

Article 1: General Provisions

32-4101. Definitions

In this chapter, unless the context otherwise requires:

1. "Athletic illness" means an illness that arises from, or a manifestation of an illness that occurs as a result of, a person's participation in or preparation for games or sports or participation in recreational activities or physical fitness activities.

2. "Athletic injury" means an injury sustained by a person as a result of that person's participation in or preparation for games or sports or participation in recreational activities or physical fitness activities, or any injury sustained by a person that is of the type that occurs during participation in or preparation for games or sports or participation in recreational activities or physical fitness activities, regardless of the circumstances under which the injury was sustained.

3. "Athletic trainer" means a person who is licensed pursuant to this chapter.

4. "Athletic training" includes the following performed under the direction of a licensed physician and for which the athletic trainer has received appropriate education and training as prescribed by the board:

(a) The prevention, recognition, examination, evaluation, rehabilitation and management of athletic injuries.

(b) The prevention, evaluation, immediate care and monitoring of athletic illnesses.

(c) The referral of a person receiving athletic training services to appropriate health care professionals, as necessary.

(d) The use of heat, cold, water, light, sound, electricity, passive or active exercise, massage, mechanical devices or any other therapeutic modality to prevent, treat, rehabilitate or recondition athletic injuries.

(e) The planning, administration, evaluation, and modification of methods for prevention and risk management of athletic injuries and athletic illnesses.

(f) Education and counseling related to all aspects of the practice of athletic training.

(g) The use of topical pharmacological agents in conjunction with the administration of therapeutic modalities and pursuant to a prescription issued pursuant to the laws of this state and for which an athletic trainer has received appropriate education and training.

5. "Athletic training student" means a student who is currently enrolled in an athletic training education program that is accredited by an accrediting agency recognized by the board.

6. "Board" means the board of athletic training.

7. "Direct supervision" means that the supervising athletic trainer is present in the facility or on the campus where athletic training students are performing services, is immediately available to assist the person being

supervised in the services being performed and maintains continued involvement in appropriate aspects of the services being performed.

8. "Direction of a licensed physician" means direction as prescribed by the board by rule pursuant to section 32-4103.

9. "Licensed physician" means a person who is licensed pursuant to chapter 13 or 17 of this title.

10. "Restricted license" means a license on which the board places restrictions or conditions, or both, as to the scope of practice, place of practice, supervision of practice, duration of license status or type or condition of a person to whom the licensee may provide services.

32-4102. Board; membership; duties; immunity

A. The board of athletic training is established consisting of the following members appointed by the governor:

1. Three athletic trainers who are residents of this state, possess an unrestricted license to practice athletic training in this state and have been practicing in this state for at least five years immediately preceding their appointment. The governor may make these appointments from a list of names submitted by a statewide athletic training association or any other group or person. The initial three appointees are not required to be licensed pursuant to this chapter at the time of selection but shall meet all of the qualifications for licensure as prescribed by this chapter.

2. Two public members who are residents of this state and who are not affiliated with and do not have any financial interest in any health care profession but who have an interest in consumer rights.

B. Board members serve staggered five year terms that begin and end on the third Monday in January. Board members shall not serve for more than two successive five year terms or for more than ten consecutive years.

C. If requested by the board, the governor may remove a board member for misconduct, incompetence or neglect of duty.

D. Board members are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2 to cover necessary expenses for attending each board meeting or for representing the board in an official board approved activity.

E. A board member who acts within the scope of board duties, without malice and in the reasonable belief that the person's action is warranted by law is not subject to civil liability.

