

86 [~~(iii) only provides athletic training services;~~]

87 [~~(A) to athletes of the educational institution or sports organization to which the
88 individual is employed or officially associated;~~]

89 [~~(B) at an official athletic training, practice, or competition site; and]~~

90 [~~(C)~~] that are within the scope of the individual's certification; and]

91 [~~(k)~~] (j) a law enforcement officer, as defined under Section 53-13-103, who:

92 (i) is operating a voice stress analyzer in the course of the officer's full-time

93 employment with a federal, state, or local law enforcement agency;

94 (ii) has completed the manufacturer's training course and is certified by the

95 manufacturer to operate that voice stress analyzer; and

96 (iii) is operating the voice stress analyzer in accordance with Section 58-64-601,

97 regarding deception detection instruments.

98 (2) A practitioner temporarily in this state who is exempted from licensure under

99 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the

100 practitioner derives authority to practice. Violation of any limitation imposed by this section

101 constitutes grounds for removal of exempt status, denial of license, or other disciplinary

102 proceedings.

103 (3) An individual who is licensed under a specific chapter of this title to practice or

104 engage in an occupation or profession may engage in the lawful, professional, and competent

105 practice of that occupation or profession without additional licensure under other chapters of

106 this title, except as otherwise provided by this title.

107 (4) Upon the declaration of a national, state, or local emergency, a public health

108 emergency as defined in Section 26-23b-102, or a declaration by the President of the United

109 States or other federal official requesting public health-related activities, the division in

110 collaboration with the board may:

111 (a) suspend the requirements for permanent or temporary licensure of persons who are

112 licensed in another state. Persons exempt under this Subsection (4)(a) shall be exempt from

113 licensure for the duration of the emergency while engaged in the scope of practice for which

114 they are licensed in the other state;

115 (b) modify, under the circumstances described in this Subsection (4) and Subsection

116 (5), the scope of practice restrictions under this title for persons who are licensed under this

117 title as:

118 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah

119 Osteopathic Medical Practice Act;

120 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure

- 121 Compact;
- 122 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;
- 123 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,
- 124 Pharmacy Practice Act;
- 125 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act; and
- 126 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist
- 127 Practice Act;
- 128 (c) suspend the requirements for licensure under this title and modify the scope of
- 129 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
- 130 services personnel or paramedics required to be certified under Section 26-8a-302; and
- 131 (d) suspend requirements in Subsections 58-17b-620(3) through (6) which require
- 132 certain prescriptive procedures.
- 133 (5) Persons exempt under Subsection (4)(c) and persons operating under modified
- 134 scope of practice provisions under Subsection (4)(b):
- 135 (a) shall be exempt from licensure or subject to modified scope of practice for the
- 136 duration of the emergency;
- 137 (b) must be engaged in the distribution of medicines or medical devices in response to
- 138 the emergency or declaration; and
- 139 (c) must be employed by or volunteering for a local or state department of health.
- 140 Section 2. Section **58-40a-101** is enacted to read:

141 **CHAPTER 40a. ATHLETIC TRAINER LICENSING ACT**

142 **58-40a-101. Title**

143 This chapter is known as the "Athletic Trainer Licensing Act."

144 Section 3. Section **58-40a-102** is enacted to read:

145 **58-40a-102. Definitions.**

146 In addition to the definitions in Section 58-1-102, as used in this chapter:

147 (1) "Athletic injury" means:

148 (a) an injury sustained by an individual that affects the individual's participation or

149 performance in sports, games, recreation, exercise, or other activity that requires physical

150 strength, agility, flexibility, speed, stamina, or range of motion; or

151 (b) a condition that is within the scope of practice of an athletic ~~H~~→ [trainee]

151a trainer ←H identified by a

152 licensed physician ~~H→~~ , osteopath, dentist, chiropractor, or naturopath ~~←H~~ as benefitting from
 152a athletic training services.

153 (2) "Athletic trainer" means a person who is licensed under this chapter and carries out
 154 the practice of athletic training under the direction of a designated Utah licensed physician, or a
 155 designated Utah licensed dentist registered with the board.

156 (3) "Athletic training" means the application by a licensed and certified athletic trainer
 157 of principles and methods of:

158 (a) prevention of athletic injuries;

159 (b) recognition, evaluation, and assessment of athletic injuries and conditions;

160 (c) immediate care of athletic injuries, including common emergency medical
 161 situations;

162 (d) rehabilitation and reconditioning of athletic injuries;

163 (e) athletic training services administration and organization; and

164 (f) education of athletes.

165 (4) "Board" means the Athletic Trainers Licensing Board.

