PART Ath 101 PURPOSE AND SCOPE

Ath 101.01 Purpose. These rules implement the statutory responsibilities of the governing board of athletic trainers pursuant to RSA 326-G.

Ath 101.02 Scope. Pursuant to RSA 326-G:2 these rules shall not apply to athletic training when it consists in:

(a) Self-care by a patient;
(b) First aid by a coach;
(c) Gratuitous care by a friend or family member who does not represent himself or herself as an athletic trainer;
(d) The activities of athletic training students acting under the direction of an athletic trainer licensed, certified or registered in any state, provided that the students are designated by a title which clearly indicates their student status; or
(e) The activities of non-resident athletic trainers currently licensed, certified or registered in any state or Canada, or currently certified by the National Athletic Trainers Association Board of Certification, Inc., when these activities are performed during a temporary visit in this state as set forth in Ath 304.

PART Ath 102 DEFINITIONS

Ath 102.01 "Athletic trainer" means "athletic trainer" as defined in RSA 326-G:1, II, namely, "a person licensed under this chapter to practice athletic training."

Ath 102.02 "Athletic training" means "athletic training" as defined in RSA 326-G:1, III, namely, "the practice, with respect to injuries or conditions incurred by participants in organized or recreational sports, of:

(a) Prevention;
(b) Assessment and evaluation;
(c) Acute care, management, treatment and disposition;
(d) Rehabilitation and reconditioning; and
(e) Education, counseling and program administration,
Provided such care is within the professional preparation and education of athletic trainers and under the direction of a physician licensed in any state or in Canada."

Ath 102.03 "Board" means "board" as defined in RSA 326-G:1, I, namely, "the governing board of athletic trainers established in RSA 328-F."

Ath 102.04 "Board of directors" means "board of directors" as defined in RSA 328-F:2, I, namely, "the chairpersons or their appointees of all the governing boards which shall be responsible for the administrative operation of the office of licensed allied health professionals."

Ath 102.05 "Direction of a physician" means contact or interaction with a licensed physician during athletic training including but not limited to:

(a) On-site contact or interaction;
(b) Voice communications;
(c) Electronic communications; or
(d) Standing orders.
Ath 102.06 "National Athletic Trainers Association Board of Certification, Inc. (NATABOC)" means the national professional organization for athletic training which administers a national examination and issues a national certification to qualifying individuals.

Ath 102.07 "Office of licensed allied health professionals" means "office of licensed allied health professionals" as defined in RSA 328-F:2, IV, namely, "an agency of multiple governing boards in professions of the allied health field."

Ath 102.08 "Physician" means a doctor of medicine or a doctor of osteopathy who holds a current license to practice from any state or in Canada.

PART Ath 103 DESCRIPTION OF THE BOARD AND BOARD MEETINGS

Ath 103.01 Composition of the Board. Pursuant to RSA 328-F:4, IV the board consists of 3 currently and fully licensed athletic trainers who have actively engaged in the practice of athletic training in this state for at least three years, one physician educated in the current practice of sports medicine, and one public member.

Ath 103.02 Relationship of the Board to the Office of Licensed Allied Health Professionals. Pursuant to RSA 328-F:3, II the chairperson of the board or the appointee of the chairperson is a member of the board of directors of the office of licensed allied health professionals.

Ath 103.03 Responsibilities of the Board. The board's responsibilities include:

(a) Licensing individuals as athletic trainers;

(b) Renewing and reinstating licenses;

(c) Regulating the profession of athletic training; and

(d) Investigating complaints of licensee misconduct and taking appropriate disciplinary action.

Ath 103.04 Board Meetings and Quorum. Pursuant to RSA 328-F:8:

(a) The board shall meet at least monthly; and

(b) A majority of its members shall constitute a quorum.

Ath 103.05 Attendance at Meetings By Members of the Public. Pursuant to RSA 91-A:2, II, members of the public shall have the right to attend and record board meetings, except for those parts of the meetings which are nonpublic sessions as defined in RSA 91-A:3.

Ath 103.06 Notice of Board Meetings.

(a) Notice of the time and place of board meetings, excluding emergency meetings, shall be given in accordance with RSA 91-A:2, II.

(b) Information about the time and place of board meetings shall also be available at the numbers stated in Ath 104.01(b) and (c).

Ath 103.07 Minutes of Board Meetings.

(a) Minutes of board meetings and of official actions taken by the board shall be taken and preserved.

(b) Such minutes shall:

(1) Record the members participating in each vote;

(2) Separately record the position of members who dissent, abstain or concur; and

(3) Be available for inspection by the public in accordance with Ath 104.03.

PART Ath 104 PUBLIC INFORMATION

Ath 104.01 Office Location and Mailing Address, Telephone and Fax Numbers, Number for TTY/TDD Users and E-Address.
(a) The board's office location and mailing address is:

Governing Board of Athletic Trainers
Office of Licensed Allied Health Professionals
Philbrook Building
121 South Fruit Street
Concord, New Hampshire 03301

(b) The board's telephone number is (603) 271-8389 and its fax number is (603)271-6702.

(c) Access for in-state TTY/TDD users is through Relay New Hampshire by dialing 711 or by dialing 1-800-735-2964.

(d) The board's e-address is tina.kelley@NH.gov.

Ath 104.02 Communication with the Board.

(a) Persons wishing to correspond with the board or make submissions to it may:

(1) Send a letter;

(2) Send the correspondence or submission by fax, provided that it is printed or typed and that the board's rules do not require it to be sent by mail; or

(3) Send the correspondence or submission by e-mail, provided that the board's rules do not require it to be sent by mail.

(b) Persons seeking information from the board may do so by:

(1) Mail, fax or e-mail as set forth in (a) above;

(2) Telephoning the board; or

(3) Accessing the board as described in Ath 104.01(c).

Ath 104.03 Public Access to Records.

(a) Pursuant to RSA 91-A:4 members of the public may inspect and copy those records of the board, including meeting minutes, which are public records and not exempt from disclosure by RSA 91-A:5, RSA 328-F:24, I or other applicable law.

(b) Public records shall be inspected and copied during regular business hours at the office of the board at the location stated in Ath 104.01(a)

(c) Persons desiring copies of public records shall reasonably describe the information being sought and pay the actual cost of the copies.

(d) If records are requested which contain both public information and information exempt from disclosure pursuant to RSA 91-A or other law, the administrator of the office of licensed allied health professionals shall, acting for the board, delete the information exempt from disclosure and provide the remaining information.

CHAPTER Ath 200 PROCEDURAL RULES

PART Ath 201 DEFINITIONS

Ath 201.01 Definitions.

(a) “Adjudicative proceeding” means “adjudicative proceeding” as defined in RSA 541-A: 1, I., namely “the procedure to be followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A: 36.”

(b) “Appearance" means a written notification to the board that a party, an intervenor or the representative of a party or intervenor intends to actively participate in an adjudicative proceeding.
(c) “Board” means “board” as defined in RSA 326-G, namely, “the governing board of athletic trainers established in RSA 328-F.”

(d) "Contested case" means "contested case" as defined in RSA 541-A:1, IV, namely, "a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after notice and an opportunity for hearing."

(e) “Declaratory ruling” means "declaratory ruling" as defined in RSA 541-A:1, V, namely, "an agency ruling as to the specific applicability of any statutory provision or of any rule or order of the agency."

(f) "Intervenor" means a person without the status of a party but participating in an adjudicative proceeding to the extent permitted by the presiding officer acting pursuant to RSA 541-A:32.

(g) "Motion" means a request to the presiding officer for an order or ruling directing some act to be done in favor of the proponent of the motion, including a statement of justification or reasons for the request.

(h) "Order" means "order" as defined in RSA 541-A:1, XI, namely, "the whole or part of an agency's final disposition of a matter, other than a rule, but does not include an agency's decision to initiate, postpone, investigate or process any matter, or to issue a complaint or citation."

(i) "Party" means "party" as defined by RSA 541-A:1, XII, namely, "each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party."

(j) "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than the board.

(k) "Presiding officer" means presiding officer as defined in RSA 541-A:1, XIV, namely, "that individual to whom the agency has delegated the authority to preside over a proceeding, if any; otherwise it shall mean the head of the agency."

(l) "Proof by a preponderance of the evidence" means a demonstration by admissible evidence that a fact or legal conclusion is more probably true than not.

(m) “Public comment hearing” means a proceeding held pursuant to RSA 541-A:11.

(n) "Record" means, in a contested case, the materials set forth in RSA 541-A:31, VI.

(o) “Rulemaking petition” means a petition made pursuant to RSA 541-A:4, I.

PART Ath 202 PROCEDURES FOR THE RECEIPT OF MISCONDUCT COMPLAINTS AND THE CONDUCT OF DISCIPLINARY HEARINGS

Ath 202.01 Procedures for the Receipt of Misconduct Complaints and the Conduct of Disciplinary Hearings. Pursuant to RSA 328-F:13, II, the procedures for the receipt of misconduct complaints and the conduct of disciplinary hearings shall be the procedures set forth in Ahp 203 through Ahp213.