32-4103. Board; powers and duties; direction of athletic trainers; continuing education requirements; civil immunity

A. The board shall administer and enforce this chapter and shall:

1. Evaluate the qualifications of applicants for licensure.

2. Designate the national examination that it requires applicants to pass.

3. Issue licenses to persons who meet the requirements of this chapter.

4. Establish requirements pertaining to the ratio between supervising athletic trainers and athletic training students.
5. Regulate the practice of athletic training by interpreting and enforcing this chapter.
6. Establish requirements for assessing the continuing competence of licensees.
7. Adopt and revise rules to enforce this chapter.
8. Meet at least once each quarter in compliance with the open meeting requirements of title 38, chapter 3, article 3.1 and keep an official record of these meetings.
9. At its first regular meeting after the start of each calendar year, elect officers from among its members and as necessary to accomplish board business.
10. Provide for the timely orientation and training of new professional and public appointees to the board regarding board licensing and disciplinary procedures, this chapter, board rules and board procedures.
11. Maintain a current list of all licensees. This list shall include the licensee's name, current business and residential addresses, telephone numbers and license number.
12. Enter into contracts for services necessary to enforce this chapter.
13. Publish, at least annually, final disciplinary actions taken against a licensee.
14. Publish, at least annually, board rulings, opinions and interpretations of statutes or rules.
15. Not later than December 31 of each year, submit a written report of its actions and proceedings to the governor.

B. The board shall adopt rules to prescribe the direction of athletic trainers by a licensed physician, including recommendations, guidelines and instructions as to standard protocols to be followed in the general, day-to-day activities in which athletic trainers engage. These rules shall require that postathletic injury or athletic illness treatment direction be provided by the person's treating physician or, if applicable, by the team physician for the institution or organization that employs the athletic trainer. If appropriate, athletic trainers may also seek direction as to the treatment of an athletic injury or athletic illness from any health care provider who is involved in that person's treatment and who is not licensed pursuant to this chapter but who is licensed pursuant to this title.

C. The board shall adopt rules to prescribe the appropriate education and training for services that are proper to be performed by an athletic trainer.

D. The board may:

1. Adopt rules to prescribe continuing education requirements for licensure renewal, including a rule to allow the board to waive continuing education requirements for reasons of extreme hardship.

2. Appoint advisory committees to assist it in the performance of its duties. An advisory committee member appointed pursuant to this paragraph is not eligible to receive compensation but is eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

3. Report any violations of this chapter or rules adopted pursuant to this chapter to a county attorney, the attorney general, a federal agency or a state or national organization, as appropriate.

E. A physician who, without compensation, provides direction to an athletic trainer that consists of recommendations, guidelines and instructions as to standard protocols to be followed in the general day-to-day activities in which athletic trainers engage is not subject to civil liability for providing that direction if the physician is not guilty of gross negligence or intentional misconduct in providing that direction.

32-4104. Executive director; personnel

A. The executive director of the board of occupational therapy examiners shall also serve as the executive director of the board of athletic training. Both boards shall jointly select the executive director.

B. The board of athletic training shall select staff to serve its board or shall direct the executive director to select these staff members.

32-4105. Athletic training fund

A. The athletic training fund is established. The board shall administer the fund. Pursuant to sections 35-146 and 35-147, the board shall deposit ten per cent of all monies from whatever source that come into the possession of the board in the state general fund and deposit the remaining ninety per cent in the athletic training fund.

B. Monies deposited in the athletic training fund are subject to section 35-143.01.

Article 2: Licensure

32-4121. Persons and activities not required to be licensed

This chapter does not apply to:

1. A health care professional who is licensed pursuant to this title and who practices within the scope of that person's license if that person does not claim to be an athletic trainer or a provider of athletic training services.

2. A person who is pursuing a course of study leading to a degree as an athletic trainer in a professional education program approved by the board if that person is satisfying supervised clinical education requirements related to the person's athletic training education while under the direct supervision of a licensed athletic trainer.

3. An athletic trainer who is practicing in the United States armed services, United States public health service or United States veterans administration pursuant to federal regulations for state licensure of health care providers.

4. An athletic trainer who resides and is employed in another jurisdiction and who possesses the required licensure, certification or registration necessary to practice athletic training under the laws of the jurisdiction in

which the athletic trainer is employed if that person is performing athletic training in this state in connection with teaching or participating in an educational seminar or is providing athletic training services in this state to persons of a bona fide professional, intercollegiate, interscholastic or amateur sports organization by which the athletic trainer is employed, for not more than one hundred twenty days in any twelve month period.

