

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: S2/13/17 S2/21/17*

2 91st General Assembly

# A Bill

3 Regular Session, 2017

SENATE BILL 109

4

5 By: Senator J. Hutchinson

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## For An Act To Be Entitled

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AN ACT TO AMEND AND UPDATE THE ARKANSAS ATHLETIC  
9 TRAINERS ACT; AND FOR OTHER PURPOSES.

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12

## Subtitle

13

TO AMEND AND UPDATE THE ARKANSAS ATHLETIC  
14 TRAINERS ACT.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19

SECTION 1. Arkansas Code §§ 17-93-402 and 17-93-403 are amended to  
20 read as follows:

21

17-93-402. Definitions.

22

As used in this subchapter:

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*(1) "Athlete" means an individual who is participating in  
25 organized athletic or team activities at the interscholastic, intramural,  
26 intercollegiate, or professional level, or sanctioned recreational sports  
activities;*

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28

*(2) "Athletic injury or illness" means an injury or illness  
29 sustained by the athlete as a result of participation in those organized  
athletic or team activities which require physical strength, agility,  
30 flexibility, range of motion, speed, or stamina, or any comparable injury or  
31 illness to an athlete which prevents the person from participating in  
32 activities described in subdivision (1) of this section;*

33

*(3)(A) "Athletic trainer" means a person licensed by the state  
34 to engage in athletic training under the supervision of a licensed physician.*

35

*(B) An "athletic trainer" is an allied healthcare  
36 professional;*



1 (4) "Athletic training" means:

2 (A) The ~~the~~ prevention, recognition, evaluation,  
3 treatment, and rehabilitation of an athletic injury or illness ~~and the~~  
4 ~~organization and administration of exercise, conditioning, and athletic~~  
5 ~~training programs;~~

6 (B) The emergency care and use of appropriate preventative  
7 and supportive devices for an athletic injury or illness;

8 (C) The emergency care and treatment of an athletic injury  
9 or illness during a non-sanctioned recreational sports activity on the day of  
10 the activity which resulted in the athletic injury or illness unless the  
11 injury is a concussion which may require a continuum of healthcare; and

12 (D) The recognition, care, and referral to an appropriate  
13 healthcare professional for other illnesses that are not an athletic injury  
14 or illness as defined in this section;

15 (5) "Board" means the Arkansas State Board of Athletic Training;

16 (6) "Clinical setting" means a licensed healthcare facility or  
17 an office of a licensed physician or licensed physical therapist;

18 (7) "Direct supervision" means supervision of the athletic  
19 trainer in a clinical setting in which the ~~supervising physical therapist~~  
20 ~~must be readily available for consultation for the care of the athlete but~~  
21 ~~not necessarily on the premises supervisor is on-site and readily available~~  
22 to intervene on behalf of the patient and provide consultation to the  
23 athletic trainer;

24 ~~(7)(8)~~ (A) "Indirect supervision" means supervision of the  
25 athletic trainer in a nonclinical setting in which the supervising physician  
26 is not required to be on-site, but is readily available for consultation via  
27 radio, telephone, fax, email, or other accepted forms of communication.

28 (B) "Indirect supervision" shall be demonstrated by a  
29 standing order;

30 (9) "License" means the document issued by the ~~board~~ Arkansas  
31 State Board of Athletic Training to a qualified person to practice athletic  
32 training; ~~and~~

33 (10) "Physician" means a person who is licensed by the Arkansas  
34 State Medical Board;

35 ~~(8)~~ (11) "Sanctioned recreational sports activities" means any  
36 athletic or team activity which requires physical strength, agility,

1 flexibility, range of motion, speed, or stamina and meets one (1) or more of  
2 the following:

3 (A) Has officially designated coaches who have the  
4 responsibility for athletic activities of the organization;

5 (B) Has a regular schedule of practices or workouts which  
6 are supervised by the officially designated coaches;

7 (C) Is an activity generally recognized as having an  
8 established schedule of competitive events or exhibitions; and

9 (D) Has a policy requiring documentation of having passed  
10 a preparticipation medical examination conducted by a licensed physician as a  
11 condition for participation for the athletic activities of the organization;  
12 and

13 (12)(A) "Standing order" means a written agreement developed in  
14 conjunction with one (1) or more supervising physicians that identifies  
15 protocols or procedures that the athletic trainer may perform and is signed  
16 by the supervising physician and the licensed athletic trainer.