PART Ath 203 CONSTRUCTION OF RULES; RIGHT TO A HEARING

Ath 203.01 Principles of Construction.

(a) The board shall resolve all disputes about matters which are:

(1) Within the jurisdiction of its statute;

(2) Non-criminal; and

(3) Not related to disciplinary matters.

(b) Ath 203.02 through Ath 212 shall be construed to secure the just, accurate and efficient resolution of all disputes.

Ath 203.02 Right to a Hearing. Any person having a non-disciplinary dispute with the board shall be entitled to a hearing of the dispute if:
PART Ath 204 CONDUCT OF HEARINGS BY PRESIDING OFFICER; WAIVER OF RULES

Ath 204.01 Presiding Officer.

(a) Hearings shall be conducted by a presiding officer designated by the board.

(b) The presiding officer shall as necessary:

1. Regulate and control the course of the hearing;
2. Facilitate settlement of the dispute that is the subject of the hearing;
3. Administer oaths and affirmations;
4. Request that the board issue subpoenas to compel the attendance of witnesses or the production of documents;
5. Receive relevant evidence and exclude irrelevant, immaterial or unduly repetitious evidence;
6. Rule on procedural requests at the request of a party or intervenor or on the presiding officer's own motion;
7. Question anyone who testifies to the extent required to make a full and fair record;
8. Arrange for recording the hearing as specified in RSA 541-A:31, VII; and
9. Take any other action consistent with applicable statutes, rules and case law necessary to conduct the hearing and complete the record in a fair and timely manner.

Ath 204.02 Withdrawal of Presiding Officer.

(a) Upon his or her own initiative or upon the motion of any party or intervenor, the presiding officer shall withdraw from any adjudicative proceeding for good cause.

(b) Good cause shall exist if the presiding officer:

1. Has a direct interest in the outcome of the matter, including but not limited to, a financial or family relationship with any party or intervenor;
2. Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of the case; or
3. Personally believes that he or she cannot fairly judge the facts of the case.

(c) Mere knowledge of the issues or acquaintance with any party, intervenor or witness shall not constitute good cause for withdrawal.

Ath 204.03 Waiver or Suspension of Rules by Presiding Officer. The presiding officer, upon the motion of any party or intervenor, or on his or her own initiative, shall suspend or waive any requirement or limitation imposed by this chapter when the suspension or waiver:

(a) Appears to be lawful; and

(b) Is more likely to promote the just, accurate and efficient resolution of the pending dispute than would adherence to a particular rule or procedure.

PART Ath 205 TIME PERIODS

Ath 205.01 Computation of Time.
(a) Unless otherwise specified, the unit of time for time periods referenced in this chapter shall be calendar
days.

(b) Computation of any period of time referred to in this chapter shall begin with the day after the action which
sets the time period in motion, and shall include the last day of the period so computed.

(c) If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, then the time period
shall be extended to include the first business day following the Saturday, Sunday or legal holiday.

PART Ath 206  FILING, FORMAT AND DELIVERY OF DOCUMENTS

Ath 206.01  Date of Issuance or Filing.

(a) All written documents governed by this chapter shall be rebuttably presumed to have been issued on the date
noted on the document.

(b) All written documents governed by this chapter shall be rebuttably presumed to have been filed with the
board on the date of receipt, as evidenced by a date placed on the document by the board or its staff in the
normal course of business.

Ath 206.02  Format of Documents.

(a) All correspondence, pleadings, motions or other documents filed shall:

   (1) Include the title and docket number of the case, if known;

   (2) Be typewritten or clearly printed on durable paper 8 1/2 by 11 inches in size;

   (3) Be signed by the proponent of the document, or, if the proponent appears by a representative, by the
       representative; and

   (4) Include a statement certifying that a copy of the document has been delivered to all parties
       and intervenors in compliance with Ath 206.03.

(b) The signature of a party or intervenor or the representative of the party or the intervenor on a document filed
with the board shall constitute certification that:

   (1) The signer has read the document;

   (2) The signer is authorized to file it;

   (3) To the best of the signer's knowledge, information and belief there are good and sufficient grounds
       to support it; and

   (4) The document has not been filed for purposes of delay.

Ath 206.03  Delivery of Documents.

(a) Copies of all motions, exhibits, memoranda, or other documents filed by any party or intervenor shall be
delivered by that party or intervenor to the board and to all other parties and intervenors.

(b) All notices, orders, decisions or other documents issued by the presiding officer or the board shall be
delivered to all parties and intervenors.

(c) Delivery of documents relating to a proceeding but not issued by the presiding officer or the board shall be
made either in hand or by depositing into the United States mail a copy of the document in an envelope bearing:

   (1) The name of the person intended to receive the document;

   (2) The full address, including zip code, last provided to the board by such person; and

   (3) Prepaid first class postage.

(d) Delivery of documents relating to a proceeding and issued by the presiding officer or the board shall be
made by mailing them in accordance with (c) above and using certified mail with return receipt requested.
(e) When a party or intervenor appears by a representative, delivery of a document to the party's or intervenor's representative either in hand or at the address stated on the appearance filed by the representative shall constitute delivery to the party or intervenor.

PART Ath 207 MOTIONS AND OBJECTIONS

Ath 207.01 Motions; Objections to Motions; Ruling on Motions.

(a) Motions shall be in written form and filed with the presiding officer, unless made in response to a matter asserted for the first time at a hearing or based on information that was not received in time to prepare a written motion.

(b) Oral motions and any oral objections to such motions shall be recorded in full in the record of the hearing. If the presiding officer finds that the motion requires additional information in order to be fully and fairly considered, the presiding officer shall direct the proponent to submit the motion in writing and provide supporting information.

(c) Except as otherwise provided in this chapter, objections to written motions shall be filed within 10 days of the date of the motion.

(d) Failure by an opposing party or an intervenor to object to a motion shall not in and of itself constitute grounds for granting the motion.

(e) When necessary to obtain information or clarify an issue relating to the proceedings, the presiding officer shall hold a hearing on the motion.

(f) The presiding officer shall rule upon a motion after full consideration of all objections and applicable law.

PART Ath 208 COMMENCEMENT OF ADJUDICATIVE PROCEEDINGS; APPEARANCES; PRE-HEARING CONFERENCES; RECORDING THE HEARING

Ath 208.01 Notice Commencing Adjudicative Proceedings.

(a) An adjudicative proceeding shall be commenced by notice to the parties of the following information:

   (1) The names and addresses of the parties;
   (2) The nature of the hearing;
   (3) The time and place of the hearing and of any pre-hearing conference;
   (4) The legal authority under which the hearing is to be held;
   (5) The applicable statutes and rules;
   (6) In a short and plain statement, the issues presented;
   (7) The fact that each party has the right to have representation by an attorney at the party’s own expense;
   (8) The name of the presiding officer, if known; and
   (9) The fact that:

      a. The licensee has the right to have the board provide a certified shorthand court reporter at the licensee's expense; and

      b. The licensee's request for a certified shorthand court reporter shall be submitted in writing at least 10 days before the beginning of the hearing.

(b) The substitution of another individual for the individual identified as presiding officer in the notice of hearing shall not invalidate the notice.

Ath 208.02 Appearances.
(a) An appearance shall be filed by:
    (1) Each party or the party's representative, if any; and
    (2) Each intervenor or the intervenor's representative, if any.

(b) Appearances shall be filed within 15 days of receipt of the notice required by Ath 208.01(a).

(c) The appearance shall contain the following information:
    (1) The docket number assigned by the board or a brief identification of the case;
    (2) The daytime address and telephone number of the person filing the appearance; and
    (3) If applicable, the daytime address and telephone number of the party or intervenor represented by
        the person filing the appearance.

Ath 208.03 Pre-hearing Conference.

(a) A prehearing conference shall be scheduled on the request of any party or intervenor or on the initiative of
    the board or the presiding officer if such a conference would facilitate the proceedings or encourage resolution
    of the dispute.

(b) A prehearing conference shall address one or more of the following:
    (1) Offers of settlement;
    (2) Simplification of the issues;
    (3) Stipulations or admissions as to issues of fact or proof;
    (4) Limitations on the number of witnesses;
    (5) Changes to standard hearing procedures;
    (6) Consolidation of examination of witnesses; and
    (7) Any other matters that advance the efficiency of the proceedings.

Ath 208.04 Recording the Hearing.

(a) The presiding officer shall record the hearing by electronic recording or any other method that will provide a
    verbatim record.

(b) If any person requests a transcript of the electronic recording of a hearing, the board shall:
    (1) Cause a transcript to be prepared; and
    (2) Upon receipt of payment for the cost of the transcription, provide a copy of the transcript to the
        person making the request.

PART Ath 209 INTERVENTION; ROLE OF BOARD STAFF

Ath 209.01 Intervention Procedure.

(a) Petitions for intervention shall:
    (1) Describe in writing the petitioner's interest in the subject matter of the proceedings;
    (2) Be submitted to the presiding officer; and
    (3) Be mailed in copy form to all parties identified in the notice commencing the hearing.