32-4122. Qualifications for licensure

An applicant for a license as an athletic trainer shall:

1. Be of good moral character. To determine if a person is of good moral character, the board may consider if the person has been convicted of a felony or a misdemeanor involving moral turpitude.
2. Have successfully completed the application process.
3. Possess a minimum of a baccalaureate degree from an accredited institution with coursework and supervised clinical experience as required and approved by the board.
4. Have passed a national examination approved by the board within one year before the date of application or currently possess certification as an athletic trainer from a nationally recognized board of certification.
5. Pay the application fee prescribed in section 32-4126.

32-4123. Application; statement of deficiencies; hearing

- A. An applicant for licensure shall file a completed application as required by the board. The applicant shall include application and examination fees as prescribed in section 32-4126.
- B. The board may return an application with a statement of deficiencies. On request of an applicant who disagrees with the statement, the board shall hold a hearing pursuant to title 41, chapter 6.

32-4124. License renewal; changes of name or address

- A. Except as provided in section 32-4301, a license issued pursuant to this chapter is subject to renewal each year and expires unless renewed.
- B. The executive director shall send a renewal application to each licensee at least sixty days before expiration of the license.
- C. Each licensee is responsible for reporting to the board a name change and changes in business and home addresses within thirty days after any change.

32-4125. Reinstatement of license

- A. The board may reinstate a lapsed license on payment of a renewal fee and a reinstatement fee and proof that the applicant has met all requirements for continuing competency established by the board.
- B. If a person's license has lapsed for more than three consecutive years, that person shall reapply for a license and pay all applicable fees. The person shall also demonstrate to the board's satisfaction competency in the practice of athletic training or shall serve an internship under a restricted license or take remedial courses as

determined by the board, or both, at the board's discretion. The board may also require the applicant to take an examination.

32-4126. Fees

A. The board shall establish and collect nonrefundable fees that do not exceed the following:

1. For an application for an original license, three hundred fifty dollars.
2. For a certificate of renewal of a license, two hundred fifty dollars.
3. For an application for reinstatement of a license, three hundred fifty dollars.
4. For each duplicate license, fifty dollars.
5. For copying records, documents, letters, minutes, applications and files, twenty-five cents a page.

B. The board shall charge additional fees for services not required to be provided by this chapter but that the board determines are necessary and appropriate to carry out this chapter. The fees shall not exceed the actual cost of providing these services.

32-4127. Temporary licenses

A. The executive director may issue a temporary license to a person who meets all of the following requirements:

1. Submits a completed application.
2. Submits the application fee for licensure pursuant to this chapter.
3. Submits proof satisfactory to the board of current certification by a nationally recognized board of certification.
4. Submits a readable fingerprint card pursuant to section 32-4128.

B. A temporary license:

1. Is valid for not more than ninety days.
2. Shall not be renewed.
3. Is void on the issuance or denial of an original license.

C. The board may revoke a temporary license for a violation of this chapter. The board shall hold a hearing at the request of a person whose temporary license is revoked by the board.

D. The board may adopt rules to carry out this section.

32-4128. Fingerprinting

- A. An applicant for original licensure, license renewal, license reinstatement or temporary licensure pursuant to this chapter who has not previously done so must submit a full set of fingerprints to the board at the applicant's or licensee's expense for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.
- B. If the applicant or licensee has an unexpired clearance card issued by the department of public safety, the applicant or licensee may submit a copy of that document instead of submitting fingerprints.
- C. Each applicant for license renewal or reinstatement shall submit a new set of fingerprints every five years after the initial fingerprint submission required in subsection A of this section.
- D. On expiration of the clearance card issued by the department of public safety, an applicant must submit either a copy of the applicant's new clearance card or a set of fingerprints.
- E. If the board does not have any evidence or reasonable suspicion that the applicant has a criminal history and the applicant otherwise satisfies the requirements of section 32-4122, the board may issue a license or a temporary license before it receives the results of a criminal records check.
- F. The board shall suspend the license or temporary license of a person who submits an unreadable set of fingerprints and who does not submit a new readable set of fingerprints within twenty days after the board notifies the person of that fact.
- G. This section does not affect the board's authority to otherwise issue, deny, cancel, terminate, suspend or revoke a license or a temporary license.

