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CS/HB 541

2015 Legislature

1
2 An act relating to athletic trainers; amending s.
3 468.70, F.S.; revising legislative intent; amending s.
4 468.701, F.S.; revising definitions; amending s.
5 468.703, F.S.; deleting the requirement for the
6 Governor to appoint the initial members of the Board
7 of Athletic Training; amending s. 468.705, F.S.;
8 revising the board's authorization to adopt certain
9 rules relating to communication between an athletic
10 trainer and a supervising physician; amending s.
11 468.707, F.S.; revising requirements for licensure;
12 authorizing the board to require a background
13 screening for an applicant in certain circumstances;
14 amending s. 468.709, F.S.; deleting the requirement
15 for the board to establish an examination fee;
16 amending s. 468.711, F.S.; revising continuing
17 education requirements for license renewal; amending
18 s. 468.713, F.S.; revising responsibilities of
19 athletic trainers to include requirements that a
20 trainer must practice under the direction of a
21 physician; amending s. 468.715, F.S.; prohibiting
22 sexual misconduct by an athletic trainer; amending s.
23 468.717, F.S.; prohibiting unlicensed persons from
24 practicing athletic training or representing
25 themselves as athletic trainers; prohibiting an
26 unlicensed person from using specified titles;

ENROLLED

CS/HB 541

2015 Legislature

27 | amending s. 468.719, F.S.; revising grounds for
 28 | disciplinary action; amending s. 468.723, F.S.;
 29 | providing exemptions; amending s. 456.0135, F.S.;
 30 | revising general background screening provisions to
 31 | include athletic trainers; providing an effective
 32 | date.

33

34 | Be It Enacted by the Legislature of the State of Florida:

35

36 | Section 1. Section 468.70, Florida Statutes, is amended to
 37 | read:

38 | 468.70 Legislative intent.—It is the intent of the
 39 | Legislature that athletic trainers practicing in this state meet
 40 | minimum requirements for safe practice and that an athletic
 41 | trainer who falls below minimum competency or who otherwise
 42 | presents a danger to the public be prohibited from practicing in
 43 | this state ~~athletes be assisted by persons adequately trained to~~
 44 | ~~recognize, prevent, and treat physical injuries sustained during~~
 45 | ~~athletic activities. Therefore,~~ It is the further intent of the
 46 | Legislature to protect the public by licensing and fully
 47 | regulating athletic trainers.

48 | Section 2. Section 468.701, Florida Statutes, is amended
 49 | to read:

50 | 468.701 Definitions.—As used in this part, the term:

51 | ~~(1) "Athlete" means a person who participates in an~~
 52 | ~~athletic activity.~~

ENROLLED

CS/HB 541

2015 Legislature

53 ~~(2) "Athletic activity" means the participation in an~~
54 ~~activity, conducted by an educational institution, a~~
55 ~~professional athletic organization, or an amateur athletic~~
56 ~~organization, involving exercises, sports, games, or recreation~~
57 ~~requiring any of the physical attributes of strength, agility,~~
58 ~~flexibility, range of motion, speed, and stamina.~~

59 ~~(3) "Athletic injury" means an injury sustained which~~
60 ~~affects the athlete's ability to participate or perform in~~
61 ~~athletic activity.~~

62 (1)(4) "Athletic trainer" means a person licensed under
63 this part who has met the requirements under this part,
64 including education requirements as set forth by the Commission
65 on Accreditation of Athletic Training Education or its successor
66 and necessary credentials from the Board of Certification. An
67 individual who is licensed as an athletic trainer may not
68 provide, offer to provide, or represent that he or she is
69 qualified to provide any care or services that he or she lacks
70 the education, training, or experience to provide, or that he or
71 she is otherwise prohibited by law from providing.

72 (2)(5) "Athletic training" means service and care provided
73 by an athletic trainer under the direction of a physician as
74 specified in s. 468.713. Such service and care must relate to
75 the prevention, recognition, evaluation, management,
76 disposition, treatment, or rehabilitation of a physically active
77 person who sustained an injury, illness, or other condition
78 involving exercise, sport, recreation, or related physical

ENROLLED

CS/HB 541

2015 Legislature

79 activity. For the provision of such care and services, an
 80 athletic trainer may use physical modalities, including, but not
 81 limited to, heat, light, sound, cold, electricity, and
 82 mechanical devices ~~the recognition, prevention, and treatment of~~
 83 ~~athletic injuries.~~

84 (3)~~(6)~~ "Board" means the Board of Athletic Training.