(b) A petition for intervention shall be granted by the presiding officer if the petitioner complied with (a) above
    at least 3 days before the hearing and the presiding officer determines that:
(1) The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests might be affected by the proceedings or the petitioner qualifies as an intervenor under law; and

(2) The intervention sought would not impair the interests of justice and the orderly and prompt conduct of the proceedings.

(c) The presiding officer shall grant a petition for intervention at any time if:

(1) The petitioner complied with (a) above; and

(2) The presiding officer determines that the intervention sought would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.

Ath 209.02  Effect of Intervention and Rights of an Intervenor.

(a) Approval of intervention by the presiding officer shall apply only to the proceeding in which the petition for intervention was granted.

(b) Notwithstanding the provisions of this chapter, an intervenor's right to participate in an adjudicative proceeding shall be subject to any limitations or conditions imposed by the presiding officer pursuant to RSA 541-A:32, III.

(c) An intervenor shall take the proceedings as he or she finds them and no portion of the proceeding shall be repeated because of the fact of intervention.

Ath 209.03  Role of Board Staff.  Unless called as witnesses, board staff shall have no role in any hearing.

PART Ath 210  CONTINUANCES AND FAILURE TO ATTEND HEARING

Ath 210.01  Continuances.

(a) Any party or intervenor may make an oral or written motion that a hearing be delayed or continued to a later date or time.

(b) A motion for a delay or a continuance shall be granted if the presiding officer determines that a delay or continuance would assist in resolving the case fairly.

(c) If the later date, time and place are known when the hearing is being delayed or continued, the information shall be stated on the record. If the later date, time and place are not known at that time, the presiding officer shall as soon as practicable issue a written scheduling order stating the date, time and place of the delayed or continued hearing.

Ath 210.02  Failure of a Party to Attend or Participate in the Hearing.

(a) A party shall be in default if the party:

(1) Has the overall burden of proof;

(2) Has been given notice in accordance with Ath 208.01; and

(3) Fails to attend the hearing.

(b) If a party is in default under (a) above, the case shall be dismissed.

(c) If a party who does not have the overall burden of proof fails to attend a hearing after having been given notice in accordance with Ath 208.01, the testimony and evidence of any other parties or intervenors shall be received and evaluated.

(d) If a party who has the overall burden of proof attends a hearing but fails to participate by presenting evidence or argument, a decision shall be entered against that party.

(e) The board shall not dismiss the case under (b) above if the failure to attend results from circumstances that are beyond the control of the party.
PART Ath 211 REQUESTS FOR INFORMATION AND DOCUMENTS

Ath 211.01 Voluntary Production of Information.

(a) Each party and intervenor shall attempt in good faith to make complete and timely response to requests for the voluntary production of information and documents relevant to the hearing.

(b) When a dispute arises concerning a request for the voluntary production of information or documents, any party or intervenor may file a motion to compel the production of the requested information or documents.

Ath 211.02 Motions to Compel Production of Information and Documents.

(a) Any party or intervenor may make a motion seeking an order for compliance with an information or document request. The motion shall be filed at least 20 days before the date scheduled for the hearing and in any event as soon as possible after receiving the notice of the hearing and failing in an attempt to obtain the requested information or documents through voluntary production.

(b) The motion to compel shall:

   (1) Set forth in detail those facts which justify the request for information or documents; and

   (2) List with specificity the information or documents being sought.

(c) Objections to motions to compel shall be filed within 10 days of the delivery of the motion.

(d) The presiding officer shall grant the motion to compel if its proponent has demonstrated that an order for compliance is necessary for a full and fair presentation of evidence at the hearing.

Ath 211.03 Mandatory Pre-Hearing Disclosure of Witnesses and Exhibits. At least 5 days before the hearing, the parties and intervenors shall provide to the other parties and intervenors:

(a) A list of witnesses intended to be called at the hearing;

(b) A list of documents and exhibits intended to be offered as evidence at the hearing; and

(c) A copy of each document intended to be offered as evidence at the hearing.

PART Ath 212 HEARING PROCEDURE

Ath 212.01 Standard and Burden of Proof. The party or intervenor asserting a proposition shall bear the burden of proving the truth of the proposition by a preponderance of the evidence.

Ath 212.02 Order of Testimony; Cross-Examination.

(a) Any individual offering testimony, evidence or arguments shall state for the record his or her name and role in the hearing. If the individual is representing another person, the person being represented shall also be identified.

(b) Testimony on behalf of the parties shall be offered in the following order:

   (1) The testimony of the party or parties bearing the overall burden of proof and such witnesses as such party or parties may call; and

   (2) Thereafter, the testimony of the party or parties opposing the party who bears the overall burden of proof and such witnesses as such party or parties may call.

(c) The testimony of intervenors and such witnesses as such intervenors may be allowed to call shall be offered at the time directed by the presiding officer.

(d) Each party may cross-examine any witnesses offered against that party.

(e) The presiding officer shall call witnesses not called by the parties if their testimony is required for a full and fair adjudication of the issues.

(f) The right of an intervenor to cross-examine witnesses shall be determined by the presiding officer.
Board members may question each witness after the witness has finished testifying.

**Ath 212.03 Evidence.**

(a) Receipt of evidence shall be governed by the provisions of RSA 541-A:33.

(b) All rules of privilege recognized under the laws of the state of New Hampshire shall apply in proceedings before the board.

(c) All documents, materials and objects offered as exhibits shall be admitted into evidence unless excluded by the presiding officer as irrelevant, immaterial, unduly repetitious or legally privileged.

(d) All objections to the admissibility of evidence shall be stated as early as possible in the hearing, but not later than the time when the evidence is offered.

(e) Transcripts of testimony as well as documents, materials and objects admitted into evidence shall be public records unless the presiding officer determines that all or part of them is exempt from disclosure under RSA 91-A:5 or applicable case law.

**Ath 212.04 Proposed Findings of Fact and Conclusions of Law.**

(a) Any party or intervenor may submit proposed findings of fact and conclusions of law.

(b) The presiding officer shall require the submission of proposed findings of fact and rulings of law and specify a deadline after the close of the hearing for their submission when:

   1. Any party or intervenor has requested such action;
   2. The presiding officer is required by Ath 212.07(c)(3) to submit findings of fact and rulings of law to the board; or
   3. The presiding officer determines that proposed findings of fact and rulings of law would clarify the issues presented at the hearing.

(c) In any case where proposed findings of fact and rulings of law are submitted, the decision shall include rulings on the proposals.

**Ath 212.05 Closing the Record.** After the conclusion of the hearing and the filing of such post-hearing submissions as may be ordered by the presiding officer, the record shall be closed and no additional evidence shall be received into the record except as allowed by Ath 212.06.

**Ath 212.06 Reopening the Record.**

(a) If no written proposal for decision pursuant to Ath 212.07(d) or decision pursuant to Ath 212.07 (a) has been issued, any party or intervenor may move to reopen the record for the inclusion in the record of specified evidence or claims of law.

(b) A motion pursuant to (a) above shall be granted if:

   1. There is no objection from any other party or intervenor;
   2. The evidence sought to be included in the record was not available at the time of the hearing or the claim of law was inadvertently omitted; and
   3. The presiding officer determines that the evidence or claim of law is relevant, material and non-duplicative and its inclusion in the record is necessary to a full and fair consideration of the issues to be decided.

(c) If there is an objection from a party or intervenor to a motion made pursuant to (a) above, the hearing shall be reopened for the purpose of receiving evidence, permitting cross-examination and permitting argument on the issue of reopening the record.
(d) The presiding officer shall grant a motion made pursuant to (a) above if, after the reopened hearing described in (c) above, the presiding officer determines that:

1. The evidence sought to be included in the record was not available at the time of the hearing or the claim of law was inadvertently omitted; and
2. The evidence or claim of law is relevant, material and non-duplicative; and
3. Its inclusion in the record is necessary to a full and fair consideration of the issues to be decided.

(e) If the presiding officer permits the reopening of the record for the admission of specified evidence or claim of law, the presiding officer shall extend the hearing reopened pursuant to (c) for the purpose of receiving evidence, permitting cross-examination and permitting argument on the substance of the evidence or on the claim of law.

Ath 212.07 Disposition.

(a) The board shall issue a decision or order, whether or not the record has been reopened pursuant to Ath 212.06, based on:

1. A hearing attended by a quorum of the board;
2. A written proposal for disposition meeting the requirements of paragraph (c) below; or
3. A hearing held pursuant to paragraph (d) (2).

(b) The decision or order shall be in writing and dated.

(c) A board member shall not participate in the board's disposition if he or she has not personally heard all of the testimony in the case, unless the disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.

(d) If a presiding officer has been delegated the authority to conduct the hearing in the absence of a quorum of the board, the presiding officer shall submit to the board a written proposal for disposition containing:

1. The disposition proposed by the presiding officer;
2. A statement of the reasons for the proposed disposition; and
3. Findings of fact and rulings of law necessary to the proposed disposition.

(e) If a proposed disposition submitted pursuant to paragraph (c) is adverse to a party or an intervenor, the board shall:

1. Serve a copy of it on each party and intervenor; and
2. Provide an opportunity to file objections and present briefs and oral arguments to the board.