Article 3: Regulation

32-4151. Lawful practice

- A. An athletic trainer shall refer a person with an athletic injury or athletic illness to one or more appropriate health care practitioners if the athletic trainer has reasonable cause to believe symptoms or conditions are present that require services beyond the scope of practice of athletic training or if athletic training is contraindicated.
- B. An athletic trainer shall adhere to the recognized standards and ethics of the athletic training profession and as further established by rule.
- C. This chapter does not authorize an athletic trainer to practice any other profession regulated under this title and does not expand the scope of practice of any health care provider who is not licensed pursuant to this chapter but who is licensed pursuant to this title.
- D. This chapter does not authorize an athletic trainer to treat an athletic illness at any time other than during a person's participation in or preparation for games or sports or participation in recreational activities or physical fitness activities.

32-4152. Use of titles; restrictions; violation; classification

A. An athletic trainer shall use the letters "AT" or the title "athletic trainer", or both, in connection with the athletic trainer's name or place of business to denote licensure under this chapter.

B. A person or business entity or its employees, agents or representatives shall not use in connection with that person's name or the name or activity of the business the words "athletic training" or "athletic trainer", the letters "AT/L", "L/AT", "ATC/L", "L/ATC", "A.T.", "AT", "L.A.T." or "A.T.L." or any other words, abbreviations or insignia indicating or implying directly or indirectly that athletic training is provided or supplied unless the services are provided by an athletic trainer licensed pursuant to this chapter. A person or entity that violates this subsection is guilty of a class 1 misdemeanor.

32-4153. Grounds for disciplinary action

The following are grounds for disciplinary action:

1. Practicing athletic training in violation of this chapter or rules adopted pursuant to this chapter.
2. Practicing or offering to practice beyond the scope of the practice of athletic training.
3. Obtaining or attempting to obtain a license by fraud or misrepresentation.
4. Engaging in the performance of substandard care by an athletic trainer due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the person cared for is established.
5. Failing to provide direct supervision in accordance with this chapter and rules adopted pursuant to this chapter.
6. Committing any felony or a misdemeanor involving moral turpitude. A conviction by a court of competent jurisdiction is conclusive evidence of the commission of the crime.
7. Practicing as an athletic trainer if the licensee's physical or mental abilities are impaired by the use of alcohol or any other substance that interferes with the ability to safely practice athletic training.
8. Having had a license or certificate revoked or suspended or any other disciplinary action taken or an application for licensure or certification refused, revoked or suspended by the proper authorities of another state, territory or country.
9. Engaging in sexual misconduct. For the purpose of this paragraph, "sexual misconduct" includes:
 - (a) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while a provider relationship exists.
 - (b) Making sexual advances, requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual nature with a person treated by the athletic trainer.
 - (c) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to treatment under current practice standards.
10. Failing to adhere to the recognized standards and ethics of the athletic training profession.

