

# MAINE STATE LEGISLATURE

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MAJORITY  
BUSINESS LEGISLATION

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 536, L.D. 720, Bill, "An Act to License Athletic Trainers"

Amend the bill in section 5 in the 6th line (page 2, line 16 in L.D.) by striking out the following: "2" and inserting in its place the following: '2 3'

Further amend the bill in section 5 in the 7th line (page 2, line 17 in L.D.) by striking out the following: "2 athletic trainers," and inserting in its place the following: 'one athletic trainer,'

Further amend the bill in section 5 in the 9th line (page 2, line 19 in L.D.) by striking out the following: "128" and inserting in its place the following: '127-A'

Further amend the bill in section 6 in subsection 4 in the first line (page 2, line 24 in L.D.) by striking out the following: "shall" and inserting in its place the following: 'shall'

Further amend the bill in section 7 in paragraph A in the last line (page 2, line 33 in L.D.) by striking out the following: "128" and inserting in its place the following: '127-A'

Further amend the bill by inserting after section 7 the following:

**COMMITTEE AMENDMENT**

P. of S.

'Sec. 8. 32 MRSA §3113-A, first ¶, as enacted by PL 1991, c. 178, §3, is amended to read:

A person may not practice or profess to be authorized to practice ~~as a physical therapist~~ physical therapy in this State or use the words "physical therapist" or the letters "P.T." or other words or letters to indicate that the person using those words or letters is a licensed physical therapist unless that person is licensed in accordance with the provisions of this chapter.'

Further amend the bill in section 8 by striking out all of the first 2 lines (page 2, lines 39 and 41 in L.D.) and inserting in their place the following:

'Sec. 8. 32 MRSA c. 127-A is enacted to read:

CHAPTER 127-A'

Further amend the bill in section 8 by striking out all that part designated "§14351." and inserting in its place the following:

'§14351. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Athlete. "Athlete" means a physically active individual training for or participating in an amateur, educational or professional athletic organization or any other association that sponsors athletic programs or events in the State.

2. Athletic injury. "Athletic injury" means a disruption of tissue continuity that is sustained by an athlete or recreational athlete when that injury:

A. Results from that individual's participation in or training for sports, fitness training, or other athletic competition; or

B. Restricts or prevents that individual from participation in those activities.

3. Athletic trainer. "Athletic trainer" means a person licensed by the board to practice athletic training after meeting the requirements of this chapter.

4. Athletic training. "Athletic training" includes:

A. Prevention of athletic injuries;

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B. Recognition and evaluation of athletic injuries;

C. Management, treatment and disposition of athletic injuries;

D. Rehabilitation of athletic injuries;

E. Organization and administration of an athletic training program; and

F. Education and counseling of athletes, recreational athletes, coaches, family members, medical personnel, and communities in the area of care and prevention of athletic injuries.

5. Board. "Board" means the Board of Physical Therapy and Athletic Training.

6. Recreational athlete. "Recreational athlete" means an individual participating in fitness training and conditioning, sports or other athletic competition, practices or events requiring physical strength, agility, flexibility, range of motion, speed or stamina and who is not affiliated with an amateur, educational or professional athletic organization or any association that sponsors athletic programs or events in the State.'

Further amend the bill in section 8 by striking out all that part designated "§14353." and inserting in its place the following:

'§14353. Necessity for licensure

A person may not profess to be an athletic trainer, practice athletic training or render athletic training services in this State unless licensed in accordance with this chapter.

A person may not use the title "athletic trainer" or "certified athletic trainer" or "licensed athletic trainer" or the letters "LAT," "ATC," "CAT" or "AT" or any other facsimile thereof whether or not compensation is received or expected, unless licensed as an athletic trainer under this chapter.

1. Training of athlete. When providing athletic training to an athlete without referral from a doctor of medicine, osteopathy, podiatry or dentistry, the athletic trainer is subject to the following requirements.

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2 A. An athletic trainer may not make a medical diagnosis.  
3 The athletic trainer shall refer to a licensed doctor of  
4 medicine, osteopathy, podiatry or dentistry an athlete whose  
5 physical condition, either at the initial evaluation or  
6 during subsequent treatment, the athletic trainer determines  
7 to be beyond the scope of the practice of the athletic  
8 trainer.

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10 B. If there is no improvement in an athlete who has  
11 sustained an athletic injury within 15 days of initiation of  
12 treatment, the athletic trainer shall refer the athlete to a  
13 licensed doctor of medicine, osteopathy, podiatry or  
14 dentistry or a licensed physical therapist.