(f) The board shall keep a final decision in its records for at least 5 years following their dates of issuance, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

Ath 212.08 Rehearing.

(a) Rehearing shall be before a quorum of the board.

(b) Within 30 days of the board's decision or order pursuant to Ath 212.07 any party or person directly affected may request rehearing of any matter determined in the proceeding or covered by the decision or order by submitting a written motion specifying:

1. The issues to be considered at the rehearing; and
2. Every ground on which it is claimed that the decision or order is unlawful or unreasonable.

(c) An objection to a motion for rehearing shall be submitted within 5 days of the submission of the motion.
Within 10 days of the submission of the motion for rehearing the board shall:

1. Grant the motion;
2. Deny the motion; or
3. Suspend the board's decision or order pending further consideration.

The board shall grant the motion for rehearing if it determines that, in the original hearing it:

1. Incorrectly assessed the relevant evidence;
2. Incorrectly applied the relevant law; or
3. Otherwise failed substantially to comply with this chapter or acted in a manner which was unlawful or unreasonable.

PART Ath 213 SETTLEMENTS

Ath 213.01 Settlement of Non-Disciplinary Issues.

(a) Any licensee or applicant for a license having a dispute with the board over issues not related to a disciplinary matter shall have the opportunity to settle some or all of the issues if there is no dispute about the underlying material facts.

(b) To be effective, an agreement to settle shall be:

1. In writing;
2. Signed by the licensee or applicant for a license; and
3. Finalized as an order issued by the board.

(c) The signing of the agreement to settle shall constitute a waiver of the right to a hearing of the issues resolved by the agreement.

PART Ath 214 RULEMAKING

Ath 214.01 Petitions for Rulemaking.

(a) Any person may seek the adoption, amendment or repeal of a rule by submitting to the board a petition pursuant to RSA 541-A:4.

(b) Each petition for rulemaking shall contain:

1. The name and address of the individual petitioner or, if the request is that of an organization or other entity, the identity of such organization or entity and the name and address of the representative authorized by the entity to file the petition;
2. A statement of the purpose of the petition, whether the adoption, amendment or repeal of a rule;
3. If amendment or adoption of a rule is sought, the text proposed;
4. If amendment or repeal of a rule is sought, identification of the current rule sought to be amended or repealed;
5. Reference to the statutory provision that authorizes or supports the rulemaking petition; and
6. Information or argument useful to the board when deciding whether to begin the rulemaking process.

Ath 214.02 Disposition of Petitions for Rulemaking.

(a) The board shall request additional information or argument from the petitioner for rulemaking or from others if such additional information or argument is required to reach a decision.
(b) The board shall grant the petition for rulemaking if the adoption, amendment or repeal sought would not result in:

1. A rule that is not within the rulemaking authority of the board;
2. Duplication of a rule or of a statutory provision;
3. Inconsistency between the existing rules and the statutory mandate of the board;
4. Inconsistency of administrative rules one with another; or
5. Excessive burden upon the board in terms of cost or a reduction in efficiency or effectiveness.

(c) Within 30 days of receipt of a sufficient petition the board shall dispose of it in the following manner:

1. By notifying the petitioner that the petition is granted and beginning rulemaking proceedings as required by RSA 541-A:4; or
2. By notifying the petitioner in writing that the petition is denied and the reasons for its denial.

(d) The denial of a petition for rulemaking shall not entitle the petitioner to a hearing.

PART Ath 215 PUBLIC COMMENT HEARINGS

Ath 215.01 Purpose. The purpose of this part is to provide uniform procedures for the conduct of public comment hearings held pursuant to RSA 541-A:11.

Ath 215.02 Public Access and Participation.

(a) Public comment hearings shall be open to the public, and members of the public shall be entitled to testify, subject to the limitations of Ath 215.03.

(b) People who wish to testify shall be asked to write on the speaker's list:

1. Their full names and addresses; and
2. The names and addresses of organizations, entities or other persons whom they represent, if any.

(c) Written comments, which may be submitted in lieu of or in addition to oral testimony, shall be accepted for 10 days after the adjournment of a hearing or after the adjournment of a postponed or continued hearing.

Ath 215.03 Limitations on Public Participation. The board's chair or other person designated by the board to preside over a hearing shall:

(a) Refuse to recognize for speaking or revoke the recognition of any person who:

1. Speaks or acts in an abusive or disruptive manner;
2. Fails to keep comments relevant to the proposed rules that are the subject matter of the hearing; or
3. Restates more than once what he or she has already stated; and

(b) Limit presentations on behalf of the same organization or entity to no more than 3, provided that all those representing such organization or entity may enter their names and addresses into the record as supporting the position of the organization or entity.

Ath 215.04 Media Access. Public comment hearings shall be open to print and electronic media, subject to the following limitations when such limitations are necessary to allow a hearing to go forward:

(a) Limitation of the number of media representatives when their number together with the number of members of the public present exceeds the capacity of the hearing room;

(b) Limitation on the placement of cameras to specific locations within the hearing room; or
(c) Prohibition of interviews conducted within the hearing room before or during the hearing.

Ath 215.05 Conduct of Public Comment Hearings.

(a) Public comment hearings shall be attended by a quorum of the board.

(b) Public comment hearings shall be presided over by the board chair or a board member knowledgeable in the subject area of the proposed rules who has been designated by the board to preside over the hearing.

(c) The chair or other person presiding over a hearing shall:

1. Call the hearing to order;
2. Identify the proposed rules that are the subject matter of the hearing and provide copies of them upon request;
3. Cause a recording of the hearing to be made;
4. Recognize those who wish to be heard;
5. If necessary, establish limits pursuant Ath 215.03 and Ath 215.04;
6. If necessary to permit the hearing to go forward in an orderly manner, effect the removal of a person who speaks or acts in a manner that is personally abusive or otherwise disrupts the hearing;
7. If necessary, postpone or move the hearing; and
8. Adjourn or continue the hearing.

(d) A hearing shall be postponed in accordance with RSA 541-A:11, IV when:

1. The weather is so inclement that it is reasonable to conclude that people wishing to attend the hearing will be unable to do so;
2. The board chair or other person designated by the board to preside over the hearing is ill or unavoidably absent; or
3. Postponement will facilitate greater participation by the public.

(e) A hearing shall be moved to another location in accordance with RSA 541-A:11, V when the original location is not able to accommodate the number of people who wish to attend the hearing.

(f) A hearing shall be continued past the scheduled time or to another date in accordance with RSA 541-A:11, III when:

1. The time available is not sufficient to give each person who wishes to speak a reasonable opportunity to do so; or
2. The capacity of the room in which the hearing is to be held does not accommodate the number of people who wish to attend and it is not possible to move the hearing to another location.

PART Ath 216 DECLARATORY RULINGS

Ath 216.01 Requests for Declaratory Rulings.

(a) Any individual or entity may request a declaratory ruling by the board if that individual or entity is directly affected by the applicable statute or by any administrative rule.

(b) A request for a declaratory ruling shall be in a writing containing:

1. The name and address of the individual or entity making the request;
2. The text of the ruling being requested;
3. The reasons for the request; and
(4) The following declaration signed by the individual making the request, the authorized representative of such individual, or the authorized representative of the entity making the request:

"I declare that I have examined the request for a declaratory ruling, including the accompanying documents, and state that, to the best of my knowledge and belief, the facts presented in support of the requested declaratory ruling are true, correct and complete."

Ath 216.02 Documents Required to Support Requests for Declaratory Rulings.

(a) A request for a declaratory ruling shall be accompanied by:

(1) A statement citing the statutory law, regulatory law and orders believed to support the ruling being requested;

(2) A statement of the facts believed to support the ruling being requested; and

(3) Supplementary material necessary to establish or clarify the facts set forth in the statement of facts.

(b) A request for a declaratory ruling may be accompanied by additional material chosen by the person making the request.

Ath 216.03 Processing Requests for Declaratory Rulings.

(a) Within 30 days of receiving a request for a declaratory ruling the board shall advise the individual or entity requesting it if the ruling will be delayed by the need for additional information or the complexity of the issues presented.

(b) If additional information should be needed, the board shall specify the additional information required and request that it be provided in a statement of additional information that includes the declaration specified in Ath 216.01(b)(4) and is accompanied by any material necessary to establish or clarify the facts set forth in the statement.

Ath 216.04 Issuance and Publication of Declaratory Rulings.

(a) When facts sufficient to support a declaratory ruling have been established, the board shall issue a written declaratory ruling which applies all relevant law to the established facts.

(b) When the established facts show that the board lacks subject matter or personal jurisdiction to issue a declaratory ruling, the board shall issue a written decision stating that it lacks jurisdiction to issue a declaratory ruling and identifying the lack of jurisdiction.

(c) Declaratory rulings shall be filed on the day of issuance with the director of legislative services in accordance with RSA 541-A:16, II (b).