85 (4)~~(7)~~ "Board of Certification" means the nationally
 86 accredited certifying body for athletic trainers or its
 87 successor agency.

88 (5)~~(8)~~ "Department" means the Department of Health.

89 ~~(9) "Direct supervision" means the physical presence of~~
 90 ~~the supervisor on the premises so that the supervisor is~~
 91 ~~immediately available to the trainee when needed.~~

92 ~~(10) "Supervision" means the easy availability of the~~
 93 ~~supervisor to the athletic trainer, which includes the ability~~
 94 ~~to communicate by telecommunications.~~

95 Section 3. Section 468.703, Florida Statutes, is amended
 96 to read:

97 468.703 Board of Athletic Training.—

98 (1) The Board of Athletic Training is created within the
 99 department and shall consist of nine members appointed by the
 100 Governor and confirmed by the Senate.

101 (2) Five members of the board must be licensed athletic
 102 trainers, certified by the Board of Certification. One member of
 103 the board must be a physician licensed under chapter 458 or
 104 chapter 459. One member of the board must be a physician

ENROLLED

CS/HB 541

2015 Legislature

105 licensed under chapter 460. Two members of the board shall be
 106 consumer members, each of whom must be a resident of this state
 107 who has never worked as an athletic trainer, who has no
 108 financial interest in the practice of athletic training, and who
 109 has never been a licensed health care practitioner as defined in
 110 s. 456.001(4).

111 ~~(3) For the purpose of staggering terms, the Governor~~
 112 ~~shall appoint the initial members of the board as follows:~~

113 ~~(a) Three members for terms of 2 years each.~~

114 ~~(b) Three members for terms of 3 years each.~~

115 ~~(c) Three members for terms of 4 years each.~~

116 (3)-(4) As the terms of the members expire, the Governor
 117 shall appoint successors for terms of 4 years and such members
 118 shall serve until their successors are appointed.

119 (4)-(5) All provisions of chapter 456 relating to
 120 activities of the board shall apply.

121 (5)-(6) The board shall maintain its official headquarters
 122 in Tallahassee.

123 Section 4. Section 468.705, Florida Statutes, is amended
 124 to read:

125 468.705 Rulemaking authority.—The board is authorized to
 126 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
 127 provisions of this part conferring duties upon it. The
 128 provisions of s. 456.011(5) shall apply to the board's activity.
 129 Such rules shall include, but not be limited to, the allowable
 130 scope of practice regarding the use of equipment, procedures,

ENROLLED

CS/HB 541

2015 Legislature

131 and medication; mandatory requirements and guidelines for
 132 communication between the athletic trainer and a physician,
 133 including the reporting to the physician of new or recurring
 134 injuries or conditions;~~requirements for a written protocol~~
 135 ~~between the athletic trainer and a supervising physician,~~
 136 licensure requirements;;~~;~~ licensure examination;;~~;~~ continuing
 137 education requirements;;~~;~~ fees;;~~;~~ records~~,~~ and reports to be filed
 138 by licensees;;~~;~~ protocols;;~~;~~ and any other requirements necessary
 139 to regulate the practice of athletic training.

140 Section 5. Section 468.707, Florida Statutes, is amended
 141 to read:

142 468.707 Licensure ~~by examination;~~ requirements.—Any person
 143 desiring to be licensed as an athletic trainer shall apply to
 144 the department on a form approved by the department. An
 145 applicant shall also provide records or other evidence, as
 146 determined by the board, to prove he or she has met the
 147 requirements of this section. The department shall license each
 148 applicant who:

149 (1) Has completed the application form and remitted the
 150 required fees.

151 (2) For a person who applies on or after July 1, 2016, has
 152 submitted to background screening pursuant to s. 456.0135. The
 153 board may require a background screening for an applicant whose
 154 license has expired or who is undergoing disciplinary action ~~is~~
 155 ~~at least 21 years of age.~~

156 (3) Has obtained a baccalaureate or higher degree from a

ENROLLED

CS/HB 541

2015 Legislature

157 college or university professional athletic training degree
 158 program accredited by the Commission on Accreditation of
 159 Athletic Training Education or its successor ~~an accrediting~~
 160 ~~agency~~ recognized and approved by the United States Department
 161 of Education or the Commission on Recognition of Postsecondary
 162 Accreditation, approved by the board, or recognized by the Board
 163 of Certification, and has passed the national examination to be
 164 certified by the Board of Certification.