11. Making misleading, deceptive, untrue or fraudulent representations in violation of this chapter.
12. Charging unreasonable or fraudulent fees for services performed or not performed.
13. Having been adjudged mentally incompetent by a court of competent jurisdiction.
14. Aiding or abetting a person who is not licensed in this state and who directly or indirectly performs activities requiring a license.
15. Failing to report to the board any act or omission of a licensee or applicant or any other person who violates this chapter.
16. Interfering with an investigation or disciplinary proceeding by wilful misrepresentation of facts or by the use of threats or harassment against any person to prevent that person from providing evidence in a disciplinary proceeding or any legal action.
17. Failing to maintain confidentiality without prior written consent of the individual treated or unless otherwise required by law.
18. Failing to maintain adequate records regarding treatment. For the purposes of this paragraph, "adequate records" means legible records that contain at a minimum a determination of the nature of the injury and the referral and treatment required, the treatment plan, the treatment record, a final summary on conclusion of treatment and sufficient information to identify the person treated.
19. Promoting an unnecessary device, treatment or service for the financial gain of the athletic trainer or of a third party.
20. Providing unwarranted treatment or treatment beyond the point of reasonable benefit.
21. Providing athletic training services that are in any way linked to the financial gain of a referral source.
22. Violating this chapter, board rules or a written order of the board.

32-4154. Investigative powers; emergency action; hearing officers

A. To enforce this chapter the board may:

1. Receive complaints filed against licensees and conduct a timely investigation.
2. Conduct an investigation at any time and on its own initiative without receipt of a written complaint if the board has reason to believe that there may be a violation of this chapter.
3. Issue subpoenas to compel the attendance of any witness or the production of any documentation relative to a case.
4. Take emergency action ordering the summary suspension of a license or the restriction of the licensee's practice pending proceedings by the board.

5. Appoint hearing officers authorized to conduct hearings. Hearing officers shall prepare and submit to the board findings of fact, conclusions of law and an order that shall be reviewed and voted on by the board.

6. Require a licensee to be examined to determine the licensee's mental, physical or professional competence.

B. If the board finds that the information received in a complaint or an investigation is not of sufficient seriousness to merit direct action against the licensee, it may take either of the following actions:

1. Dismiss the complaint if the board believes the information or complaint is without merit.

2. Forward a confidential advisory letter to the licensee.

C. The board shall notify a licensee of a complaint and the nature of the complaint within ninety days after receiving the complaint.

D. Any person may submit a complaint regarding any licensee or other person potentially in violation of this chapter.

E. The board shall keep confidential all information relating to the receipt and investigation of complaints filed against licensees and others until the information becomes public record or as required by law.

32-4155. Informal interviews; hearings

A. The board may request an informal interview with a licensee or any nonlicensed person in order to further its investigation or to resolve a complaint.

B. If at an informal interview the board finds a violation of this chapter has occurred that constitutes grounds for disciplinary action, it may take any disciplinary actions prescribed in section 32-4156, paragraph 1, 2 or 3.

C. If the results of an informal interview indicate that suspension or revocation of a license or the imposition of a civil penalty may be in order, the board shall notify the subject of the investigation of the time and place for a hearing pursuant to subsection D of this section.

D. In lieu of or in addition to an informal interview as provided in subsection A of this section, the board may serve on a licensee a summons and complaint setting forth the grounds for disciplinary action and notice of a hearing to be held before the board at least thirty days after the date of the notice. The notice shall state the time and place of the hearing.

E. A person appearing before the board may be represented by counsel.

F. The hearing officer shall administer oaths to all witnesses, shall keep a record of all oral testimony submitted at the hearing and shall keep the original or a copy of all other evidence submitted. The hearing officer may waive the rules of evidence.

G. A motion for rehearing or review of the board's decision in a disciplinary action shall be filed within fifteen days after service of notice of the decision. The board shall conduct a rehearing or review pursuant to board rules.

H. The service of a summons and complaint and the service of a subpoena shall be as provided for service in civil cases.

I. If a person disobeys a subpoena, the board may petition the superior court for an order requiring appearance or the production of documents.

32-4156. Disciplinary actions; penalties

On proof that a licensee has violated any grounds prescribed in section 32-4153, the board may take the following disciplinary actions singly or in combination:

1. Issue a decree of censure.
2. Prescribe a licensee's scope of practice, place of practice or supervision of practice, the duration of a license or the type or condition of persons cared for by a licensee. The board may require a licensee to report regularly to the board on matters related to the grounds for the restricted license.
3. Suspend a license for a period prescribed by the board.
4. Revoke a license.
5. Refuse to issue or renew a license.
6. Impose a civil penalty of at least two hundred fifty dollars but not more than ten thousand dollars for each violation of this chapter. In addition the board may assess and collect the reasonable costs incurred in a disciplinary hearing when action is taken against a person's license.
7. Accept the voluntary surrender of a license.