Ath 216.05 Effect of Declaratory Rulings. A declaratory ruling shall apply only to the board and to the individual or entity requesting it and shall be confined to the facts presented pursuant to Ath 215.02 (a)(2) through (a)(3) and in response to a request of the board made pursuant to Ath 215.03 (b).

PART Ath 217 EXPLANATION OF ADOPTED RULES

Ath 217.01 Requests for Explanation of Adopted Rules. Any interested person may, within 30 days of the final adoption of a rule, request a written explanation of that rule by making a written request to the board including:

(a) The name and address of the individual making the request; or

(b) If the request is that of an organization or other entity, the name and address of such organization or entity and the name and address of the representative authorized by the organization or entity to make the request.

Ath 217.02 Contents of Explanation. The board shall, within 90 days of receiving a request in accordance with Ath 217.01, provide a written response which:

(a) Concisely states the meaning of the rule adopted;

(b) Concisely states the principal reasons for and against the adoption of the rule in its final form; and
(c) States, if the board did so, why the board overruled any arguments and considerations presented against the rule.

**PART Ath 218 VOLUNTARY SURRENDER OF LICENSE**

Ath 218.01 Procedures for, and Effect of, Voluntary Surrender of License.

**CHAPTER Ath 300 REQUIREMENTS FOR LICENSURE**

**PART Ath 301 DEFINITIONS**

Ath 301.01 "National Athletic Trainers Association Board of Certification, Inc. (NATABOC)" means the national professional organization for athletic training which administers a national examination and issues a national certification to qualifying individuals, and its successor organizations.

**PART Ath 302 APPLICATION PROCEDURE**

Ath 302.01 Processing of Applications.

(a) Applicants who wish to apply for initial licensure as an athletic trainer shall do so by submitting or arranging for the submission of, each of the following components of the application packet:

1. An application form provided by the board that contains the information specified by Ath 302.02;
2. The required documents specified by Ath 302.04;
3. The non-refundable application processing fee specified by Ahp 301.02(a); and
4. The initial license fee specified by Ahp 301.02(a).

(b) If the board, after receiving and reviewing a completed application packet complying with Ath 302.01, requires further information or documents to determine the applicant's qualification for licensure, the board shall:

1. So notify the applicant in writing within 60 days; and
2. Specify the information or documents it requires.

(c) An application shall be considered to be completed on the first date that the board has received:

1. The completed application packet described in (a) above; and
2. Any additional information or documents which may have been requested pursuant to (b) above.

(d) The application shall be denied if the application is not complete within 54 weeks of the receipt by the board of the application-form part of the application packet.

(e) The board shall issue written approval or denial of an application within 120 days of the date that the application is complete.

(f) The board shall refund the license fee, but not the application processing fee, if:

1. The applicant withdraws the application;
2. The application is not completed within 54 weeks of receipt by the board of the application-form part of the application packet; or
3. The board denies the application.

(g) Any applicant wishing to challenge the board's denial of an application for initial licensure shall:

1. Make a written request for a hearing of the applicant's challenge; and
2. Submit this request to the board:
a. Within 60 days of the board’s notification of denial; or

b. If the applicant is on active military duty outside the United States, within 60 days of the applicant’s return to the United States or release from duty, whichever occurs later.

Ath 302.02 Multipart Application Form.

(a) The multipart application form shall:

(1) Be provided by the board; and

(2) Contain 2 parts as follows:

a. Part one, which is held confidential by the board; and

b. Part 2, which is available to the public.

(b) The applicant shall:

(1) Complete the entire form using a keyboard or by printing the information legibly in ink; and

(2) Complete all sections of the entire form or designate them as not applicable.

(c) On part one of the form the applicant shall designate the initial license applied for by circling the appropriate designation preprinted on the form.

(d) On confidential part one of the form the applicant shall provide his or her:

(1) Full name;

(2) Home physical address;

(3) Home phone number or personal cell phone number;

(4) Home mailing address;

(5) Place of employment name, if any;

(6) Place of employment mailing address, if any;

(7) Place of employment phone number, if any;

(8) E-mail address at which the applicant wishes to receive correspondence from the board;

(9) Date of birth; and

(10) Place of birth.

(e) On part one of the form the applicant shall designate by checking the appropriate box which address, if any, can be made available to the public:

(1) Home mailing address;

(2) Place of employment mailing address; or

(3) None.

(f) On part one of the form, designate by checking in the appropriate box if the applicant wishes to receive notifications from the board by e-mail or regular mail.

(g) Also on part one of the form, the applicant shall indicate using the “yes” and “no” columns provided:

(1) Whether the applicant has any reason to believe that the applicant will soon be the subject of a disciplinary proceeding, settlement agreement or consent decree undertaken or issued by a professional licensing board of any state or jurisdiction;

(2) Whether any malpractice claim has been made against the applicant;
(3) Whether the applicant has for disciplinary reasons been put on administrative leave, been fired for cause other than staff reduction from a position at the applicant's place of employment, or had any privileges limited, suspended or revoked in any:

a. Hospital;

b. Health care setting;

c. Home health care agency;

d. Educational institution; or

e. Other professional setting;

(4) Whether the applicant has been denied the privilege of taking an examination required for any professional licensure;

(5) Whether the applicant has any physical, mental or emotional condition, or any alcohol or substance abuse problem, which could negatively affect the applicant's ability to practice the profession for which licensure is sought;

(6) Whether the applicant engages in any remedial undertaking to alleviate one or more conditions listed in (5) above which could itself negatively affect the applicant's ability to practice the profession for which licensure is sought; and

(7) Whether the applicant has committed any act(s) that would violate the laws and/or rules that govern the profession for which you are applying?

(h) Pursuant to RSA 161-B:11 the applicant shall furnish his or her social security number on part one of the application form.

(i) On part 2 of the application form the applicant shall provide:

(1) His or her full name;

(2) For the applicant's undergraduate education and graduate education:

   a. The name and address of the college, university or other institution;

   b. The degree earned;

   c. The year of the degree earned; and

   d. The major subject taken in the degree-granting program;

(3) For any additional education, educational degree or educational credential required to achieve eligibility for initial licensure:

   a. The name and address of the educational program or institution;

   b. The degree or other credential earned; and

   c. The year of the degree or credential earned; and

(4) A list of the jurisdictions where the applicant is or has been licensed to practice.

(j) On part 2 of the application form the applicant shall indicate by using the “yes” and “no” columns provided:

(1) Whether the applicant has been found guilty of or entered a plea of no contest to any felony or misdemeanor;

(2) Whether the applicant has ever been the subject of any disciplinary action by any professional licensing authority;
Whether the applicant has ever been denied a license or other authorization to practice in any state or jurisdiction;

Whether the applicant has ever surrendered a license or other authorization to practice issued by any state or jurisdiction in order to avoid or settle disciplinary charges; and

Whether the applicant has a full or partial ownership interest in any business providing services in the allied health professional field for which the applicant seeks to be licensed.

Also on part 2 of the form the applicant shall place his or her notarized signature, printed full name and the date of signing below the following preprinted statement:

"I acknowledge that knowingly making a false statement on this application form is a misdemeanor under RSA 641:2, I. I certify that the information I have provided on all parts of the application form and in the documents that I have personally submitted to support my application is complete and accurate to the best of my knowledge and belief. I also certify that I have read the statute and the rules of the Board and promise that, if I am licensed, I will abide by them."

Ath 302.03 Effect of Notarized Signature. The effect of the applicant’s notarized signature on part one of the form shall be:

(a) The applicant’s acknowledgement that knowingly making a false statement on the application form is a misdemeanor under RSA 641:2, I;

(b) The applicant’s certification that:

(1) The information provided on all of the parts of the application form and in the documents personally submitted to support the application is complete and accurate to the best of the applicant’s knowledge and belief; and

(2) The applicant has read the statutes and administrative rules of the board; and

(c) The applicant’s promise to abide by the statutes and administrative rules of the board.

Ath 302.04 Required Documents. Applicants for initial licensure as an athletic trainer shall provide, or arrange for the board to receive, the following documents supporting their applications:

(a) A recent passport size, 2" x 2", original head-shot photograph;

(b) On a separate sheet, a detailed report of the relevant circumstances if any of the answers to questions (f)(1) through (f)(6) on part one of the application form is in the affirmative;

(c) On a separate sheet, a detailed report of the relevant circumstances if any of the answers to questions (i)(1) through (i)(5) on part 2 of the application form is in the affirmative;

(d) Unless the information sought is available only on a website, an official letter of verification sent directly to the board from every jurisdiction which has issued a license or other authorization to practice stating whether:

(1) The license or other authorization is or was, during its period of validity, in good standing, and

(2) Whether any disciplinary action was taken against the license or other authorization to practice;

(e) Official transcripts showing all post-secondary education:

(1) Mailed directly to the board by the issuing institution(s); or

(2) Submitted by the applicant in one or more envelope(s) sealed by the institution(s) in such a manner that it would be evident to the board if the envelope(s) had been opened;

(f) A resume presenting a chronologically organized account of paid and volunteer work as an athletic trainer performed since first NATA BOC certification including:

(1) The period of each separate experience described by its beginning and ending dates; and

(2) The physical address of each experience.
(g) A letter sent directly to the board by NATABOC verifying the applicant's current NATABOC certification and the date of expiration of the certificate; and

(h) An original, not a photocopy, of a criminal offender record report:

(1) Issued by each state where the applicant has resided or been licensed within the past 6 years, provided that such state(s) will.
   a. Send the report to the board; or
   b. To the applicant for forwarding to the board;
(2) Covering the applicant under his or her name and any aliases; and
(3) Dated within the 6 months preceding the application for licensure.

