

LEGISLATIVE BILL 436

Approved by the Governor April 18, 2022

Introduced by Hansen, B., 16; Murman, 38.

A BILL FOR AN ACT relating to the Athletic Training Practice Act; to amend sections 38-401, 38-402, 38-404, 38-408, 38-409, 38-410, and 38-411, Reissue Revised Statutes of Nebraska; to provide, change, and eliminate definitions; to change provisions relating to licensure and scope of practice; to harmonize provisions; to repeal the original sections; and to outright repeal sections 38-403, 38-405, and 38-407, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 38-401, Reissue Revised Statutes of Nebraska, is amended to read:

38-401 Sections 38-401 to 38-414 and sections 4 to 6 of this act shall be known and may be cited as the Athletic Training Practice Act.

Sec. 2. Section 38-402, Reissue Revised Statutes of Nebraska, is amended to read:

38-402 For purposes of the Athletic Training Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-404 and 38-406 and sections 4 to 6 of this act 38-403 to 38-407 apply.

Sec. 3. Section 38-404, Reissue Revised Statutes of Nebraska, is amended to read:

38-404 Athletic trainer means a health care professional who is licensed to practice athletic training under the Athletic Training Practice Act and who, under guidelines established with a licensed physician, performs the functions outlined in section 38-408 except as otherwise provided in subsection (5) of section 38-408 person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries under guidelines established with a licensed physician and who is licensed to perform the functions set out in section 38-408. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions described in section 38-408 with a referral from a licensed physician for athletic training.

Sec. 4. Condition means a disease, illness, or injury.

Sec. 5. Impression means a summation of information or an opinion formed, which is the outcome of the examination and assessment process.

Sec. 6. Injuries and illnesses means injuries or common illnesses and conditions which are related to, or which limit participation in, exercise, athletic activities, recreational activities, or activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina, and for which athletic trainers as a result of their education and training are qualified to provide care and make referrals to the appropriate health care professionals.

Sec. 7. Section 38-408, Reissue Revised Statutes of Nebraska, is amended to read:

38-408 (1) As set forth in the Athletic Training Practice Act, the practice of athletic training includes providing the following regarding injuries and illnesses:

(a) Prevention and wellness promotion;

(b) Examination, assessment, and impression;

(c) Immediate and emergency care, including the administration of emergency drugs as prescribed by a licensed physician and dispensed by a pharmacy for emergency use, subject to subsection (2) of this section;

(d) Therapeutic intervention or rehabilitation of injuries and illnesses in the manner, means, and methods deemed necessary to affect care, rehabilitation, or function;

(e) Therapeutic modalities. For purposes of this subdivision, and except as provided in subsection (9) of this section, therapeutic modalities includes, but is not limited to:

(i) Physical modalities; and

(ii) Mechanical modalities, including, but not limited to, dry needling;

and

(f) Health care administration, risk management, and professional responsibility.

(2) The department shall adopt and promulgate rules and regulations regarding the administration of emergency drugs as authorized in this section, including drugs, medicines, and medicinal substances as defined in section 38-2819 except for controlled substances listed in section 28-405.

(3) The department shall adopt and promulgate rules and regulations regarding the use of dry needling by athletic trainers.

(4) The scope of practice of athletic trainers does not include the use of joint manipulation, grade V mobilization/manipulation, thrust joint manipulation, high velocity/low amplitude thrust, nor any other procedure intended to result in joint cavitation. Joint manipulation commences where

grades one through four mobilization ends.

(5) When athletic training is provided in a hospital outpatient department or clinic, or an outpatient-based medical facility or clinic, the athletic trainer shall perform the functions described in this section with a referral from a licensed physician, osteopathic physician, podiatrist, nurse practitioner, physician assistant, dentist, or chiropractor. The referral shall state the diagnosis and, if deemed necessary, identify any instructions or protocols by the referring provider. In these instances, for each patient under his or her care, the athletic trainer shall ensure documentation is complete, accurate, and timely and shall include the following:

(a) Provide and document the initial examination, assessment, and impression;

(b) Provide periodic reexamination with documentation of the reexamination, assessment, and impression;

(c) Establish a plan of care following either the initial examination or reexamination that is in accordance with the diagnosis and any instructions or protocols indicated by the referring provider;

(d) Communicate to the referring provider changes in the patient's condition that may require altering instructions and protocols indicated by the referral from the referring provider;

(e) Be responsible for accurate documentation of each followup visit and billing for athletic training services provided; and

(f) Provide documentation upon discharge, including patient response to athletic training intervention at the time of discharge.

(6) In all other instances, the athletic trainer shall maintain documentation consistent with the guidelines established with a licensed physician and specific to the setting in which the athletic trainer is practicing.

(7) An individual who is licensed as an athletic trainer may not provide, offer to provide, or represent that he or she is qualified to provide any care or services that he or she lacks the education, training, or experience to provide or that he or she is otherwise prohibited by law from providing.

(8) Pursuant to subdivision (18) of section 38-2025, no athletic trainer shall hold himself or herself out to be a physician or surgeon or qualified to prescribe medications.

~~(1) Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a licensed physician:~~

~~(a) Application of electrotherapy;~~

~~(b) Application of ultrasound;~~

~~(c) Use of medical diathermies;~~

~~(d) Application of infrared light; and~~

~~(e) Application of ultraviolet light.~~

~~(9) (2) The application of heat, cold, air, water, or exercise shall not be restricted by the Athletic Training Practice Act.~~

Sec. 8. Section 38-409, Reissue Revised Statutes of Nebraska, is amended to read:

38-409 No person shall be authorized to perform the functions outlined in section 38-408 unless the person first ~~physical modalities set out in section 38-408 on any person unless he or she first~~ obtains a license as an athletic trainer or unless such person is licensed as a physician, osteopathic physician, chiropractor, nurse, physical therapist, or podiatrist. No person shall hold himself or herself out ~~as to be an athletic trainer in this state~~ unless such person is licensed under the Athletic Training Practice Act.

Sec. 9. Section 38-410, Reissue Revised Statutes of Nebraska, is amended to read:

38-410 (1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.

~~(2) An individual who is a graduate student in athletic training student who is enrolled in an athletic training education program accredited by an accrediting body approved by the board and who is practicing under the supervision of a licensed athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.~~

Sec. 10. Section 38-411, Reissue Revised Statutes of Nebraska, is amended to read:

38-411 (1) An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that the applicant ~~he or she~~ meets one or more of the following qualifications:

(a) For any person who graduated prior to January 1, 2004:

(i) (a) Graduation after successful completion of the athletic training curriculum requirements of an accredited athletic training education program at an accredited college or university approved by the board; or

(ii) (b) Graduation with a four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as an athletic training student a student athletic trainer under the supervision of an athletic trainer approved by the board; and -

(b) For any person who graduated after January 1, 2004, graduation after successful completion of the curriculum requirements of an accredited athletic training education program at an accredited college or university approved by the board.

(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully

complete an examination approved by the board.

Sec. 11. Original sections 38-401, 38-402, 38-404, 38-408, 38-409, 38-410, and 38-411, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 12. The following sections are outright repealed: Sections 38-403, 38-405, and 38-407, Reissue Revised Statutes of Nebraska.