

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 957

H.P. 699

House of Representatives, March 23, 1995

An Act to Require Licensure for Use of the Title Athletic Trainer.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative KNEELAND of Easton.

Cosponsored by Representatives: AHEARNE of Madawaska, CAMERON of Rumford, CAMPBELL of Holden, DESMOND of Mapleton, DONNELLY of Presque Isle, LIBBY of Kennebunk, LIBBY of Buxton, MARSHALL of Eliot, MAYO of Bath, McALEVEY of Waterboro, NASS of Acton, POIRIER of Saco, REED of Dexter, ROBICHAUD of Caribou, SPEAR of Nobleboro, STEDMAN of Hartland, TRUE of Fryeburg, TYLER of Windham, VIGUE of Winslow, Senators: CASSIDY of Washington, HARRIMAN of Cumberland.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 32 MRSA c. 127-A is enacted to read:**

6 **CHAPTER 127-A**

8 **ATHLETIC TRAINERS**

10 **§14351. Purpose**

12 The Legislature finds that the practice of athletic training
14 affects the public health, safety and welfare and is subject to
16 regulation and control in the public interest. The purpose of
this chapter is to protect the public from the unqualified use of
the term "athletic trainer" and from unprofessional conduct by
persons licensed to use the term "athletic trainer."

18 **§14352. Definitions**

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

24 1. Athlete. "Athlete" means a physically active individual
26 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.

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

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

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

40 3. Athletic trainer. "Athletic trainer" means a person
licensed by the department to use that title after meeting the
requirements of this chapter.

42 4. Athletic training. "Athletic training" means:

44 A. Prevention of athletic injuries;

46 B. Recognition and evaluation of athletic injuries;

48 C. Management, treatment and disposition of athletic
50 injuries;

52 D. Rehabilitation of athletic injuries;

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

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

10 5. Commissioner. "Commissioner" means the Commissioner of
11 Professional and Financial Regulation.

12 6. Department. "Department" means the Department of
13 Professional and Financial Regulation.

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

24 **§14353. Commissioner; powers and duties**

26 The commissioner or the commissioner's designee has the
27 following powers and duties in addition to all other powers and
28 duties set forth in this chapter.

30 1. Standards. The commissioner shall administer and
31 enforce the standards under this chapter.

34 2. Rules. The commissioner shall adopt rules in accordance
35 with the Maine Administrative Procedure Act necessary to carry
36 out the purposes of this chapter.

38 3. Complaints. The commissioner shall investigate all
39 complaints and cases of noncompliance concerning violations of
40 this chapter or rules adopted by the department, made on the
41 commissioner's own motion or on written complaint filed with the
42 department.

44 4. Contracts. The commissioner may enter into contracts to
45 carry out the commissioner's responsibilities under this chapter.

46 5. Hearings. The commissioner may conduct hearings to
47 assist with investigations and to determine whether grounds exist
48 for denial of reregistration, suspension of registration or other
49 action necessary to the fulfillment of the commissioner's
50 responsibilities under this chapter.

52

2 6. Advisory council. The commissioner shall select members
3 of the athletic training community to serve on an advisory
4 council and to consult with the commissioner concerning the
5 regulation of athletic trainers. The council membership must
6 represent each of the following categories: high schools,
7 clinical or industrial organizations, colleges or universities
8 and professional sports. The department shall solicit
9 recommendations from the council relative to rules involving
10 athletic trainers and license fees and may solicit the council's
11 advice on any other matter. The council may submit
12 recommendations to the department concerning any matter and the
13 department shall consider the recommendations in making its
14 decisions. Membership on the council is not a conflict of
15 interest regardless of the occupations or associations of the
16 members.

