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Fast-Track Regulation Agency Background Document

Agency name	Board of Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC85-120-10 et seq.
Regulation title(s)	Regulations Governing the Licensure of Athletic Trainers
Action title	Definition of student athletic trainer
Date this document prepared	2/19/2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The amended regulation will define a “Student athletic trainer” as a person enrolled in an accredited bachelor’s or master’s level educational program in athletic training to clarify the intent of the term and the applicability of regulations for practice by a “student athletic trainer.”

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

N/A

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On February 19, 2015, the Board of Medicine adopted an amendment to 18VACC85-120-10 et seq., Regulations Governing the Licensure of Athletic Trainers.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6), which provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...

The specific legal authority to promulgate regulations for licensure is found in § 54.1-2957.4.

§ 54.1-2957.4. Licensure as athletic trainer required; requisite training and educational requirements; powers of the Board concerning athletic training.

A. It shall be unlawful for any person to practice or to hold himself out as practicing as an athletic trainer unless he holds a license as an athletic trainer 90 days after the effective date of regulations promulgated by the Board implementing athletic trainer licensure. The Board shall issue licenses to practice athletic training to applicants for such certification who meet the requirements of this chapter and the Board's regulations.

B. The Board shall establish criteria for the licensure of athletic trainers to ensure the appropriate training and educational credentials for the practice of athletic training. Such criteria may include experiential requirements and shall include one of the following: (i) a Virginia testing program to determine the quality of the training and educational credentials for and competence of athletic

trainers, (ii) successful completion of a training program and passage of the certifying examination administered by the National Athletic Training Association Board of Certification resulting in certification as an athletic trainer by such national association, or (iii) completion of another Board-approved training program and examination.

C. At its discretion, the Board may grant provisional licensure to persons who have successfully completed an approved training program or who have met requisite experience criteria established by the Board. Such provisional licensure shall expire as provided for in the regulations of the Board.

D. The Board shall promulgate such regulations as may be necessary for the licensure of athletic trainers and the issuance of licenses to athletic trainers to practice in the Commonwealth. The Board's regulations shall assure the competence and integrity of any person claiming to be an athletic trainer or who engages in the practice of athletic training.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the amended regulation is to define a “student athletic trainer” so there is no confusion between the activities of a person enrolled in an athletic training educational program at the bachelor or master degree level and a person who is a high school student who is acting as an aide to the athletic director. The student athletic trainer is permitted to perform tasks within the scope of a licensee provided they are appropriately trained and supervised in accordance with provisions of subsection B of section 130. However, using a high school aide who does not have the educational background and skills to perform such tasks is potentially dangerous to the health and safety of student athletes. Therefore, it is necessary to define the term “student athletic trainer” to ensure that there is no confusion about the application of the regulation.

Rationale for using fast-track process

Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

There is no controversy in the adoption of this amendment; it is clarifying in nature and may prevent a misunderstanding of the regulations.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.

The amended regulation will define a “Student athletic trainer” as a person enrolled in an accredited bachelor’s or master’s level educational program in athletic training.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

- 1) The primary advantage to the public is clarity in the regulation so a high school student is not allowed to practice as a “student athletic trainer” in the performance of tasks that should be reserved for persons enrolled in an athletic training program on the college or university level. There are no disadvantages.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other pertinent matters of interest to the regulated community, government officials, and the public.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4)

the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative regulatory methods that will accomplish the objective.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>There is no cost for implementation or enforcement. The amendment is clarifying and not substantive.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There are no costs to localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>The individuals affected may be athletic trainers in high schools who are inappropriately and illegally utilizing students as "student athletic trainers."</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There is no estimate; the Board does not have specific reports of inappropriate use of students.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There are no costs; the current regulation is being clarified.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Greater clarity in the regulation to avoid any misinterpretation</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no alternatives that meet the essential purpose of the action.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the family.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	N/A	<p>The addition of a definition for a “student athletic trainer” as a person enrolled in an accredited bachelor’s or master’s level educational program in athletic training.</p> <p><i>Currently, subsection B in section 130 provides requirements for supervision and practice of student athletic trainers: B. The athletic trainer supervising the practice of student athletic trainers shall:</i></p>

		<p>1. Provide daily, on-site supervision and shall plan, direct, advise and evaluate the performance and experience of the student athletic trainer.</p> <p>2. Delegate only nondiscretionary tasks that are appropriate to the level of competency and experience of the student athletic trainer, practice setting and acuity of population being served.</p> <p>In a statement recently released by the National Athletic Trainers Association, secondary school athletic trainers were reminded that: <i>“Student aides must only observe the licensed certified athletic trainer outside of the educational environment. Coaches and school administrators must not allow or expect student aides to assist or act independently with regard to the evaluation, assessment, treatment and rehabilitation of injuries. Additionally, it is paramount that student aides not be expected, asked or permitted to make “return to play” decisions.”</i></p> <p>The NATA also offered examples of the proper role of a student aide:</p> <ul style="list-style-type: none"> • <i>Field set up and take down</i> • <i>Hydration specialization</i> • <i>Cleaning duties</i> • <i>Performing inventories</i> • <i>Stocking kits</i> • <i>Stocking shelves, taping tables, etc.</i> • <i>Making ice bags</i> • <i>Eyes and ears- sideline recognition of an athlete struggling with heat illness, head injury, etc.</i>
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