PART Ath 303 QUALIFICATIONS FOR LICENSURE

Ath 303.01 Eligibility Requirements. Eligibility requirements for licensure shall be:

(a) An academic degree which is at least a bachelor's degree;

(b) Based on the board's determination pursuant to RSA 332-G:7 that no military experience is applicable to the practice of athletic training, military experience shall not be considered when determining whether an applicant meets the requirements for licensure.

(c) A currently valid certificate issued by NATABOC or its successor organization; and

(d) Good professional character and reliability as evidenced by:

(1) The answers to the questions in Ath 302.02 (f) and (i);

(2) Any reports related to such answers submitted pursuant to Ath 302.04(b) or pursuant to Ath 302.04(c); and

(3) The criminal offender record report(s) required by Ath 302.04(i).

PART Ath 304 EXEMPTION FROM LICENSURE FOR PRACTITIONERS ON TEMPORARY VISITS IN THE STATE

Ath 304.01 Exempt Practice.

(a) No license shall be required for a non-resident to practice temporarily as an athletic trainer for an out-of-state sports team when:

(1) The practitioner is currently licensed, certified or registered to practice in any state or Canada or is currently certified by NATABOC;

(2) The practitioner is under contract to, or employed by, the out-of-state sports team or its sponsor; and

(3) The practice does not exceed 6 consecutive or non-consecutive weeks in any calendar year.

(b) No license shall be required for a non-resident to practice temporarily as an athletic trainer for a program located in this state when:

(1) The practitioner is currently licensed, certified or registered to practice in any state or Canada or is currently certified by NATABOC; and

(2) The practice does not exceed 6 consecutive or non-consecutive weeks in any calendar year.

(c) An athletic trainer intending to practice pursuant to (b) above for more than 10 days in a calendar year shall, before beginning practice, submit the following information in a letter to the board:
(1) The practitioner's name;
(2) The practitioner's business address and business telephone number, or home address and home telephone number if the practitioner has no business address and business telephone number;
(3) The name and business address of the program for which the practitioner intends to practice; and
(4) The beginning and ending dates of the period(s) during which the practitioner intends to practice.

(d) An athletic trainer required to send the letter described in (c) above shall enclose in the letter a photocopy of his or her:

1. Current out-of-state or Canadian license, certification or registration; or
2. Current NATABOC certificate.

CHAPTER Ath 400 CONTINUED STATUS

PART Ath 401 DEFINITIONS

Ath 401.01 "Board of Certification (BOC)" means the non-profit entity, as well as its successor entities, incorporated in 1989 to provide a certification program for entry-level athletic trainers and recertification standards for certified athletic trainers, previously known as "NATABOC".

Ath 401.02 “Renewal year” means any even-numbered year which is not the year of initial licensure.

PART Ath 402 PROCEDURES FOR RENEWING A LICENSE AND INDICATING A DECISION NOT TO RENEW

Ath 402.01 Procedure for Licensees Who Do Not Wish to Renew Their Licenses. Any licensee who does not wish to renew his or her license shall so indicate by:

(a) Submitting only the first page of the renewal form on or before December first of the renewal year; and
(b) Completing that page only to the following extent:

1. Correcting or adding as necessary to the preprinted home mailing address; and
2. Placing on the lines provided for a licensee not wishing to renew:
   a. His or her signature; and
   b. The date of signing.

Ath 402.02 License Renewal Procedure.

(a) A licensee wishing to renew his or her current license shall:

1. Submit the completed renewal application packet described in Ath 402.03; and
2. Do so by one of the following 3 methods:
   a. The timely renewal method consisting of delivery of the completed packet by hand or secure electronic communication on or before December first of the renewal year, or delivery by mail postmarked on or before that date;
   b. The late renewal method consisting of:
      1. Delivery of the completed packet by hand or secure electronic communication between December 2 and December 31 of the renewal year, or delivery by mail postmarked during the same period; and
      2. Inclusion in the packet payment of the late filing fee specified by Ahp 301.02(a) as well as the license renewal fee also specified by Ahp 301.02(a); or
c. If the renewal applicant is on active military duty outside the United States, by delivery of the completed packet by hand, mail or secure electronic communication within 60 days of the renewal applicant’s return to the United States or release from duty, whichever occurs later.

(b) Pursuant to RSA 328-F:19, III., licenses to be renewed shall lapse if the renewal applicants do not submit the completed renewal application packet within one of the time periods set forth in (a)(2) above.

(c) Renewal applicants whose licenses have lapsed shall not practice athletic training until their licenses have been reinstated by the board.

Ath 402.03 License Renewal Application Packet. Applicants for license renewal shall submit each of the following components of the application packet:

(a) The completed multipart renewal application form;

(b) The documents described in Ath 402.06; and

(c) The fee(s) specified by Ahp 301.02(a) for timely or late renewal, as applicable.

Ath 402.04 Multipart Licensure Renewal Application Form.

(a) The renewal application form shall:

(1) Be provided by the board; and

(2) Contain 2 parts as follows:

a. Part one, which is available to the public, except for the information required by (c) and (d) below;

b. Part 2, which is held confidential by the board, except for the information required by (g)(5), (g)(6), and (g)(7) below; and

(b) The renewal applicant shall:

(1) Complete the entire renewal application form using a keyboard or by printing legibly in ink; and

(2) Complete all sections of the entire renewal application form or designate them as not applicable.

(c) On part one of the renewal application form the renewal applicant shall correct as necessary the home mailing address.

(d) Also on part one of the form the renewal applicant shall list the jurisdictions, other than New Hampshire, where the applicant is currently licensed to practice.

(e) Also on part one of the form using the "yes" and "no" columns provided, indicate whether:

a. During the past 27 months, or if not previously reported, the applicant has been found guilty or entered a plea of no contest to any felony or misdemeanor;

b. During the past 27 months, or if not previously reported, the applicant has been the subject of any disciplinary action by any professional licensing authority;

c. During the past 27 months, or of not previously reported, the applicant has been denied a license or other authorization to practice in any state or jurisdiction; and

d. During the past 27 months, or if not previously reported, the applicant has surrendered a license or other authorization to practice issued by any state or jurisdiction in order to avoid or settle disciplinary charges.

(f) Also on part one of the form the renewal applicant shall place his or her signature and the date of signing below the following preprinted statement:

"I acknowledge that knowingly making a false statement on this application form is a misdemeanor under RSA 641:2, I. I certify that the information I have provided on all parts of the application form
and in the documents that I have personally submitted to support my application is complete and accurate to the best of my knowledge and belief. I also certify that I have read the statute and the rules of the Board and promise that, if I am licensed, I will abide by them."

(g) On part 2 of the form a renewal applicant shall provide the applicant’s:

(1) Full name;
(2) Home physical address;
(3) Home phone number or personal cell phone number;
(5) Home mailing address;
(6) Place of employment name, if any;
(7) Place of employment mailing address;
(8) Place of employment phone number; and
(9) E-mail address at which the applicant wishes to receive correspondence from the board.

(h) The renewal applicant shall use the boxes provided to indicate which of the following addresses, if any, the board is permitted to make available to the public:

(1) Home mailing;
(2) Place of employment mailing address; and
(3) None.

(i) The renewal applicant shall designate by checking one of the appropriate boxes if the applicant wishes to receive correspondence from the board by e-mail or regular mail.

(j) The renewal applicant shall verify his or her social security number and make any necessary corrections to the preprinted number by striking through the incorrect number and writing the correct number under the following preprinted statement:

"The Governing Board of your profession will deny licensure if you refuse to submit your social security number (SSN). Your professional license will not display your SSN. Your SSN will not be made available to the public.

The Governing Board is required to obtain your social security number for the purpose of child support enforcement and in compliance with RSA 161-B:11. This collection of your social security number is mandatory."

(k) Also on part 2 of the renewal application form the renewal applicant shall use the “yes” and “no” columns provided, to indicate whether:

(1) The applicant has any reason to believe that the applicant will soon be the subject of a disciplinary proceeding, settlement agreement or consent decree undertaken or issued by a professional licensing board of any state or jurisdiction;
(2) During the past 27 months, or if not previously reported any malpractice claim has been made against the applicant;
(3) During the past 27 months, or if not previously reported the applicant has for disciplinary reasons been put on administrative leave, been fired for cause other than staff reduction from a position at your place of employment, or had any privileges limited, suspended or revoked in any:

   a. Hospital;
   b. Health care setting;
   c. Home health care agency;
(d) Educational institution; or

(e) Other professional setting;

(4) During the past 27 months, or if not previously reported the applicant has been denied the privilege of taking an examination required for any professional licensure; and

(5) During the past 27 months, or if not previously reported the applicant has any physical, mental or emotional condition, or any alcohol or substance abuse problem, which could negatively affect the applicant's ability to practice the profession for which licensure is sought.

