

Clearinghouse Rule 23-001

STATE OF WISCONSIN
ATHLETIC TRAINERS AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : ATHLETIC TRAINERS AFFILIATED
ATHLETIC TRAINERS AFFILIATED : CREDENTIALING BOARD
CREDENTIALING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Athletic Trainers Affiliated Credentialing Board to amend AT 4.01 (intro.) and 4.02 (2) and (4) and repeal AT 1.07, relating to references to consulting physicians.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 448.955 (3) (c), 448.956 (1) (a), and 448.956 (4), Stats.

Statutory authority: Sections 15.085 (5) (b) and 448.9525 (2), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats. states that “[Each affiliated credentialing board] shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession...”

Section 448.9525 (2), Stats., states that “subject to s. 448.956 (1), (4) and (5), the affiliated credentialing board and the medical examining board shall jointly promulgate rules relating to the minimum requirements of a protocol required under s. 448.956 (1).”

Related statute or rule: None.

Plain language analysis:

The proposed rule implements the changes from 2021 Wisconsin Act 71, which removed all statutory requirements relating to a consulting physician in the practice of athletic training.

Summary of, and comparison with, existing or proposed federal regulation: None.

Comparison with rules in adjacent states:

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Athletic Trainers in Illinois, with input from the Illinois Board of Athletic Trainers. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Athletic Trainers Practice Act. This Act includes requirements for consultation and referral to a team or consulting physician (225 Illinois Compiled Statutes Chapter 5 Section 3 Subsection 4). The Illinois Administrative Code does not include rules address consultation with a licensed physician as it relates to the scope of practice of athletic training (Illinois Administrative Code Title 68 Section 1160).

Iowa: The Iowa Public Health Department is responsible for the licensure and regulation of Athletic Trainers in Iowa, with input from the Iowa Board of Athletic Trainers. Chapter 152D of the Iowa Code outlines the statutes for the regulation of the practice of athletic training in Iowa. These statutes include general requirements for licensure and duties of the Iowa Board (Iowa Code Title IV Chapter 152D). The Iowa Administrative Code includes rules that establish that each licensee must ensure that documentation of physician direction is obtained and maintained, including an athletic training service plan, referrals, initial evaluations and assessments, and dates of subsequent follow-up care (645 Iowa Administrative Code Chapter 351).

Michigan: The Michigan Athletic Trainer Board is responsible for the licensure and regulation of Athletic Trainers in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for Athletic Trainers in Michigan, among several other occupations (Michigan Compiled Laws Act 368 Article 15 Chapter 333 Part 179). The Michigan Department of Licensing and Regulatory Affairs, in conjunction with the Michigan Board, promulgates administrative rules that include requirements for licensure, education, and examination, among other topics. Neither the statutes or the administrative rules include requirements for consultation with or referral to a licensed physician as it relates to the scope of practice of athletic training (Michigan Administrative Code R 338.1301-R 338.1378).

Minnesota: The Minnesota Board of Medical Practice is responsible for the licensure and regulation of Athletic Trainers in Minnesota. The Minnesota Athletic Trainers Act includes statutory requirements for limitations on practice, licensure, and continuing education, among other topics. According to section 148.7807 of these requirements, an Athletic Trainer must refer a patient to a person licensed to practice medicine in Minnesota if they determine that a medical condition is beyond their scope of practice (Minnesota Statutes Section 148.7801 to 148.78015). Part 5600 of the Minnesota Administrative Code includes rules establish by the Minnesota Board, but does not mention requirements for consultation with or referral to a licensed physician as it relates to the scope of practice of athletic training (Minnesota Administrative Rules Chapters 5600 to 5620).

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of 2021 Wisconsin Act 71 and obtaining input and feedback from the Athletic Trainers Affiliated Credentialing Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted at Jennifer.Garrett@wisconsin.gov or (608) 266-6975.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-26-7139; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on March 7, 2023 at 11:00 a.m., to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. AT 1.07 is repealed.

SECTION 2. AT 4.01 (intro.), 4.02 (2) and (4) are amended to read:

AT 4.01 Protocol evaluation and treatment procedures. A protocol established by the licensee ~~and approved by the consulting physician~~ shall be in writing and may include any of the following evaluation and treatment procedures ~~when authorized by the consulting physician:~~

AT 4.02 (2) The requirement that if a licensee ~~or the consulting physician of the licensee~~ determines that a patient's medical condition is beyond the scope of practice of the licensee, the licensee shall, in accordance with the protocol, refer the patient to a health care practitioner who is licensed under ch. 446 or 447, Stats., or subch. II, III or IV, of ch. 448, Stats., and who can provide appropriate treatment to the patient.

AT 4.02 (4) The name, signature and date of signature of the ~~consulting physician and the~~ licensee.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