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16 C. If an athletic injury requires treatment for more than  
17 45 days, the athletic trainer shall consult with, or refer  
18 the athlete to, a licensed doctor of medicine, surgery,  
19 osteopathy, podiatry or dentistry or a licensed physical  
20 therapist. The athletic trainer shall document the action  
21 taken.

22 2. Training of recreational athlete. When providing  
23 athletic training to the recreational athlete, for other than  
24 emergency care or the care of minor sprains, strains and  
25 contusions, the athletic trainer shall refer the athlete to a  
26 doctor of medicine, osteopathy, podiatry or dentistry or a  
27 licensed physical therapist.

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29 For the treatment of the recreational athlete, for other than  
30 emergency care or the care of minor sprains, strains and  
31 contusions, the athletic trainer must receive referral from a  
32 doctor of medicine, osteopathy, podiatry or dentistry or a  
33 licensed physical therapist.

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35 When providing care and treatment to the recreational athlete  
36 sustaining minor sprains, strains and contusions, the athletic  
37 trainer is subject to the following requirements.

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39 A. An athletic trainer may not make a medical diagnosis.  
40 The athletic trainer shall refer to a licensed doctor of  
41 medicine, osteopathy, podiatry or dentistry an athlete whose  
42 physical condition, either at the initial evaluation or  
43 during subsequent treatment, the athletic trainer determines  
44 to be beyond the scope of practice of the athletic trainer.

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46 B. If there is no improvement in a recreational athlete who  
47 has sustained an athletic injury within 15 days of  
48 initiation of treatment, the athletic trainer shall refer  
49 the recreational athlete to a licensed doctor of medicine,  
50 osteopathy, podiatry or dentistry or a licensed physical  
51 therapist.

2           C. If an athletic injury requires treatment for more than  
4           45 days, the athletic trainer shall consult with or refer  
6           the recreational athlete to a licensed doctor of medicine,  
          osteopathy, podiatry or dentistry or a licensed physical  
          therapist.'

8           Further amend the bill in section 8 by striking out all of  
10           that part designated "~~§14355.~~"

12           Further amend the bill in section 8 in that part designated  
14           "~~§14356.~~" in subsection 3 in the first line (page 4, line 14 in  
16           L.D.) by striking out the following: "Any" and inserting in its  
18           place the following: 'A person who is fulfilling the requirements  
20           for certification or a'

22           Further amend the bill in section 8 in that part designated  
24           "~~§14356.~~" by striking out all of subsections 5 and 6 (page 4,  
26           lines 25 to 44 in L.D.) and inserting in their place the  
28           following:

30           '5. Visiting teams. Any person performing athletic  
32           training services in this State for an out-of-state team that is  
34           in this State for competition, if these services are performed  
36           for no more than 4 days at a time or 30 days a year in  
38           conjunction with a competition at which an athletic trainer  
          licensed under this chapter or a physician is available; or

40           '6. School coaches. A person employed by a public or  
42           private school or a conference or association of public or  
44           private schools as a coach, physical education instructor or  
46           similar position while in the discharge of official duties if  
48           athletic training is not the primary responsibility of that  
50           individual and the individual does not claim to be an athletic  
          trainer. If the individual engages in athletic training outside  
          of the scope of official duty, the individual must be licensed as  
          provided in this chapter.'

          Further amend the bill in section 8 in that part designated  
"~~§14357.~~" by striking out all of the paragraph (page 4, lines 40  
to 44 in L.D.) and inserting in its place the following:

'Nothing in this chapter authorizes an athletic trainer to  
practice medicine or any other form or method of healing not  
specified in this chapter.'

          Further amend the bill in section 8 by striking out all  
those parts designated "~~§14358.~~" to "~~§14362.~~" and inserting in  
their place the following:

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**§14358. Qualification**

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**1. Qualification.** To qualify for a license as an athletic trainer an applicant must:

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**A. Demonstrate that the applicant is trustworthy and competent to engage in practice as an athletic trainer in a manner that safeguards the interests of the public;**

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**B. Be a graduate of a college or university approved by the board and have successfully completed that college's or university's curriculum in athletic training, or other curricula acceptable to the board, and have completed an athletic training education program approved by the National Athletic Trainers Association or a program of practical training in athletic training acceptable to the board; and**

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**C. Have passed the National Athletic Trainers Association Board of Certification examination or be currently certified by the National Athletic Trainers Association and approved by the board.**

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**§14359. Applications for licensure; fees**

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**1. Written application.** An applicant for initial licensure must submit a written application with supporting documents to the board on forms provided by the board; and

**2. Fee.** The applicant must pay a nonrefundable application fee established by the board in an amount reasonable and necessary for purposes of the board.

