

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 831 High School Athletic Trainers

SPONSOR(S): Health & Human Services Quality Subcommittee; Rooney, Jr. and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1176

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	11 Y, 0 N, As CS	Holt	Calamas
2) K-20 Innovation Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Athletic Trainers are regulated and licensed pursuant to part XIII of ch. 768, F.S. Athletic training is the recognition, prevention, and treatment of athletic injuries.

HB 831 amends s. 1012.46, F.S., to encourage the use and employment of licensed, certified athletic trainers by school districts for schools that participate in sports. The bill, in effect, codifies the Department of Health's current practice of allowing license applicants to satisfy the exam requirement through the Board of Certification for the National Athletic Trainer's Association. Current law provides that neither a board nor the DOH if there is no board, may administer a state-developed written examination if a national examination has been certified by the DOH.

The bill provides a legislative goal that at least one full-time athletic trainer should be available in each high school that participates in sports, and encourages the use of an entity which can coordinate placement of licensed, certified athletic trainers to provide a standard of care to prevent and rehabilitate high school sports-related injuries.

The bill provides a rebuttable presumption that a school district is not negligent in employing an athletic trainer if it made a good faith effort to comply with the requirements of s. 1012.46, F.S. The presumption applies in any civil action for the death, injury or damage to an individual who has received treatment for a sports injury from a licensed certified athletic trainer that is allegedly a result of negligence.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill takes effect August 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Athletic Trainers

Athletic Trainers are regulated by the Florida Department of Health, Division of Medical Quality Assurance and the Board of Athletic Training¹, pursuant to part XIII of ch. 768, F.S. Athletic training is the recognition, prevention, and treatment of athletic injuries.² An athletic injury is an injury sustained during an athletic activity which affects the athlete's ability to participate or perform.³ An athletic activity includes the participation in an event that is conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina.⁴

In 1994, the Legislature began fully regulating and licensing the practice of athletic training to protect the public and ensure that athletes are assisted by individuals adequately trained to recognize, prevent, and treat physical injuries sustained during athletic activities.⁵

As of June 30, 2010, there were 1,507 active in-state licensed athletic trainers.⁶ Between July 1, 2009 and June 30, 2010, the department received 166 applications from individuals seeking initial licensure as an athletic trainer.

Applicants seeking licensure as an athletic trainer must:⁷

- Complete the application form and remitted the required fees;⁸
- Be at least 21 years of age;
- Posses a baccalaureate degree from a United States Department of Education or the Commission on Recognition of Postsecondary Accreditation accredited college or university, or a program approved by the board;
- Complete an approved athletic training curriculum from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the board;
- Be certified in cardiovascular pulmonary resuscitation from the American Red Cross, the American Heart Association, or an equivalent certification entity as determined by the board;
- Submit proof of taking a two-hour course on the prevention of medical errors;
- Submit a certified copy of the National Athletic Trainers Association Board of Certification certificate or a notarized copy of examination results.⁹

¹ The Board of Athletic Training is composed of nine members who are Governor appointed and confirmed by the Senate. Five of the members must be licensed athletic trainers, one must be a physician, and two are consumer-residents who are not affiliated with the industry or licensed health-care practice. *See* s. 768.703, F.S.

² S. 468.701(5), F.S.

³ S. 468.701(3), F.S.

⁴ S. 468.701(2), F.S.

⁵ Ch. 94-119, L.O.F. and s. 468.70, F.S.

⁶ Florida Department of Health, Division of Medical Quality Assurance: Annual Report July 1, 2009 to June 30, 2010, *available* at: <http://www.doh.state.fl.us/mqa/reports.htm> (last viewed April 4, 2011).

⁷ S. 468.707, F.S.

⁸ The application fee is \$100 and the initial licensure fee for even years is \$125 and in odd years is \$75. The license for the profession of athletic training is renewed September 30 of each even year. *See* chapters 64B33-9.001 and 64B33-3.001, F.A.C.

⁹ Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements, *available* at: http://www.doh.state.fl.us/mqa/athtrain/at_lic_req.html (last viewed April 4, 2011).

Each applicant for licensure is required to complete a continuing education course on HIV/AIDS as part of initial licensure and one hour for biannual licensure renewal.¹⁰

Additionally, licensed athletic trainers are required to complete 24 hours of continuing education courses biannually. The courses must focus on the prevention of athletic injuries; the recognition, evaluation, and immediate care of athletic injuries; rehabilitation and reconditioning of athletic injuries; health care administration; or professional development and responsibility of athletic trainers.¹¹

An athletic trainer is required to practice within a written protocol established with a supervising physician.¹² The written protocol must include:¹³

- The athletic trainer's name, license number, and curriculum vitae;
- The supervising physician's name, license number, and curriculum vitae;
- Method of contacting the supervising physician, specifically delineating the method to report new injuries as soon as practicable;
- The patient population to be treated (e.g., specific scholastic athletic programs, patients of a specific clinic, patients with specific physician referral);
- The method of assessment of a patient's status and treatment;
- Delineation of the items considered within the scope of practice for the athletic trainer to include the use of modalities/equipment that may be initiated by the athletic trainer or require a physician's order;
- Identification of resources for emergency patient care (e.g., nearest hospital with emergency services, ambulance service).