(6) During the past 27 months, or if not previously reported, the applicant has committed any act(s) that would violate the laws and/or rules that govern the profession for which he or she is applying.

Ath 402.05 Effect of the Renewal Applicant’s Signature. The effect of the renewal applicant's signature on part one of the form shall be:

(a) The renewal applicant’s acknowledgement that knowingly making a false statement on the license renewal application form is a misdemeanor under RSA 641:2, I;

(b) The renewal applicant’s certification that:

1. The information provided on all of the parts of the license renewal application form and in the documents personally submitted to support the application is complete and accurate to the best of the applicant’s knowledge and belief; and

2. The applicant has read the statutes and administrative rules of the board; and

(c) The applicant’s promise to abide by the statutes and administrative rules of the board.

Ath 402.06 Required Documents. Applicants for renewal of their licenses shall include in their application packets:

(a) A detailed report of the relevant circumstances if any answers to questions set forth in Ath 402.04(e)(2) and appearing on part one of the application form is in the affirmative;

(b) On a separate sheet, a detailed report of the relevant circumstances if any answers to questions set forth in Ath 402.04(k) and appearing on part 2 of the application form is in the affirmative; and

(c) A photocopy of the front and back of the BOC wallet card.

Ath 402.07 The Board’s Renewal Application Processing Procedures.

(a) If the board, after receiving and reviewing a completed license renewal application packet requires further information or documents to determine the renewal applicant's eligibility for renewed licensure, the board shall:

1. So notify the applicant in writing within 60 days; and

2. Specify the information or documents it requires.

(b) An application for license renewal shall be considered to be completed when the board’s office has received:

1. The completed application packet; and

2. Any additional information or documents which may have been requested pursuant to (a) above.

(c) Within 120 days of the date that the renewal application is completed, the board shall:

1. Approve or deny the application; and

2. Notify the renewal applicant of its decision in writing.

(d) If the board denies the renewal application, the board shall include in its notice of denial the information that the renewal applicant may challenge the denial through an adjudicative hearing held in accordance with Ath 200 by:
Making a written request for an adjudicative hearing; and

(2) Submitting this request to the board:

   a. Within 60 days of the board’s notice of denial; or

   b. If the renewal applicant is on active military duty, within 60 days of the applicant’s release from active military duty.

(e) The board shall refund the license renewal fee if:

   (1) The applicant withdraws the application for license renewal; or

   (2) The board denies the application.

Ath 402.08 Renewal of Licensure. The board shall renew the licenses of licensees who:

(a) Have timely submitted the completed renewal application packet;

(b) Hold a currently valid certificate issued by BOC, as evidenced by a photocopy of the front and back of the wallet card;

(c) Have not violated RSA 328-F or RSA 326-G; and

(d) Are of good professional character and reliability, as evidenced by the information contained in:

   (1) The answers to the questions in Ath 402.04(e)(2) and any related documents submitted pursuant to Ath 402.06(a); and

   (2) The answers to the questions in Ath 402.04(k) and any related documents submitted pursuant to Ath 402.06(b).

PART Ath 403 REINSTATEMENT OF LICENSES

Ath 403.01 Licenses Subject to Reinstatement; Board Procedure Related to Reinstatement of Licensure.

   (a) The following licenses shall be subject to reinstatement by the board:

      (1) Licenses suspended for disciplinary reasons as part of a settlement pursuant to Ahp 214 or as part of a disciplinary order of the board if reinstatement is one of the terms specified in the disciplinary order; and

      (2) Licenses lapsed pursuant to Ath 402.02(b).

   (b) The reinstatement of licenses suspended for disciplinary reasons shall be in accordance with the terms of the settlement agreement or the disciplinary order of the board, as applicable.

   (c) The reinstatement of lapsed licenses shall be in accordance with:

      (1) Ath 403.02 if the licenses have been lapsed for no more than 6 months; and

      (2) Ath 403.03 if the licenses have been lapsed for more than 6 months.

   (d) If the board, after receiving and reviewing a completed application for reinstatement of licensure, requires further information or documents to determine the applicant's qualification, the board shall:

      (1) So notify the applicant in writing within 60 days; and

      (2) Specify the information or documents it requires.

   (e) The board shall issue written approval or denial of an application for reinstatement of licensure within 120 days of the date that the application is complete.

   (f) The board shall deny the application for reinstatement if the applicant has not completed the application procedures within 54 weeks of beginning them.

   (g) The board shall refund the reinstatement fee if:
(1) The applicant withdraws the application for reinstatement of licensure; or
(2) The board denies the application pursuant to this chapter.

(h) If the board denies an application for reinstatement of licensure, the board shall include in its notice of denial the information stated in (i) below.

(i) An applicant wishing to challenge the board's denial of an application for reinstatement of licensure shall:

(1) Make a written request for a hearing of the applicant's challenge; and
(2) Submit this request to the board:
   a. Within 60 days of the board’s notification of denial; or
   b. If the applicant is on active military duty outside the United States, within 60 days of the applicant’s release from duty.

Ath 403.02 Reinstatement of Licenses Lapsed For No More Than 6 Months.

(a) The board shall reinstate licenses lapsed for no more than 6 months if the individuals holding such licenses:

(1) Are of good professional character and reliability, as evidenced by:
   a. The answers to the questions on the reinstatement application form;
   b. Any reports submitted pursuant to (b)(3)a. below; and
   c. The resume required by (b)(3)c. below.

(2) Hold a currently valid BOC certificate; and

(3) Have complied with the application procedures set forth in (b) below.

(b) Application procedures for the reinstatement of licenses lapsed no more than 6 months shall be:

(1) Submission of the completed reinstatement application form;
(2) Payment of the reinstatement fee set forth in Ahp 301.02(a) unless the fee is waived pursuant to Ath 403.05; and
(3) Submission of the following supporting materials:
   a. A detailed report of the relevant circumstances if any of the answers to the questions identified on the reinstatement application form as requiring such a report are in the affirmative;
   b. A letter sent directly to the board by BOC verifying the applicant's current BOC certification and the date of expiration of the certificate;
   c. A resume presenting a chronologically organized account of paid and volunteer work performed as an athletic trainer since the lapse of the New Hampshire license including:
      1. The period of each separate experience described by its beginning and ending dates; and
      2. The physical address of each experience; and
   d. A written statement that the reinstatement applicant has not engaged in athletic training in New Hampshire on a volunteer or paid basis since the date that his or her license ceased to be valid.

Ath 403.03 Reinstatement Application Form.

(a) The reinstatement application form shall:
(1) Be the “Reinstatement Application Form” dated June 24, 2015;

(2) Be provided by the board and available on the boards web site, www.nh.gov/alliedhealth; and

(3) Be signed and dated below the following preprinted statement which asserts:

“I acknowledge that knowingly making a false statement on this application form is a misdemeanor under RSA 641:2, I. I certify that the information I have provided on all parts of the application form and in the documents that I have personally submitted to support my application is complete and accurate to the best of my knowledge and belief. I also certify that I have read the statute and rules of the Board and promise that, if I am licensed, I will abide by them.”

Ath 403.04 Reinstatement of Licenses Lapsed For More Than 6 Months.

(a) The board shall reinstate licenses lapsed for more than 6 months if the individuals holding such licenses:

(1) Are of good professional character and reliability, as evidenced by:

   a. The answers to the questions on the reinstatement application form;
   b. Any reports submitted pursuant to (b)(3)a. below;
   c. The resume required by (b)(3)c. below; and
   d. The criminal offender record report(s) required by (b)(3)f. below;

(2) Hold a currently valid BOC certificate; and

(3) Have complied with the application procedures set forth in (b) below.

(b) Application procedures for the reinstatement of licenses lapsed more than 6 months shall be:

(1) Submission of the completed reinstatement application form;

(2) Payment of the reinstatement fee set forth in Ahp 301.02(a) unless the fee is waived pursuant to Ath 403.05; and

(3) Submission of the following supporting materials:

   a. A detailed report of the relevant circumstances if any of the answers to the questions identified on the reinstatement application form as requiring such a report are in the affirmative;
   b. A letter sent directly to the board by BOC verifying the applicant's current BOC certification and the date of expiration of the certificate;
   c. A resume presenting a chronologically organized account of paid and volunteer work performed as an athletic trainer since the lapse of the New Hampshire license including:

      1. The period of each separate experience described by its beginning and ending dates; and
      2. The physical address of each experience.
   d. Unless the information sought is available only on a website, an official letter of verification sent directly to the board from every state which has issued the applicant a license or other authorization to practice athletic training since the lapse of the New Hampshire license, stating:

      1. Whether the licensee or other authorization is or was, during its period of validity, in good standing; and
      2. Whether any disciplinary action was taken against the license or other authorization to practice;
e. An original, not a photocopy, of a criminal offender record report as described in Ath 302.04(h); and

f. A written statement that the reinstatement applicant has not engaged in athletic training in New Hampshire on a volunteer or paid basis since the date that his or her license ceased to be valid.