17 7. Employees. The commissioner may appoint, subject to the
18 Civil Service Law, employees necessary to carry out this chapter
19 and those employees are considered to be under the department.
20

21 §14354. Necessity for licensure

22 Beginning January 1, 1996 a person may not profess to be an
23 athletic trainer or use the title "athletic trainer" alone or in
24 connection with other words or the initials "AT" alone or in
25 connection with other initials, whether or not compensation is
26 received, unless licensed in accordance with this chapter.
27

28 1. Athletic training. When providing athletic training to
29 an athlete without referral from a doctor of medicine,
30 osteopathy, podiatry or dentistry, the athletic trainer is
31 subject to the following requirements.
32

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

41 B. If there is no improvement in an athlete who has
42 sustained an athletic injury within 15 days of initiation of
43 treatment, the athletic trainer shall refer the athlete to a
44 licensed doctor of medicine, osteopathy, podiatry or
45 dentistry or a licensed physical therapist.
46

47 C. If an athletic injury requires treatment for more than
48 45 days, the athletic trainer shall consult with, or refer
49 the athlete to, a licensed doctor of medicine, surgery,
50 osteopathy, podiatry or dentistry or a licensed physical
51

2 therapist. The athletic trainer shall document the action
3 taken.

4 2. Training of recreational athlete. When providing
5 athletic training to the recreational athlete, for other than
6 emergency care or the care of minor sprains, strains and
7 contusions, the athletic trainer shall refer the athlete to a
8 doctor of medicine, osteopathy, podiatry or dentistry or a
9 licensed physical therapist.

10 For the treatment of the recreational athlete, for other than
11 emergency care or the care of minor sprains, strains and
12 contusions, the athletic trainer must receive referral from a
13 doctor of medicine, osteopathy, podiatry or dentistry or a
14 licensed physical therapist.

15 When providing care and treatment to the recreational athlete
16 sustaining minor sprains, strains and contusions, the athletic
17 trainer is subject to the following requirements.

18 A. An athletic trainer may not make a medical diagnosis.
19 The athletic trainer shall refer to a licensed doctor of
20 medicine, osteopathy, podiatry or dentistry an athlete whose
21 physical condition, either at the initial evaluation or
22 during subsequent treatment, the athletic trainer determines
23 to be beyond the scope of practice of the athletic trainer.

24 B. If there is no improvement in a recreational athlete who
25 has sustained an athletic injury within 15 days of
26 initiation of treatment, the athletic trainer shall refer
27 the recreational athlete to a licensed doctor of medicine,
28 osteopathy, podiatry or dentistry or a licensed physical
29 therapist.

30 C. If an athletic injury requires treatment for more than
31 45 days, the athletic trainer shall consult with or refer
32 the recreational athlete to a licensed doctor of medicine,
33 osteopathy, podiatry or dentistry or a licensed physical
34 therapist.

35 **§14355. License violations**

36 Beginning January 1, 1996 a person who violates section
37 14354 or employs an unlicensed person in violation of that
38 section is guilty of a Class E crime.

39 The State may bring an action in Superior Court to enjoin
40 any person from violating this chapter, regardless of whether
41 procedures have been instituted in the Administrative Court or
42 whether criminal proceedings have been introduced.

43 **§14356. Exemptions**

2 Nothing in this chapter prevents or restricts the practice,
3 services or activities of:

4
5 1. Federal employee. A person employed as an athletic
6 trainer by the Federal Government or any federal agency if that
7 person provides athletic training under the direction or control
8 of that person's employing organization;

10 2. Student athletic trainer. A person fulfilling the
11 requirements for licensure or pursuing a supervised course of
12 study leading to a degree or certificate in athletic training at
13 an accredited or approved educational program if the person is
14 designated by a title that indicates that person's status as a
15 student or trainee;

16
17 3. Experience requirement. A person fulfilling the
18 supervised practical training requirements of this chapter if
19 that training is necessary to meet the requirements of this
20 chapter; or

22 4. Visiting team. A person performing athletic training
23 services in the State for an out-of-state team that is in the
24 State for competition at which an athletic trainer licensed under
25 this chapter or a physician is available if these services are
26 performed for no more than 4 days at a time or for no more than
27 30 days a year.

28 §14357. Qualifications for licensure

30
31 1. Qualifications. To qualify for a license as an athletic
32 trainer an applicant must:

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

38 B. Be a graduate of a college or university approved by the
39 department and have successfully completed that college's or
40 university's curriculum in athletic training or other
41 curricula acceptable to the department and have completed an
42 athletic training education program approved by the National
43 Athletic Trainers' Association or a program of practical
44 training in athletic training acceptable to the department;
45 and

46
47 C. Have passed the National Athletic Trainers' Association
48 Board of Certification examination or be currently certified
49 by the National Athletic Trainers' Association and approved
50 by the department.