The protocol must be reviewed by September 30 of each even year and the protocol must be available for inspection upon request.¹⁴

Scope of Practice

The following principles, methods and procedures are considered within the scope of a licensed athletic trainer's practice:¹⁵

- Injury prevention;
- Injury recognition and evaluation;
- First aid;
- Emergency care;
- Injury management/treatment and disposition;
- Rehabilitation through the use of safe and appropriate physical rehabilitation practices, including those techniques and procedures following injury and recovery that restore and maintain normal function status;
- Conditioning;
- Performance of tests and measurements to prevent, evaluate and monitor acute and chronic injuries;
- Selection of preventive and supportive devices, temporary splinting and bracing, protective equipment, strapping, and other immobilization devices and techniques to protect an injured structure, facilitate ambulation and restore normal functioning;
- Organization and administration of facilities within the scope of the profession; and
- Education and counseling to the public regarding the care and prevention of athletic injuries.

¹⁰ S. 456.034, F.S. and ch. 64B33-2.003, F.A.C.

¹¹ Ch. 64B33-2.003, F.A.C.

¹² The physician must be licensed under chapter 458 (allopathic physician), 459 (osteopathic physician), or 460 (chiropractic physician), F.S.

¹³ S. 468.713, F.S. and ch. 64B33-4.001, F.A.C.

¹⁴ *Id.*

¹⁵ Ch. 64B33-4.001, F.A.C.

A licensed athletic trainer may administer the following in the course of treatment and rehabilitation of muscle skeletal injuries:¹⁶

- Therapeutic Exercise;
- Massage;
- Mechanical Devices;
- Cryotherapy (e.g., ice, cold packs, cold water immersion, spray coolants);
- Thermotherapy (e.g., topical analgesics, moist/dry hot packs, heating pads, paraffin bath); and
- Other therapeutic agents with the properties of:
 - Water (e.g., whirlpool);
 - Electricity (e.g., electrical stimulation, diathermy¹⁷);
 - Light (e.g., infrared, ultraviolet); or
 - Sound (e.g., ultrasound).
- Topical prescription medications (e.g., steroid preparation for phonophoresis¹⁸) only at the direction of a physician.

Administration of Examinations for Licensure

Section 456.017, F.S., requires the board¹⁹ or the Department of Health (DOH) if there is no board, to approve by rule the use of one or more national examinations that the DOH has certified as meeting the requirements of national examinations and generally accepted testing standards. Furthermore, neither a board nor the DOH if there is no board, may administer a state-developed written examination if a national examination has been certified by the DOH.²⁰

National Athletic Trainers Association and National Board of Certification

The National Athletic Trainers' Association (NATA) is a professional membership association for certified athletic trainers.²¹ Originating in 1950, today the NATA boasts greater than 37,000 members.

The National Board of Certification (BOC), established in 1989, provides a voluntary international certification program for the National Athletic Trainers Association to include the administration of the national examination required for certification. Students are eligible for BOC certification if they have attended athletic training degree program (Bachelor's or entry-level Master's) accredited by the Commission on Accreditation of Athletic Training Education (CAATE).²² Currently, there are 14 schools located in Florida accredited by CAATE.²³ Florida recognizes passage of the BOC examination for state licensing purposes.²⁴

¹⁶ *Id.*

¹⁷ Diathermy is a method of physical therapy that involves using high-frequency electric current, ultrasound, or microwaves to deliver heat to muscles and ligaments.

¹⁸ Phonophoresis has been used in an effort to enhance the absorption of topically applied analgesics and anti-inflammatory agents through the therapeutic application of ultrasound.

¹⁹ A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the DOH, Division of Medical Quality Assurance. *See* s. 456.001(1), F.S.

²⁰ S. 456.017(1)(c)2., F.S.

²¹ National Athletic Trainers Association, About, *available* at: <http://www.nata.org/aboutNATA> (last viewed April 4, 2011).

²² National Athletic Trainers Association, Board for Certification, What is an Athletic Trainer, *available* at: http://www.bocatc.org/index.php?option=com_content&view=article&id=100&Itemid=105 (last viewed April 4, 2011).