The board shall license an applicant who meets the requirements of this chapter and pays the biennial licensure fee as specified in section 14360. The fee for original licenses effective for one year or less during the biennial licensing period must be 1/2 the fee established by the board under the provisions of section 14360. Each person licensed must receive a certificate. Every certificate of licensure and renewal certificate for the current biennium must be conspicuously displayed at the place of employment of the licensee. A certificate of licensure as an athletic trainer entitles the person to whom it is granted to engage in the practice of athletic training anywhere in this State.

**§14360. Renewal**

All licenses must be renewed biennially on or before March 31st of each even-numbered year or such other times as the Commissioner of Professional and Financial Regulation may

designate. The biennial licensure renewal fee must be established by the board and may not exceed \$60. The commissioner shall notify each licensee, at the licensee's last known address, 30 days in advance of the expiration of the license. Renewal notices must be on forms provided by the board. A license not renewed by March 31st automatically expires. The board may renew an expired license if the renewal application is returned within 90 days after the license expiration date and upon payment of a late fee of \$10 in addition to the renewal fee. A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of that expiration.

Each application for license renewal must present current National Athletic Trainers Association certification status.

**§14361. Temporary permits**

A temporary permit may be granted to a person who has completed the education and experience requirements of this chapter. This permit allows the person to practice athletic training under the direction of a licensed athletic trainer. This permit becomes invalid after 6 months or upon failure by the permittee of the National Athletic Trainers Association Board of Certification examination, whichever event occurs first. The permit may not be renewed.

**§14362. Revocation and reissuance**

The board may suspend or revoke a license pursuant to Title 5, section 10004. In addition, the board may refuse to issue or renew a license pursuant to Title 10, subsection 8003, or the Administrative Court may revoke, suspend or refuse to renew a license of an athletic trainer for the following reasons:

1. Fraud. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered as a licensed athletic trainer;

2. Addiction. Addiction, as confirmed by medical findings, to the use of alcohol or other drugs that has resulted in the licensed athletic trainer being unable to perform the trainer's duties or perform those duties in a manner that would not endanger the health or safety of the patients to be served;

3. Incompetency. A court finding of mental incompetency;



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2 4. Accomplice. Aiding or abetting a person not duly  
4 licensed as an athletic trainer to make representation to be an  
athletic trainer;

6 5. Misconduct. Gross negligence, incompetency or  
8 misconduct in the practice of athletic training;

10 6. Criminal conviction. Subject to the limitations of  
12 Title 5, chapter 341, conviction of a crime that, if committed in  
this State, would be punishable by one year or more of  
imprisonment;

14 7. Violation. Violation of this chapter or any rule  
16 adopted by the board; or

18 8. Unethical conduct. A funding of a violation of the  
20 National Athletic Trainers Association Code of Professional  
Ethics by the National Athletic Trainers Association Ethics  
Committee or a violation of the Professional Practice and  
22 Disciplinary Procedures of the National Athletic Trainers  
Association Board of Certification by that board.'

24 Further amend the bill in section 8 by renumbering the  
26 sections to read consecutively.

28 Further amend the bill by inserting after section 8 the  
following:

30 'Sec. 9. Allocation. The following funds are allocated from  
32 Other Special Revenue funds to carry out the purposes of this Act.

1994-95

34 **PROFESSIONAL AND FINANCIAL REGULATION,**  
36 **DEPARTMENT OF**

38 **Board of Physical Therapy and**  
**Athletic Training**

40 All Other \$7,770

44 Provides for the allocation of funds for  
46 additional rule-making costs pertaining to  
the licensure of athletic trainers.

48 **Sec. 10. Report.** By January 1, 1996, the Board of Physical  
Therapy and Athletic Training shall submit a brief written report

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and make an oral report on the status of licensing of athletic trainers to the joint standing committee of the Legislature having jurisdiction over business legislation matters with a copy to the Executive Director of the Legislative Council.