17 (B) "Standing order" includes without limitation:

18 (i) The manner and frequency in which the athletic  
19 trainer regularly communicates with the supervising physician;

20 (ii) The appropriate interventions for specific  
21 athlete injuries and illnesses;

22 (iii)(a) The appropriate conditions for the  
23 immediate referral and subsequent referral to a licensed physician of injured  
24 or ill athletes which shall include a time frame for referral if an athlete  
25 does not improve, as agreed upon by the supervising physician and the  
26 athletic trainer.

27 (b) A referral under this subdivision shall  
28 allow the athlete a choice of healthcare providers;

29 (iv) The physician's designation of another  
30 supervising physician for instances when the supervising physician is not  
31 readily available; and

32 (v) The consultation of supervising physician for  
33 continuity of care when the athlete is under the care of a physician who is  
34 not the supervising physician of the athletic trainer.

35

36 17-93-403. Penalties.

1 (a)(1) ~~Any~~ A person who violates a provision of this subchapter is  
 2 guilty of a misdemeanor punishable by a fine of not less than one hundred  
 3 dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment  
 4 for not less than thirty (30) days nor more than one hundred eighty (180)  
 5 days, or both.

6 (2) Each day of a violation constitutes a separate offense.

7 (b)(1) After notice and hearing, the Arkansas State Board of Athletic  
 8 Training ~~is also authorized to~~ may levy a civil penalty against any:

9 (A) person ~~Person~~ licensed under the provisions of this  
 10 subchapter after a finding that the person has violated any of the provisions  
 11 of this subchapter or any ~~regulations~~ rule promulgated by the board; and

12 (B) Unlicensed person practicing or offering to practice  
 13 any actions requiring licensure pursuant to the provisions of this  
 14 subchapter.

15 (2) Each day a violation occurs shall constitute a separate  
 16 offense.

17 (c) ~~Civil penalties~~ A civil penalty assessed by the board shall be no  
 18 more than one thousand dollars (\$1,000) per incident.

19 ~~(d) In addition to any other sanctions authorized by this subchapter,~~  
 20 ~~the board may impose a civil penalty as provided in this section against any~~  
 21 ~~unlicensed person practicing or offering to practice any actions requiring~~  
 22 ~~licensure pursuant to the provisions of this subchapter.~~

23 (d) This subchapter does not limit the authority of or prohibit a  
 24 person licensed under any other law in this state from engaging in the  
 25 practice for which he or she is licensed.

26  
 27 SECTION 2. Arkansas Code § 17-93-406 is amended to read as follows:

28 17-93-406. Powers and duties of the board.

29 (a) The Arkansas State Board of Athletic Training shall have the  
 30 ~~following~~ powers and duties to:

31 (1) ~~To receive~~ Receive and maintain all records of board  
 32 proceedings;

33 (2) ~~To adopt~~ Adopt minimum curriculum ~~and internship~~  
 34 requirements for qualification for an Arkansas athletic trainer's license;

35 (3) ~~To issue~~ Issue licenses;

36 (4) ~~To keep~~ Keep a complete record of all licensed athletic

1 trainers, including:

2 (A) Preparing annually a roster showing the names and  
3 addresses of all licensed athletic trainers; and

4 (B) Making available a copy of ~~such a~~ the roster to any  
5 person requesting it on payment of a fee as established by the board to cover  
6 the cost of the roster;

7 (5) ~~To adopt~~ Adopt rules and regulations consistent with this  
8 subchapter which are necessary for the performance of its duties, including,  
9 but not limited to, the imposing of fees adequate to carry out the purposes  
10 of this subchapter;

11 (6) ~~To collect~~ Collect fees adequate to carry out the purposes  
12 of this subchapter;

13 (7) ~~To keep~~ Keep records of fees collected and costs incurred  
14 for operations of the board and licensing of athletic trainers; and

15 (8) ~~To file~~ File an annual report of its activities, including  
16 the activities of the board, with the Department of Finance and  
17 Administration.