²³ Barry University, Florida Gulf Coast University, Florida International University, Florida Southern College, Florida State University, Nova Southeastern University, Palm Beach Atlantic University, University of Central Florida, University of Florida, University of Miami, University of North Florida, University of South Florida, University of Tampa, and University of West Florida. *See* Commission on Accreditation of Athletic Training Education, Accredited Programs: Florida, *available* at: http://www.caate.net/iMIS15/CAATE/Accredited_Programs/Core/directory.aspx?hkey=b91f27b1-2a93-4ed1-b1e6-55cc82ac0fc3 (last viewed April 4, 2011).

²⁴ S. 456.017, F.S. and Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements, *available* at: http://www.doh.state.fl.us/mqa/athtrain/at_lic_req.html (last viewed April 4, 2011).

In order to qualify as a candidate for the BOC certification exam, an individual must meet the following requirements:²⁵

- Endorsement of the exam application by the recognized Program Director of the CAATE accredited education program; and
- Proof of current certification in emergency cardiac care (ECC) (Note: ECC certification must be current at the time of initial application and any subsequent exam retake registration.)

The BOC testing year runs from March 1 to February 28/29 of the following year.²⁶ The BOC offers candidates five two-week testing windows during the testing year: March/April, May/June, July/August, November, and January/February. During each testing window, two forms of the examination are delivered. Candidates who fail are not restricted in their retakes during the testing year. In 2009-2010, the pass rate for first-time test takers of the BOC examination was 43 percent.²⁷ Individuals who successfully pass the BOC examination are qualified to use the designation certified athletic trainer (ATC). The BOC has recertification requirements that have to be met in order to maintain certification that include: continuing education courses, ECC certification, BOC recertification fee and adherence to the BOC Standards of Professional Practice.²⁸

School Districts and Athletic Trainers

Section 1012.46, F.S., provides school districts the authority to establish and implement an athletic injuries prevention and treatment program. That section provides that the program should focus on the employment and availability of persons trained in the prevention and treatment of physical injuries that may occur during athletic activities. The program should reflect minimum standards and opportunities for progressive advancement and compensation in employment as a licensed athletic trainer. Individuals considered for progressive advancement and compensation may also hold a certificate as a substitute teacher, certified educator, or adjunct teacher. Furthermore, s. 1012.46(2), F.S., states that the goal of the Legislature is to have school districts employ and have available a full-time athletic trainer in each high school in the state.

Presumptions in Law

A presumption is defined under the Florida Evidence Code as an assumption of fact that the law makes from the existence of another fact or group of facts found or otherwise established.²⁹ The law provides that, except for presumptions that are conclusive under the law from which they arise, a presumption is rebuttable. Every rebuttable presumption is either:

- A presumption affecting the burden of producing evidence and requiring the trier of fact to assume the existence of the presumed fact, unless credible evidence sufficient to sustain a finding of the nonexistence of the presumed fact is introduced, in which event, the existence or nonexistence of the presumed fact shall be determined from the evidence without regard to the presumption; or
- A presumption affecting the burden of proof that imposes upon the party against whom it operates the burden of proof concerning the nonexistence of the presumed fact. All rebuttable presumptions that are not defined as presumptions affecting the burden of producing evidence are presumptions affecting the burden of proof.

²⁵ Board of Certification Examination for Athletic Trainers, Examination Review for 2009-2010 Testing Year, *available at*: http://www.bocatac.org/index.php?option=com_content&view=article&id=103&Itemid=109 (last viewed April 4, 2011).

²⁶ *Id.*

²⁷ *Id.*

²⁸ National Athletic Trainers Association, Get Certified, *available at*: <http://www.nata.org/get-certified> (last viewed April 4, 2011).

²⁹ *See* ss. 90.303 and 90.304, F.S.

Effects of the Bill

This bill encourages the use and employment of licensed certified athletic trainers (ATC) by school districts for schools that participate in sports. This requirement in effect codifies the DOH's current practice of satisfying the exam requirement for licensure through the BOC for the NATA. The bill clarifies that one full-time athletic trainer should be available in each high school that participates in sports.

This bill encourages the use of an entity which can coordinate placement of licensed, certified athletic trainers to provide a standard of care to prevent and rehabilitate high school sports-related injuries.

The bill provides a rebuttable presumption that a school district is not negligent in employing an athletic trainer if it made a good faith effort to comply with the requirements of s. 1012.46, F.S. The presumption applies in any civil action for the death, injury or damage to an individual who has received treatment for a sports injury from a licensed certified athletic trainer that is allegedly a result of negligence.

B. SECTION DIRECTORY:

Section 1. Amends s. 1012.46, F.S., relating to athletic trainers.

Section 2. Provides an effective date of August 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rule making authority is necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 6, 2011, the Health & Family Services Quality Subcommittee adopted an amendment that changed the effective date of the bill from July 1, 2011 to August 1, 2011 and reported the bill favorably.

This analysis is drafted to the Committee Substitute.