52 §14358. Applications for licensure; fees

2 An applicant for initial licensure must submit a written
4 application with supporting documents to the department on forms
6 provided by the department. The applicant must pay a
 nonrefundable application fee established by the department in an
 amount not to exceed \$50.

8 The department may license an applicant who meets the
10 requirements of this chapter and pays the licensure fee as
12 specified in section 14359. The original license and the renewal
 license for the current year must be conspicuously displayed at
 the place of employment of the licensee.

14 **§14359. Renewal**

16 All licenses must be renewed annually on or before March
18 31st of each year or such other times as the commissioner may
20 designate. The annual licensure renewal fee must be established
22 by the department by rulemaking and may not exceed \$100. The
24 commissioner shall notify each licensee, at the licensee's last
26 known address, 30 days in advance of the expiration of the
28 license. Renewal notices must be on forms provided by the
30 department. A license not renewed by March 31st automatically
32 expires. The department 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 department 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.

34 Each application for license renewal must include current
36 National Athletic Trainers' Association certification.

38 **§14360. Temporary permits**

40 A temporary permit may be granted to a person who has
42 completed the education and experience requirements of this
44 chapter. This permit allows the person to use the title "student
46 athletic trainer" when practicing 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.

48 **§14361. Revocation and reissuance**

50 The department may suspend or revoke a license pursuant to
52 Title 5, section 10004. In addition, the department may refuse

2 to issue or renew a license pursuant to Title 10, subsection 8003
3 or the Administrative Court may revoke, suspend or refuse to
4 renew a license of an athletic trainer for:

5 1. Fraud. The practice of fraud in obtaining a license
6 under this chapter or in connection with services rendered as a
7 licensed athletic trainer;

8 2. Addiction. Addiction to alcohol or other drugs
9 resulting in the licensed athletic trainer's inability to perform
10 that trainer's duties safely and competently;

11 3. Incompetency. A court finding of mental incompetency;

12 4. Accomplice. Aiding a person not duly licensed as an
13 athletic trainer in misrepresentation as an athletic trainer;

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

16 6. Criminal conviction. Conviction of a crime subject to
17 the limitations of Title 5, chapter 341 that if committed in the
18 State is punishable by one year or more of imprisonment;

19 7. Violation. Violation of this chapter or any rule
20 adopted by the department; or

21 8. Unethical conduct. A finding of a violation of the
22 National Athletic Trainers' Association Code of Professional
23 Ethics by the National Athletic Trainers' Association Ethics
24 Committee or a violation of the Professional Practice and
25 Disciplinary Procedures of the National Athletic Trainers'
26 Association Board of Certification by that board.

27 **Sec. 2. Report.** By January 1, 1997, the Department of
28 Professional and Financial Regulation shall submit a brief
29 written report and make an oral report on the status of licensing
30 of athletic trainers to the joint standing committee of the
31 Legislature having jurisdiction over business legislation and
32 economic development matters and to the Executive Director of the
33 Legislative Council with any implementing legislation.

34 1. This report must include a good faith effort to provide
35 statistical information on the following subjects:

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

38 B. The reduction in the number or severity of injuries due
39 to the licensing of athletic trainers; and
40

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

4 2. The department shall include in the report the following
data:

6 A. A quantitative survey of school superintendents designed
8 by the department, using as many closed-ended questions as
10 possible on the final questionnaire and doing the necessary
background work necessary to make the questionnaire easily
12 answered. At least one followup must be made to
nonrespondents;

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

18 C. The department shall develop a short quantitative
questionnaire suitable to be placed in any newsletter
20 published by the association athletic trainers of any
state. The department shall encourage the association to
22 include the questionnaire in its publication together with a
brief summary of the new law.

24

26

STATEMENT OF FACT

28 This bill requires that a person be licensed in order to use
the title "athletic trainer" but no license is required to
30 practice athletic training as long as the title is not used.

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

38 The regulation of the profession is by the Department of
Professional and Financial Regulation, not by a regulatory
40 board. The department is required to appoint an advisory council.

42 The annual licensing fee is determined by the department but
is not to exceed \$100.

44

46 Any joint standing committee of the Legislature that
recommends to the Legislature the regulation of an occupational
profession not previously regulated must include a report
48 pursuant to the Maine Revised Statutes, Title 5, section 12015,
subsection 3.