18 (b) In addition to the powers and duties set forth in this subchapter,  
19 the board shall investigate reported violations of this subchapter and take  
20 necessary steps to enforce this subchapter.

21

22 *SECTION 3. Arkansas Code § 17-93-407(b), concerning exceptions to*  
23 *licensure as an athletic trainer, is amended to read as follows:*

24 *(b) ~~Nothing in this~~ This subchapter shall be construed to does not:*

25 *(1) Authorize the practice of medicine or physical therapy by*  
26 *any person not so licensed by the state;*

27 *(2) Prohibit the lawful practice of a licensed health care*  
28 *professional under the scope of his or her license;*

29 *(3) Prohibit the lawful practice of a licensed athletic trainer*  
30 *from another state who accompanies his or her team, athlete, or*  
31 *representatives to the State of Arkansas for limited competition; or*

32 *(4) Prohibit ~~designated interns from university academie~~*  
33 *~~programs preparing athletic trainers from performing acts of athletic~~*  
34 *~~training incidental to their courses of study~~ a person in an entry-level*  
35 *professional education program that is approved by the Arkansas State Board*  
36 *of Athletic Training from performing acts of athletic training to satisfy*

1 supervised clinical education requirements related to the education of the  
 2 person.

3  
 4 SECTION 4. Arkansas Code §§ 17-93-409 – 17-93-413 are amended to read  
 5 as follows:

6 17-93-409. Qualification – Athletic trainer.

7 ~~(a) For the purpose of this subchapter, a person is actively engaged~~  
 8 ~~as an athletic trainer if the person has performed such duties as a principal~~  
 9 ~~part of his or her full-time employment under the direction of a licensed~~  
 10 ~~physician for three (3) of the past five (5) years preceding the application.~~

11 ~~(b)~~(a) An applicant for an Arkansas athletic trainer's license ~~must~~ is  
 12 required to:

13 (1) Possess at least a bachelor's degree from an accredited  
 14 college or university;

15 (2) Meet ~~other~~ athletic training curriculum and internship  
 16 requirements as ~~specified~~ established by the Arkansas State Board of Athletic  
 17 Training;

18 (3) Pass an examination for licensure as designated by the board  
 19 which is a reliable, valid, legally defensible examination for determining  
 20 minimum competency in athletic training;

21 (4) Submit appropriate application forms to the board; and

22 (5) Pay all appropriate fees.

23 ~~(c) Notarized proof of employment, performance of duties, and~~  
 24 ~~supervision shall accompany the person's application.~~

25 ~~(d)~~(b)(1) ~~Anyone~~ A person who meets the qualifications prescribed in  
 26 subsection ~~(b)~~ (a) of this section, except for the examination requirement  
 27 under subdivision ~~(b)(3)~~ (a)(3) of this section, shall be issued a temporary  
 28 nonrenewable athletic trainer's permit license which shall expire one (1)  
 29 year thirty (30) days after the date of application therefor issuance.

30 (2) The board may revoke the temporary license upon notification  
 31 of a failure to pass the examination described in subdivision (a)(3) of this  
 32 section.

33  
 34 17-93-410. Expiration and renewal.

35 (a) A license issued under this subchapter expires ~~one (1) year after~~  
 36 ~~the date of issuance~~ on June 30th of each calendar year.

1 (b)(1) ~~Licenses~~ A license shall be renewed according to procedures  
2 established by the Arkansas State Board of Athletic Training.

3 (2) The board shall renew a license upon proof of  
4 recertification as a certified athletic trainer provided by the athletic  
5 trainers' national governing entity which shall include:

6 (A) Compliance with the standard of professional practice;

7 (B) Emergency cardiac care certification;

8 (C) Maintenance of fees; and

9 (D) Successful completion of continuing education  
10 requirements as determined by the board.

11  
12 17-93-411. ~~Direction and supervision~~ Physician supervision.