32-4157. Unlawful practice; classification; civil penalties; injunctive relief

A. It is unlawful for any person to practice or in any manner to claim to practice athletic training unless that person is licensed pursuant to this chapter. A person who engages in an activity requiring a license pursuant to this chapter or who uses any word, title or representation in violation of section 32-4152 that implies that the person is licensed to engage in the practice of athletic training is guilty of a class 1 misdemeanor.

B. The board may investigate any person to the extent necessary to determine if the person is engaged in the unlawful practice of athletic training. If an investigation indicates that a person may be practicing athletic training unlawfully, the board shall inform the person of the alleged violation. The board may refer the matter for prosecution regardless of whether the person ceases the unlawful practice of athletic training.

C. The board, through the appropriate county attorney or the office of the attorney general, may apply for injunctive relief in any court of competent jurisdiction or enjoin any person from committing any act in violation of this chapter. Injunctive proceedings are in addition to all penalties and other remedies prescribed in this chapter.

D. A person who aids or requires another person to directly or indirectly violate this chapter or board rules, who permits a license to be used by another person or who acts with the intent to violate this chapter or board rules is subject to a civil penalty of not more than one thousand dollars for each violation and not more than

five thousand dollars for each subsequent violation. The board shall hold a hearing before it imposes this penalty.

E. All monies the board collects from civil penalties pursuant to this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

32-4158. Reporting violations; immunity

A. A person, licensee, corporation, educational institution, athletic organization or health care facility and state or local governmental agencies shall report to the board any conviction, determination or finding that a licensee has committed an act that constitutes grounds for disciplinary action pursuant to section 32-4153.

B. A person is immune from civil liability, whether direct or derivative, for providing information in good faith to the board pursuant to subsection A of this section.

C. The board shall not disclose the identity of a person who provides information unless this information is essential to proceedings conducted pursuant to sections 32-4154 and 32-4155 or unless required by a court.

32-4159. Substance abuse recovery program

In lieu of a disciplinary proceeding prescribed by this article, the board may permit a licensee to actively participate in a board approved substance abuse recovery program if:

1. The board has evidence that the licensee is an impaired professional.
2. The licensee has not been convicted of a felony relating to a controlled substance in any court of law.
3. The licensee enters into a written agreement with the board for a restricted license and complies with all of the terms of the agreement, including making satisfactory progress in the program and adhering to any limitation on the licensee's practice imposed by the board to protect the public. If a licensee does not enter into such an agreement the board shall immediately begin an investigation and disciplinary proceeding.
4. As part of the agreement established between the licensee and the board, the licensee signs a waiver allowing the substance abuse program to release information to the board if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety.

32-4160. Public, confidential and privileged information; exception; display of license

A. The public has the right of access to the following information:

1. A list that includes each licensee's place of practice, license number, date of license expiration, status of license and whether the licensee has been subject to a complaint or disciplinary action by the board.
2. A list of official actions taken by the board.

B. The home addresses and home telephone numbers of licensees are not public records and shall be kept confidential by the board.

C. Information pertaining to the relationship between the licensee and a person treated by the licensee is confidential and shall not be communicated to a third party who is not involved in that person's care without that person's prior written consent. If the person is a minor, the person's parent or guardian must also give written consent to these communications.

D. The licensee shall divulge to the board information it requires in connection with any investigation, public hearing or proceeding.

E. The privilege described in subsection C does not extend to cases in which the licensee has a duty to report information as required by law.

F. Each licensee shall display a copy of the licensee's license or current renewal verification in a location accessible to public view at the licensee's place of practice.

32-4161. Judicial review

Board decisions are subject to judicial review pursuant to title 12, chapter 7, article 6.