165 (4) If graduated before ~~after~~ 2004, has a current
 166 certification from ~~has completed an approved athletic training~~
 167 ~~curriculum from a college or university accredited by a program~~
 168 ~~recognized by the Board of Certification.~~

169 (5) Has current certification in both cardiopulmonary
 170 cardiovascular pulmonary resuscitation and the use of an
 171 automated external defibrillator set forth in the continuing
 172 education requirements ~~with an automated external defibrillator~~
 173 ~~from the American Red Cross or the American Heart Association,~~
 174 ~~or an equivalent certification~~ as determined by the board
 175 pursuant to s. 468.711.

176 (6) Has completed any other requirements as determined by
 177 the department and approved by the board ~~passed the examination~~
 178 ~~and is certified by the Board of Certification.~~

179 Section 6. Paragraph (b) of subsection (1) of section
 180 468.709, Florida Statutes, is amended to read:

181 468.709 Fees.—

182 (1) The board shall, by rule, establish fees for the

ENROLLED

CS/HB 541

2015 Legislature

183 following purposes:

184 ~~(b) An examination fee, not to exceed \$200.~~

185 Section 7. Subsection (2) of section 468.711, Florida
186 Statutes, is amended to read:

187 468.711 Renewal of license; continuing education.—

188 (2) The board may, by rule, prescribe continuing education
189 requirements, not to exceed 24 hours biennially. The criteria
190 for continuing education shall be approved by the board and must
191 include a current certification ~~certificate~~ in both
192 cardiopulmonary cardiovascular pulmonary resuscitation and the
193 use of with an automated external defibrillator as set forth in
194 the continuing education requirements from the American Red
195 Cross or the American Heart Association or an equivalent
196 training as determined by the board.

197 Section 8. Section 468.713, Florida Statutes, is amended
198 to read:

199 468.713 Responsibilities of athletic trainers.—An athletic
200 trainer shall practice under the direction of ~~within a written~~
201 ~~protocol established between the athletic trainer and a~~
202 ~~supervising~~ physician licensed under chapter 458, chapter 459,
203 chapter 460, or otherwise authorized by Florida law to practice
204 medicine. The physician shall communicate his or her direction
205 through oral or written prescriptions or protocols as deemed
206 appropriate by the physician for the provision of services and
207 care by the athletic trainer. An athletic trainer shall provide
208 service or care in the manner dictated by the physician ~~or, at~~

ENROLLED

CS/HB 541

2015 Legislature

209 ~~an athletic event, pursuant to direction from a physician~~
 210 ~~licensed under chapter 458, chapter 459, chapter 460, or~~
 211 ~~otherwise authorized by Florida law to practice medicine. A~~
 212 ~~written protocol shall require that the athletic trainer notify~~
 213 ~~the supervising physician of new injuries as soon as~~
 214 ~~practicable.~~

215 Section 9. Section 468.715, Florida Statutes, is amended
 216 to read:

217 468.715 Sexual misconduct.—The athletic trainer-patient
 218 ~~trainer-athlete~~ relationship is founded on mutual trust. ~~Sexual~~
 219 ~~misconduct in the practice of athletic training means violation~~
 220 ~~of the athletic trainer-athlete relationship through which the~~
 221 ~~athletic trainer uses such relationship to induce or attempt to~~
 222 ~~induce the athlete to engage, or to engage or attempt to engage~~
 223 ~~the athlete, in sexual activity outside the scope of the~~
 224 ~~practice or the scope of generally accepted examination or~~
 225 ~~treatment of the athlete. Sexual misconduct in the practice of~~
 226 athletic training is prohibited under s. 456.063.

227 Section 10. Subsections (1) and (5) of section 468.717,
 228 Florida Statutes, are amended to read:

229 468.717 Violations and penalties.—Each of the following
 230 acts constitutes a misdemeanor of the first degree, punishable
 231 as provided in s. 775.082 or s. 775.083:

232 (1) Practicing athletic training, representing oneself as
 233 an athletic trainer, or providing athletic trainer services to a
 234 patient without being licensed under this part ~~Practicing~~

ENROLLED

CS/HB 541

2015 Legislature

235 ~~athletic training for compensation without holding an active~~
 236 ~~license under this part.~~

237 (5) Using the title "athletic trainer" or "licensed
 238 athletic trainer," the abbreviation "AT" or "LAT," or a similar
 239 title or abbreviation that suggests licensure as an athletic
 240 trainer without being licensed under this part.