13 (a) ~~In a nonclinical setting, an~~ An athletic trainer may practice the  
14 *art and science of athletic training under the ~~direction~~ supervision of a*  
15 *physician licensed in the State of Arkansas.*

16 (b) ~~The athletic trainer may practice athletic training in a hospital~~  
17 ~~or outpatient clinic under the direct supervision of a physical therapist and~~  
18 ~~upon the referral of a physician licensed in the State of Arkansas~~ In a  
19 nonclinical setting, an athletic trainer shall practice the art and science  
20 of athletic training under the indirect supervision of a physician who is  
21 licensed in the State of Arkansas.

22 (c)(1) In a clinical setting, an athletic trainer shall practice the  
23 art and science of athletic training under the direct supervision of:

24 (A) A physician; or

25 (B) A physical therapist when the athletic trainer is  
26 working in a physical therapy clinic.

27 (2) An athletic trainer shall practice athletic training in a  
28 clinical setting upon the referral of a physician.

29  
30 17-93-412. Revocation, suspension, or denial – Grounds.

31 (a) The Arkansas State Board of Athletic Training may refuse to issue  
32 or renew a license or may suspend or revoke a license if an applicant or  
33 licensee has:

34 (1) Been convicted of a felony or misdemeanor involving moral  
35 turpitude, the record of conviction being conclusive evidence of conviction  
36 if the board determines after investigation that the person has not been

1 sufficiently rehabilitated to warrant the public trust;

2 (2) Secured a license under this subchapter by fraud or deceit;

3 ~~or~~

4 (3) Violated or conspired to violate this subchapter or rules ~~or~~  
5 ~~regulations~~ issued ~~pursuant to~~ under this subchapter;

6 (4) Been found guilty of unethical or unprofessional conduct, as  
7 determined by the board;

8 (5) Been convicted of a violation of any state or federal  
9 narcotics laws;

10 (6) Been habitually intoxicated or has been addicted to the use  
11 of narcotic drugs;

12 (7) Been found guilty of gross negligence in his or her  
13 practice, as determined by the board;

14 (8) Been convicted of sexual abuse or sexual misconduct; or

15 (9) Been declared incompetent by a court and has not thereafter  
16 been lawfully declared competent.

17 (b)(1) On application, the board may reissue a license to a person  
18 whose license has been revoked, but the application may not be made ~~prior to~~  
19 before the expiration of a period of one (1) year after the order of  
20 revocation has become final.

21 (2) ~~Such~~ The application shall be made in the manner and form  
22 required by the board.

23  
24 17-93-413. Revocation, suspension, or denial – Proceedings.

25 (a) Any person whose application for a license or for renewal of a  
26 license is denied is entitled to a hearing, which shall be conducted ~~pursuant~~  
27 ~~to~~ under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

28 (b)(1) Proceedings for revocation or suspension of a license shall be  
29 commenced by filing charges with the Arkansas State Board of Athletic  
30 Training in writing.

31 (2) The charge may be brought by any person against a person  
32 having a license to practice as an athletic trainer in this state charging  
33 that the person has committed a violation under § 17-93-412.

34 (3)(A) The board shall send an advisory notice to the person who  
35 allegedly committed a violation once the complaint has been received by the  
36 board.



1 (B) The advisory notice shall include a statement  
2 notifying the person who allegedly committed a violation that the person  
3 shall reply to the notice.

4 (c) The board shall fix the time and place of the hearing and shall  
5 provide a written copy of the charges or reason for the denial of the license  
6 or for the refusal to renew the license, together with a notice of the time  
7 and place fixed for the hearing, to be served on the applicant requesting the  
8 hearing or license against whom the charges have been filed at least thirty  
9 (30) days ~~prior to~~ before the date set for the hearing.

10  
11 SECTION 5. Arkansas Code Title 17, Chapter 93, Subchapter 4, is  
12 amended to add an additional section to read as follows:

13 17-93-415. Notice of malpractice claim or suit.

14 (a) An athletic trainer shall notify the Arkansas State Board of  
15 Athletic Training within ten (10) days after receipt of notification of a  
16 claim or a lawsuit against the athletic trainer for malpractice.

17 (b) The board shall prepare and adopt rules as necessary to ensure  
18 compliance with this section.

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*/s/J. Hutchinson*