166 (5) "Directing physician" means a physician and surgeon licensed under Section
 167 58-67-301, osteopathic physician and surgeon licensed under Section 58-68-301, ~~H→~~ a
 167a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, a
 167b naturopathic physician licensed under Chapter 71, Naturopathic Physician Practice Act, ~~←H~~
 167c or dentist

168 licensed under Section 58-69-301 who is responsible for the athletic training services provided
 169 by the athletic trainer and oversees the practice of athletic training by the athletic trainer, as
 170 established by board rule.

171 Section 4. Section **58-40a-103** is enacted to read:

172 **58-40a-103. Duties of directing physician.**

173 (1) A directing physician shall provide direction to an athletic trainer by a verbal order
 174 when in the presence of the athletic trainer and by written order or by athletic training service
 175 plans or protocols, as established by board rule, when the directing physician is not present.

176 (2) Upon referral from a physician licensed in another state and in good standing, the
 177 practice of athletic training shall be carried out under the written orders of the referring
 178 physician and in collaboration with the directing physician.

179 Section 5. Section **58-40a-104** is enacted to read:

180 **58-40a-104. Board composition -- Duties and responsibilities.**

181 (1) There is created the Athletic Trainers Licensing Board consisting of four licensed
 182 athletic trainers ~~H→~~ , one member representative of the directing physicians referred to in
 182a Subsection 58-40a-102(5), ~~←H~~ and one member of the general public who has never been
 182b authorized to

183 practice a healing art and never had a substantial personal, business, professional, or pecuniary
 184 connection with a healing art or with a medical education or health care facility, except as a
 185 client or potential client.

186 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

187 (3) The board shall carry out the duties and responsibilities in Sections 58-1-202 and
 188 58-1-203, and shall designate one of its members on a permanent or rotating basis to:

189 (a) assist the division in reviewing complaints concerning the unlawful or
 190 unprofessional conduct of a licensee under this chapter; and

191 (b) advise the division of its investigation of these complaints.

192 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
 193 in its investigation may be disqualified from participating with the board when the board serves
 194 as a presiding officer in an adjudicative proceeding concerning the complaint.

195 Section 6. Section **58-40a-105** is enacted to read:

196 **58-40a-105. Licensure required.**

197 (1) A license is required to engage in the practice of athletic training, except as
 198 specifically provided in Section 58-1-307 or 58-40a-108.

199 (2) A person may not use the title "licensed athletic trainer," or "athletic trainer," or
 200 abbreviations or insignias to imply that the person is an athletic trainer unless the person is
 201 licensed under this chapter.

202 (3) Nothing in this chapter permits an individual licensed under this chapter to engage
 203 in the practice of medicine ~~Ĥ~~→ osteopathy, chiropractic, naturopathy, and dentistry ←Ĥ .

204 Section 7. Section **58-40a-106** is enacted to read:

205 **58-40a-106. Qualifications for licensure.**

206 The division shall issue a license to practice as an athletic trainer to an applicant who:

207 (1) has obtained a bachelor's or advanced degree from an accredited four-year college
 208 or university and meets the minimum athletic training curriculum requirement established by
 209 the board by rule;

210 (2) has successfully completed the certification examination administered by the
 211 National Athletic Trainers' Association Board of Certification or equivalent examination
 212 approved or recognized by the board;

213 (3) is in good standing with and provides documentation of current certification by the

214 National Athletic Trainers' Association Board of Certification or a nationally recognized
215 credentialing agency approved by the board;

216 (4) submits an application to the division on a form prescribed by the division; and

217 (5) pays the required licensing fee as determined by the department under Section
218 63-38-3.2.

219 Section 8. Section **58-40a-107** is enacted to read:

220 **58-40a-107. Term of license -- Expiration -- Renewal.**

221 (1) (a) The division shall issue each license for an athletic trainer in accordance with a
222 two-year renewal cycle established by rule in accordance with Title 63, Chapter 46a, Utah
223 Administrative Rulemaking Act.

224 (b) The division may, by rule, extend or shorten a renewal period by as much as one
225 year to stagger the renewal cycles it administers.

226 (2) Each license automatically expires on the expiration date shown on the license
227 unless the licensee renews it in accordance with Section 58-1-308.

228 Section 9. Section **58-40a-108** is enacted to read:

229 **58-40a-108. Exemptions from licensure.**

230 In addition to the exemptions from licensure in Section 58-1-307, this chapter does not
231 require the licensure of an individual:

232 (1) who assists in an emergency or in providing services for which no fee is
233 contemplated, charged, or received, provided the individual does not hold himself out as an
234 athletic trainer; or

235 (2) licensed under this title for the following occupations or professions while
236 performing services within that occupation or profession:

237 (a) podiatrist;

238 (b) dentist;

239 (c) medicine and surgery;

240 (d) physician assistants;

241 (e) optometrist;

242 (f) physical therapist;

243 (g) occupational therapist;

244 (h) osteopath;

245 (i) chiropractor; and

246 (j) nurse.