1. **Statistical information.** This report must include a good-faith effort to provide statistical information on the following subjects:

A. The number of people who previously practiced athletic training who are no longer able to do so;

B. The reduction in the number or severity of injuries due to the licensing of athletic trainers; and

C. The fees charged by athletic trainers before and after the effective date of this Act.

2. **Obtaining data.** The board shall include the following in the methods used for obtaining this data:

A. A board-designed quantitative survey of school superintendents, using as many closed-ended questions as possible on the final questionnaire and doing the necessary background work necessary to make the questionnaire easily answered. At least one follow-up must be made to nonrespondents;

B. A report on the written and verbal responses received in connection with the public hearings necessitated by the requirement that athletic trainers be licensed; and

C. The board shall develop a short quantitative questionnaire suitable to be placed in any newsletter published by the board or by the association of either of the professions regulated by the board. The board shall encourage these associations to include the questionnaire in their publication together with a brief summary of the new law.'

Further amend the bill in section 9 in the last line (page 6, line 51 in L.D.) by striking out the following: "July 1, 1994" and inserting in its place 'January 1, 1995'

Further amend the bill by renumbering the sections to read consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

**COMMITTEE AMENDMENT**

FISCAL NOTE

1994-95

APPROPRIATIONS/ALLOCATIONS

Other Funds \$7,770

REVENUES

Other Funds \$3,000

Through the expansion of the jurisdiction of the Board of Physical Therapy and Athletic Training to include the licensure of athletic trainers, the board will realize increased dedicated revenue of \$3,000 in fiscal year 1994-95.

The Board of Physical Therapy and Athletic Training will require an Other Special Revenue fund allocation of \$7,770 in fiscal year 1994-95 for additional rule-making costs relating to the licensure of athletic trainers.

The addition of 2 new board members to the Board of Physical Therapy and Athletic Training will increase expenditures of the board. The exact amounts can not be determined at this time.

This bill establishes a new Class E crime. Sentences imposed for Class E offenses must be served in a county jail. The average cost per sentence for a Class E crime is \$4,188 based upon an average length of stay of 67 days. The additional costs to the counties for the housing of each offender sentenced under this new crime will not require reimbursement by the State.

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.

STATEMENT OF FACT

The bill requires that athletic trainers be licensed. An extensive listing of the procedures that constitute athletic training is given. Qualifications are a college degree with a curriculum in athletic training, 800 hours of supervised

2 experience and the passing of an examination. The bill provides  
3 for the combining of the regulation of athletic training and  
4 physical therapy under one board. The board is to consist of 2  
5 physical therapists, one physical therapist assistant, 2 athletic  
6 trainers, one physician and one public member.

7 This amendment continues to require that athletic trainers  
8 be licensed. It continues the provision of combining the  
9 profession with the physical therapists board. Membership  
10 consists of 3 therapists, 1 therapist assistant, 1 trainer, 1  
11 physician and 1 public member. It eliminates the definition of  
12 athletic training that lists specific procedures and, instead,  
13 lists the broad types of activities undertaken by a trainer. It  
14 defines athletic injuries as those disruptions of tissue  
15 continuity that may occur to an athlete either in participating  
16 in athletics or that might prevent participation.

17 Two classifications of athlete are set up, those who are  
18 training for an athletic event and those who participate for  
19 recreational purposes. For both categories of athlete, the  
20 trainer may not make a diagnosis, must refer to a doctor or  
21 physical therapist in 15 days if no improvement in an injury is  
22 noted and must consult with a doctor or physical therapist if  
23 treatment requires more than 45 days. For the recreational  
24 athlete, the trainer must refer to a physician except when merely  
25 sprains or strains are involved and may treat other conditions  
26 only upon referral from a doctor or physical therapist. Persons  
27 coaching or teaching physical education at a school are exempt  
28 from the licensure requirement to practice athletic training when  
29 athletic training is not their primary duty. They still may not  
30 call themselves athletic trainers.

31 To qualify to be licensed, a person must be a college  
32 graduate who has completed the college's curriculum in athletic  
33 training, has completed a program approved by the National  
34 Athletic Trainers Association and has passed that association's  
35 board of certification examination or be currently certified by  
36 that board.

37 The biennial licensing fee is not to exceed \$60, which is  
38 also the provision for physical therapists.

39 The amendment eliminates the reciprocity provision of the  
40 bill and the provision that exempts persons performing athletic  
41 training for no remuneration.