241 Section 11. Subsection (1) of section 468.719, Florida
 242 Statutes, is amended to read:

243 468.719 Disciplinary actions.—

244 (1) The following acts constitute grounds for denial of a
 245 license or disciplinary action, as specified in s. 456.072(2):

246 ~~(a) Failing to include the athletic trainer's name and~~
 247 ~~license number in any advertising, including, but not limited~~
 248 ~~to, business cards and letterhead, related to the practice of~~
 249 ~~athletic training. Advertising shall not include clothing or~~
 250 ~~other novelty items.~~

251 ~~(a)(b)~~ (a) Committing incompetency or misconduct in the
 252 practice of athletic training.

253 ~~(b)(e)~~ (b) Committing fraud or deceit in the practice of
 254 athletic training.

255 ~~(c)(d)~~ (c) Committing negligence, gross negligence, or
 256 repeated negligence in the practice of athletic training.

257 ~~(d)(e)~~ (d) ~~While practicing athletic training,~~ Being unable to
 258 practice athletic training with reasonable skill and safety
 259 because of a mental or physical condition or ~~to athletes by~~
 260 reason of illness, or the use of alcohol, controlled substances,

ENROLLED

CS/HB 541

2015 Legislature

261 or any other substance that impairs one's ability to practice ~~or~~
 262 ~~drugs or as a result of any mental or physical condition.~~

263 (e) ~~(f)~~ Violating any provision of this chapter or chapter
 264 456, or any rules adopted pursuant thereto.

265 Section 12. Section 468.723, Florida Statutes, is amended
 266 to read:

267 468.723 Exemptions.—This part does not prevent or
 268 restrict:

269 (1) A person licensed in this state under another chapter
 270 from engaging in the practice for which he or she is licensed
 271 and ~~The professional practice of a licensee of the department~~
 272 ~~who is~~ acting within the scope of such practice.

273 (2) An athletic training student acting under the direct
 274 supervision of a licensed athletic trainer. For purposes of this
 275 subsection, "direct supervision" means the physical presence of
 276 an athletic trainer so that the athletic trainer is immediately
 277 available to the athletic training student and able to intervene
 278 on behalf of the athletic training student in accordance with
 279 the standards set forth by the Commission on Accreditation of
 280 Athletic Training Education or its successor.

281 (3) A person from administering standard first aid
 282 treatment to another person ~~an athlete~~.

283 (4) A person authorized to practice athletic training in
 284 another state when such person is employed by or a volunteer for
 285 an out-of-state secondary or postsecondary educational
 286 institution, or a recreational, competitive, or professional

ENROLLED

CS/HB 541

2015 Legislature

287 organization that is temporarily present in this state ~~A person~~
 288 ~~licensed under chapter 548, provided such person is acting~~
 289 ~~within the scope of such license.~~

290 (5) A person providing personal training instruction for
 291 exercise, aerobics, or weightlifting, if the person does not
 292 represent himself or herself as an athletic trainer or as able
 293 to provide "athletic trainer" services and if any recognition or
 294 treatment of injuries is limited to the provision of first aid.

295 (6) Third-party payors from reimbursing employers of
 296 athletic trainers for covered services rendered by a licensed
 297 athletic trainer.

298 Section 13. Subsection (1) of section 456.0135, Florida
 299 Statutes, is amended to read:

300 456.0135 General background screening provisions.—

301 (1) An application for initial licensure received on or
 302 after January 1, 2013, under chapter 458, chapter 459, chapter
 303 460, chapter 461, chapter 464, s. 465.022, part XIII of chapter
 304 468, or chapter 480 shall include fingerprints pursuant to
 305 procedures established by the department through a vendor
 306 approved by the Department of Law Enforcement and fees imposed
 307 for the initial screening and retention of fingerprints.
 308 Fingerprints must be submitted electronically to the Department
 309 of Law Enforcement for state processing, and the Department of
 310 Law Enforcement shall forward the fingerprints to the Federal
 311 Bureau of Investigation for national processing. Each board, or
 312 the department if there is no board, shall screen the results to

ENROLLED

CS/HB 541

2015 Legislature

313 determine if an applicant meets licensure requirements. For any
314 subsequent renewal of the applicant's license that requires a
315 national criminal history check, the department shall request
316 the Department of Law Enforcement to forward the retained
317 fingerprints of the applicant to the Federal Bureau of
318 Investigation unless the fingerprints are enrolled in the
319 national retained print arrest notification program.

320 Section 14. This act shall take effect January 1, 2016.