247 Section 10. Section **58-40a-109** is enacted to read:

248 **58-40a-109. Grounds for denial of license.**

249 The division may refuse to issue a license to an applicant, refuse to renew the license of
250 a licensee, revoke, suspend, restrict, or place on probation the license of a licensee, issue a
251 public or private reprimand to a licensee, and issue cease and desist orders in accordance with
252 Section 58-1-401.

253 Section 11. Section **58-40a-110** is enacted to read:

254 **58-40a-110. Unprofessional conduct.**

255 (1) In addition to the provisions of Subsection 58-1-501(2), "unprofessional conduct"
256 includes:

257 (a) failing to report to the board an act or omission of a licensee, applicant, or any other
258 person which violates a provision of this chapter;

259 (b) interfering with an investigation of disciplinary proceeding by willful
260 misrepresentation of facts or by use of threats or harassment against a client or witness to
261 prevent that individual from providing evidence in a disciplinary proceeding, investigation, or
262 other legal action;

263 (c) failing to maintain client confidentiality unless otherwise required by law;

264 (d) promoting an unnecessary device, treatment, intervention, or service for financial
265 gain by the athletic trainer or a third party; and

266 (e) failing to maintain adequate records.

267 (2) For purposes of Subsection (1)(e), "adequate records" means legible records that
268 contain, at a minimum:

269 (a) the athletic training service plan or protocol;

270 (b) an evaluation of objective findings;

271 (c) the plan of care and the treatment records; or

272 (d) written orders.

273 Section 12. Section **58-40a-111** is enacted to read:

274 **58-40a-111. Scope of practice.**

275 An athletic trainer may:

- 276 (1) prevent injuries by:
277 (a) designing and implementing physical conditioning programs which may include:
278 (i) strength and range of motion testing;
279 (ii) nutritional advisement; and
280 (iii) psychosocial intervention and referral;
281 (b) performing preparticipation screening;
282 (c) fitting protective equipment;
283 (d) designing and constructing protective products; and
284 (e) continuously monitoring changes in the environment;
285 (2) recognize and evaluate injuries by:
286 (a) obtaining a history of the injury;
287 (b) inspecting an injured body part and associated structures;
288 (c) palpating bony landmarks and soft tissue structures; and
289 (d) performing clinical tests to determine the extent of an injury;
290 (3) provide immediate care of injuries by:
291 (a) initiating cardiopulmonary resuscitation;
292 (b) administering basic or advanced first aid;
293 (c) removing athletic equipment; and
294 (d) immobilizing and transporting an injured athlete;
295 (4) determine whether an athlete may return to participation or, if the injury requires
296 further definitive care, refer the athlete to the appropriate directing physician;
297 (5) rehabilitate and recondition an injury by administering therapeutic exercise and
298 therapeutic and physical modalities, including cryotherapy, thermotherapy, and intermittent
299 compression, electrical stimulation, ultra sound, traction devices, or mechanical devices as
300 directed by established, written athletic training service plans or protocols or upon the order of
301 a directing physician;
302 (6) provide athletic training services administration, including:
303 (a) implementing athletic training service plans or protocols;
304 (b) writing organizational policies and procedures;
305 (c) complying with governmental and institutional standards; and
306 (d) maintaining records to document services rendered; and

- 307 (7) educating athletes to facilitate physical conditioning and reconditioning by
308 designing and implementing appropriate programs to minimize the risk of injury.
308a **Ĥ→ Section 13. Section 58-40a-112 is enacted to read:**
308b **58-40a-112. Insurance payments.**
308c **Nothing in this chapter may be construed to require the payment from third party insurers to**
308d **athletic trainers.** ←Ĥ
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Legislative Review Note
as of 1-31-05 12:19 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

SECOND AMENDED NOTE

State Impact

In the first year, the board will meet monthly to establish new profession regulations at a cost of \$5,200. Board cost in the second year will drop to \$1,300. There is a \$7,000 cost to develop a Utah Law/Rule exam that would be required for licensure in addition to completion of a national certification exam. Net impact is an decrease of \$1,700 to the Commerce Service Fund. Spending from the Commerce Service Fund could affect revenue available to the General Fund.

| | <u>FY 2006</u> <u>Approp.</u> | <u>FY 2007</u> <u>Approp.</u> | <u>FY 2006</u> <u>Revenue</u> | <u>FY 2007</u> <u>Revenue</u> |
|-----------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| Commerce Service Fund | \$12,200 | \$1,300 | \$10,500 | \$3,500 |
| TOTAL | \$12,200 | \$1,300 | \$10,500 | \$3,500 |

Individual and Business Impact

Revenue estimates are based on 150 applicants the first year with a fee of \$70. After that new applicants will number about 50 annually. Renewal fees will be \$47.

Office of the Legislative Fiscal Analyst