42 The Joint Standing Committee on Business Legislation has  
43 elected to make as part of the Statement of Fact the report  
44 required by the Maine Revised Statutes, Title 5, section 12015,  
45 subsection 3 when a profession is first recommended for  
46 regulation. The report follows:

- 2 Q. The nature of the potential harm to the public if the  
4 occupation or activity is not regulated and the extent to  
6 A. Potential harm to the public is multifold: Improper and/or  
8 inadequate advice to athletes, parents and coaches;  
10 unnecessary or even harmful treatment of athletic injuries  
12 sustained; incorrect decision-making pertaining to physician  
14 referral, return to participation, rehabilitation or  
16 education; or simply misleading public perception.
- 18 Q. The extent to which existing legal remedies are inadequate  
20 to prevent or redress the kinds of harm potentially  
22 resulting from nonregulation.
- 24 A. To our knowledge, there are no existing legal remedies in  
26 the State of Maine, except the courts, that encompass the  
28 previously stated domains of athletic training to prevent  
30 potential harm to the public. Presently, any individuals  
32 may present themselves as athletic trainers. They can be  
34 hired by schools, hospitals or private clinics or they may  
36 be self-employed and contract to schools and athletic  
38 events. If anything were to occur that may lead to  
40 litigation, there is no accountability to the individual,  
42 only to the employing party.
- 44 Q. The extent to which the public is guided in selecting  
46 competent practitioners by private certifications,  
48 membership in professional or occupational associations or  
50 academic credentials.
- A. If this bill is enacted, a member of the public who may wish  
to seek the services of a licensed athletic trainer will be  
assured that the trainer has at least 4 qualifications:
1. Is an allied health care professional recognized by the  
American Medical Association who has at the least a  
bachelors degree from a college or university;
  2. Has fulfilled the requirements for national  
certification as established by the National Athletic  
Trainers Association Board of Certification (NATABOC);
  3. Maintains high professional standing through mandatory  
continuing education units; and
  4. Is certified nationally and licensed by the State of  
Maine.

2 When an athletic trainer is licensed by the State of Maine,  
4 that individual has met these requirements. The title of  
6 the licensed athletic trainer will be protected by state law  
and may not be misrepresented in any way. While there are  
national certification programs, they lack the legal  
standing to discipline members of the profession.

8 Q. The extent to which the occupation or profession has made  
10 efforts to regulate itself by adoption of standards of  
12 performance, a code of ethics or methods of resolving  
disputes with consumers of their services.

14 A. The National Association of Trainers, NATA, has made  
16 substantial efforts to protect the public by  
18 self-regulation. The NATA has adopted high standards of  
20 performance as indicated by their credentialing  
22 requirements. We believe that these answer the questions of  
24 high standards, requirements, testing, scope of practice and  
other points of interest. The NATA has also adopted a  
standard code of ethics, which is enforced by the NATA  
Ethics Committee. Again, however, this association lacks  
legal standing to require adherence to its standards by all  
athletic trainers.

26 Q. The nature of the standards proposed for granting a license,  
28 as compared with the standards adopted in other  
jurisdictions, and the authority of the proposed regulatory  
board to amend those standards or establish new standards.

30 A. The nature of the standards proposed for granting a license  
32 are consistent with those in other jurisdictions throughout  
34 the country. They are centered around the NATA and uphold  
36 the stringent demands for certification and continuing  
education. These include passing the NATABOC examination,  
fulfilling the professional continuing educational units  
requirement and abiding by state and national guidelines for  
retention of certification and licensure.

38 The proposed law is quite specific as to the standards for  
40 being licensed. However, in almost all instances the board  
42 is given the opportunity to approve an equivalent to each  
standard.

44 Q. The qualifications of members of the proposed regulatory  
46 board.

48 A. See earlier part of the Statement of Fact.

50 Q. The extent to which the harms expected to result from  
continued nonregulation may reasonably be expected to be  
reduced by the program of regulation proposed.

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COMMITTEE AMENDMENT "A" to H.P. 536, L.D. 720

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A. The potential harm to the public is considerable, as was outlined in response to the first statement of this review. It is impossible to go through existing medical files of individuals to assess how, what, when and why injury was sustained. It is not possible to gather data from the State because there is no existing regulation to monitor this type of information. We can not, therefore, give statistics and numbers.

If this bill becomes law, the State automatically produces a "checks and balances" system. Licensed athletic trainers have a defined scope of practice, have met high professional and academic standards, must maintain professional continuing educational units, and will be held accountable for their actions. Currently, none of this exists.