Ath 403.05 Reinstatement Fee Waiver. The board shall waive the reinstatement fee if the licensee was on active military duty when the license lapsed.

PART Ath 404 REVOCATION, SUSPENSION AND OTHER SANCTIONS

Ath 404.01 Definitions.

(a) "Sexual misconduct" means engaging in one or more of the following activities with respect to a current client who is not a spouse or domestic partner;

(1) Engaging in sexual relations, whether consensual or non-consensual;

(2) Making verbal or physical sexual advances;

(3) Using sexual language or phrases;

(4) Requesting sexual favors; or

(5) Engaging in physical contact of a sexual nature.

Ath 404.02 Misconduct. Misconduct shall be:

(a) Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for a license, license renewal, or license reinstatement;

(b) Conviction without annulment in any jurisdiction of any criminal offense which:

(1) Constitutes a sexual offense;

(2) Constitutes a violation of controlled substance law; or

(3) Involves:
   a. Injury to a victim;
   b. The risk of such injury; or
   c. Dishonesty;

(c) Failing to report to the board a conviction described in (b) above within 30 days;

(d) Violating Ath 500;

(e) Engaging in sexual misconduct with, or sexual harassment of, a client;

(f) Engaging in the practice of athletic training despite actual or potential inability to render care with reasonable skill and safety by reason of illness, by reason of use of alcohol or drugs or any other material, or by reason of mental or physical condition;

(g) Being subject to final disciplinary action by a regulatory authority in another domestic or foreign jurisdiction;

(h) Failing to take appropriate action to safeguard individuals from incompetent counselors and health care practitioners, whether or not they are licensed in this state;

(i) Practicing athletic training when a previous license is not currently valid; and

(j) Violating:
(1) Any provision of RSA 328-F;
(2) Any provision of RSA 326-G;
(3) Any rule adopted by the board; or
(4) Any state or federal law reasonably related to the licensee's authority to practice or the licensee's ability to practice safely.

Ath 404.03 Sanctions.

(a) Pursuant to RSA 328-F:23, IV(a) through (f), disciplinary measures available to the board to sanction misconduct shall be:

(1) License revocation;
(2) License suspension for a specified period of time or on specified terms;
(3) License suspension conditioned on the achievement of specified:
   a. Continuing competence requirements;
   b. Continuing education, clinical experience or training; or
   c. Ethical or legal training;
(4) License suspension conditioned on successful participation in specified mental or physical health treatment, a rehabilitative program, counseling, a professional assistance program or in any other program designed to overcome the deficiency or condition in the licensee which appears to have caused the misconduct;
(5) A requirement that the licensee's practice be supervised for a specified period of time by a licensed athletic trainer; and
(6) The imposition of an administrative fine not to exceed $1,000 for:
   a. Misconduct as described in Ath 402.02;
   b. The practice of athletic training by a person who was once licensed to practice athletic training but does not currently hold a valid license; or
   c. The practice of athletic training by a person who is practicing in violation of the conditions upon which he or she is licensed.

(b) Pursuant to RSA 328-F:23, IV(g), a measure available to the board to sanction continuing misconduct of the kinds described in (a)(6) above shall be the imposition of an administrative fine of $100 for each day the misconduct continues after notice from the board that the misconduct shall cease.

(c) Pursuant to RSA 328-F:23,V an additional measure available to the board to sanction misconduct shall be denial of license renewal or reinstatement.

Ath 404.04 Procedure for the Imposition of Sanctions. Other than immediate license suspension authorized by RSA 541-A:30, III, the board shall impose disciplinary sanctions only:

(a) After prior notice to the licensee in accordance with Ahp 209.01 and the opportunity for the licensee to be heard; or

(b) By agreement in a settlement between the board and the licensee made pursuant to Ahp 214.

Ath 404.05 Revocation of License. The board shall revoke a license when:

(a) BOC has permanently revoked the licensee's certification; or

(b) The board and the licensee agree on revocation in a settlement made pursuant to Ahp 214.
Ath 404.06 Method for Determining Sanctions.

(a) To determine which sanction or combination of sanctions to impose other than in a case of the kind described in Ath 404.05, the board shall:

(1) Refer to the list in Ath 404.02 to determine the nature of the act(s) or omission(s) constituting the misconduct done by the licensee;

(2) Next, determine whether the misconduct has one or more of the characteristics listed in (b) below; and

(3) Finally, apply the standards in Ath 404.07.

(b) The characteristics shall be:

(1) The misconduct actually caused physical or mental harm to the client or another person;
(2) The misconduct had the potential to cause physical or mental harm to the client or another person;
(3) The misconduct repeated earlier misconduct done by the licensee, as determined by:
   a. An earlier hearing;
   b. An earlier settlement agreement predicated on the same misconduct by the licensee; or
   c. An admission by the licensee;
(4) The misconduct was not the first misconduct by the licensee, as determined by:
   a. An earlier hearing;
   b. An earlier settlement agreement predicated on misconduct by the licensee; or
   c. An admission by the licensee;
(5) The misconduct was intentional rather than the result of negligence or inadvertence; and
(6) The misconduct was the result of negligence.

Ath 404.07 Standards for the Selection of Sanctions. The board shall select appropriate sanction(s):

(a) From the list in Ath 404.03; and

(b) By choosing, in light of the characteristics determined pursuant to Ath 404.06(b), the sanction(s) most likely to:

(1) Protect public health and safety;
(2) Prevent future misconduct by the licensee;
(3) Take into account any acknowledgement of fault by the licensee and any cooperation by the licensee with the board's investigation of misconduct;
(4) Correct any attitudinal, educational or other deficiencies which led to the licensee's misconduct;
(5) Encourage the responsible practice of athletic training; and
(6) Demonstrate to the licensee and the public the board's intention to insure that its licensees practice in accordance with applicable law and the public welfare.

Ath 404.08 Unauthorized Practice. When the board determines that one of the following measures is likely to be the most effective way to stop unauthorized practice as defined in RSA 328-F:27, II, the board shall:

(a) Issue a cease and desist order against the person or entity engaged in the unauthorized practice; or

(b) Seek an injunction against such person or entity.
PART Ath 405  VOLUNTARY SURRENDER OF LICENSE

Ath 405.01 Procedures for, and Effect of, Voluntary Surrender of License. Pursuant to RSA 328-F:13, I, the procedures for, and effect of, the voluntary surrender of a license shall be governed by Ahp 219.

PART Ath 406  ONGOING REQUIREMENTS

Ath 406.01 Obligation to Maintain BOC Certification. Licensees shall maintain BOC certification at all times.

Ath 406.02 Obligation to Work Under Direction. Pursuant to RSA 326-G:1, III., licensees shall practice athletic training under the general direction of a physician licensed in any state or Canada.

Ath 406.03 Obligation to Update Information. Licensees shall send to the board's office within 30 days any changes in:

(a) Their names;
(b) Home or business physical addresses;
(c) Home or business mailing addresses;
(d) Home or business telephone number or personal cell phone number if provided to the board; and
(e) E-mail address.

Ath 406.04 Obligation to Report Loss of Proof of Licensure. Pursuant to RSA 328-F:21, II, licensees shall notify the board's office when their licenses or other proofs of licensure have been lost or stolen.

Ath 406.05 Obligation to Adhere to Ath 500. Licensees shall adhere to the ethical standards in Ath 500.

Ath 406.06 Obligation to be Honest and Candid. Licensees shall be candid and truthful when:

(a) Making oral and written statements to the board; and
(b) Making oral and written statements about athletic training to the public.

Ath 406.07 Obligation to Cooperate with Board Investigations. Licensees shall cooperate with the board's investigations by:

(a) Providing accurate factual information;
(b) Responding to the board's requests in a timely fashion; and
(c) Assisting in any other way requested by the board.

Ath 406.08 Obligation to Retain Evidence of Continuing Education. Licensees shall retain documentation of their continuing professional education and professional activities for at least 3 years.

Ath 406.09 Obligation to Report. Licensees shall report the following to the board’s office within 30 days, whether applicable to themselves or other licensees:

(a) Any misdemeanor or felony conviction;
(b) Disciplinary actions by regulatory authorities other than the New Hampshire governing board of athletic trainers; and
(b) Any act which constitutes misconduct under Ath 404.02.

CHAPTER Ath 500  ETHICAL STANDARDS

PART Ath 501  ETHICAL STANDARDS

Ath 501.01 Obligation to Comply with Laws. Licensees shall comply with RSA 326-G and its implementing rules, RSA 328-F and all other laws as they are applicable to them.

Ath 501.02 Obligation to Observe Ethical Principles. Licensees shall observe the following ethical principles:
(a) Athletic trainers shall comply with the National Association of Athletic Trainers’ (NATA) Code of Ethics issued on September 28, 2015 except as modified in (b) below.

(b) Modifications to the NATA Code of Ethics shall be as follows:

(1) Replace the word “Members” with the word “Licensees” throughout the entire document.