

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 870

(Senator Conway)(Chair, Education, Health, and
Environmental Affairs Committee)

Education, Health, and Environmental Affairs

Health and Government Operations

State Board of Physicians - Athletic Trainer Advisory Committee - Education,
Supervision, and Administration

This emergency bill alters the educational requirements for licensure as an athletic trainer, authorizes athletic trainers to accept an “outside referral” from specified licensed health care practitioners, and clarifies the acceptable mechanisms that a physician may use to supervise an athletic trainer. Physicians, hospitals, institutions, alternative health systems, and other employers are prohibited from employing an athletic trainer without a license or an approved evaluation and treatment (E&T) protocol.

Fiscal Summary

State Effect: The bill’s requirements can be handled within existing budgeted resources. The bill’s civil and administrative penalty provisions are not expected to materially affect State finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The State Board of Physicians (MBP) must waive the educational requirements for athletic trainers if an individual was certified by the National Athletic Trainers’ Association Board of Certification, Inc. (NATABC) on or before October 1, 2012, and is currently in good standing. Licensees have to notify the board in writing of a change in address within 60 days of the change; otherwise, they are subject

to an administrative penalty of \$100. The bill also clarifies that the practice of athletic training does not include the practice of podiatry.

Evaluation and Treatment Protocols: An E&T protocol must describe the tasks that an athletic trainer may not perform; describe the specialized tasks the supervising physician is delegating to the athletic trainer to perform with documentation of competencies, certification, credentials, or any other requirements established by MBP; indicate whether the athletic trainer may accept “outside referrals” from nonsupervising physicians and other licensed health care practitioners; designate an alternate supervising physician, if appropriate or necessary; and contain an attestation that states that the supervising physician will be responsible for providing supervision of the athletic trainer. MBP may impose a civil penalty of up to \$1,000 on a person who employs or supervises an athletic trainer without a license or an approved E&T protocol. A physician or employer must notify the board within 10 days of the termination of an athletic trainer for reasons that would be grounds for discipline. A supervising physician must notify the board of the termination of the relationship under an E&T protocol.

Supervision of Athletic Trainers: The definition of supervision is clarified to include ongoing and immediately available instruction, *in person, by telephone, or by other electronic means*, that is adequate to ensure the safety and welfare of a patient and that is appropriate to the setting. In the event of a specified emergency, a designated alternate supervising physician may assume the role of the supervising physician by submitting an E&T protocol to the board within 15 days of the event.

Referrals: “Outside referral” means a request for treatment from a nonsupervising physician or “licensed health care practitioner.” “Licensed health care practitioner” means an individual licensed, certified, or otherwise authorized to practice a health occupation under the Health Occupations Article. An athletic trainer may accept an outside referral if it is specified in the athletic trainer’s E&T protocol, the nonsupervising physician or licensed health care practitioner has seen the athlete and written an order for the care of the athlete, and the treatment procedures are within the scope of practice of an athletic trainer and included in the athletic trainer’s E&T protocol.

Current Law/Background: Added to the jurisdiction of MBP in 2009 (regulation began in fiscal 2012), athletic trainers apply certain principles and methods, including injury prevention, for managing athletic injuries for athletes in good overall health under the supervision of a licensed physician.

A licensed athletic trainer must enter into, and obtain board approval of, a written E&T protocol with a licensed physician to practice athletic training. The E&T protocol must include specified information, such as the settings where the athletic trainer may practice, physician supervision mechanisms that the physician will use to give direction to the

athletic trainer, and the treatment procedures that the athletic trainer may perform. Statute specifies, moreover, that nothing in the title governing the practice of athletic training “may be construed to authorize an athletic trainer to practice except under the supervision of a licensed physician and in an approved setting.” “Supervision” is defined as the “responsibility of a physician to provide ongoing and immediately available instruction that is adequate to ensure the safety and welfare of a patient and is appropriate to the setting.”

The board must waive the educational requirements for athletic trainers if an individual was certified by NATABC prior to January 1, 2004, and is currently in good standing. According to the Maryland Athletic Trainers’ Association, 15 athletic trainers have been denied licensure by MBP based on current educational requirements and, though certified by NATABC, are unable to practice in Maryland. Thus, the bill was requested as an emergency measure.

Outside Referrals: MBP-proposed regulations allow an athletic trainer to accept outside referrals from a nonsupervising physician or a licensed health care practitioner under certain circumstances. Although this is accepted conventional practice of athletic training, statute does not address whether, and the circumstances under which, an athletic trainer may accept outside referrals.

Maryland Program Evaluation Act: MBP is 1 of approximately 70 regulatory entities and activities currently subject to periodic evaluation under the Maryland Program Evaluation Act. Its advisory committees, including the Athletic Trainer Advisory Committee, are likewise subject to evaluation. The Act establishes a process better known as “sunset review” as most entities evaluated are also subject to termination, including the board, which is scheduled to terminate July 1, 2013. The sunset review process begins with a preliminary evaluation conducted by DLS on behalf of the Legislative Policy Committee (LPC). LPC decides whether to waive an entity from further (or full) evaluation. If waived, legislation to reauthorize the entity typically is enacted. Otherwise, a full evaluation usually is undertaken the following year.

DLS conducted a full sunset evaluation of MBP and its advisory committees in 2011. In total, the DLS report included 46 recommendations relating to licensing, complaint resolution, board resources, and other issues. A copy of the DLS sunset report can be found at <http://dls.state.md.us/Content.aspx?page=104>. Among other things, with respect to the Athletic Trainer Advisory Committee, DLS recommended that statute be amended to:

- clarify that a supervising physician may authorize, in an E&T protocol, an athletic trainer to accept an outside referral from a nonsupervising physician or licensed health care practitioner;

- specify the licensed health care practitioners from whom an athletic trainer may accept referrals; and
- clarify the acceptable mechanisms that a physician may use to supervise an athletic trainer.

The bill implements some of the recommendations contained in the DLS sunset evaluation.

Additional Information

Prior Introductions: None.

Cross File: HB 688 (Delegate Costa) - Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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