

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

BILL NUMBER:	AB 796
AUTHOR:	Weber
BILL DATE:	May 26, 2023, Amended
SUBJECT:	Athletic Trainers
SPONSOR:	California Athletic Trainers Association
POSITION:	Oppose, Unless Amended

DESCRIPTION OF CURRENT LEGISLATION

Establishes the Athletic Training Practice Act (the Act) and the Athletic Trainer Registration Committee (ATRC) within the Medical Board of California (Board). Provides that the ATRC may hire all personnel necessary for the administration of this program and prohibits non-committee staff from carrying out the responsibilities of regulating athletic trainers.

The recent amendments, described below, do not impact the Board’s position and concerns with the bill, which is primarily to have the ATRC housed outside of the Board.

RECENT AMENDMENTS

Since the previous Board meeting, AB 796 was amended, as follows:

- Adds a sunset date (January 1, 2028) to the provisions that establish the ATRC.
- Clarify that the fees charged by the ATRC shall not exceed the reasonable costs to administer the program.
- Clarify that the ATRC shall only use money from the Athletic Trainers Fund, except that it may obtain loans from the General fund or a special fund.
- Updates the definition of “athlete” to state that the person is involved in various activities in association with an educational institution, or organized community sports program or event with regular practices and coaches, as defined.
- Clarifies that the “direction” from a physician that athletic trainer practices under means an order issued by a physician to follow as a protocol, recommendation, or oral order that is documented by the athletic trainer, physician, or both.
- Removes the requirement to have a practice agreement between the physician and athletic trainer. Instead, states that the supervising physician shall define the terms of the relationship between the physician and athletic trainer. States the physician shall continuously maintain supervision and the ability to direct an athletic trainer (but does not require the physical presence of the physician at the time and place where athletic training services are performed).
- Clarifies that the ATRC shall make a report to the Legislature relating to aggregated data regarding complaints and registrants by January 1, 2027.

BACKGROUND

Athletic Trainers (AT) are not a regulated profession in this state, therefore, under current law, ATs are not authorized to practice medicine or any other licensed profession. ATs may work under the supervision of a physician as a [medical assistant](#).

Currently, the Board has regulatory authority over allopathic physicians, licensed midwives, polysomnographers, and research psychoanalysts. As currently drafted, [SB 815 \(Roth\)](#), the Board's sunset bill, would transfer the research psychoanalyst program to the Board of Psychology.

Earlier this year, the Board adopted a [five-year strategic plan](#) that sets forth the Board's priorities during that time period, includes various objectives to enhance the effectiveness of the Board's oversight of allopathic physicians. Further, in the Board's 2022 Sunset Report¹, the Board is seeking legislative approval to transfer the research psychoanalyst program to the Board of Psychology and to establish a separate board to regulate licensed midwives.

ANALYSIS

According to the author's fact sheet:

“Athletic trainers are allied health care professionals that specialize in the prevention, assessment and intervention of emergency, acute and chronic medical conditions, like concussions, heat illness and sudden cardiac arrest. Athletic trainers are included under the allied health professions category, as defined by the U.S. Department of Health and Human Services (HHS) and are assigned National Provider Identifier numbers (NPIs). The American Medical Association also recognizes athletic training as an allied health care profession.”

The fact sheet continues:

“While most individuals practicing athletic training have completed the appropriate level of education and maintain continuing education requirements, the California Association of Athletic Trainers (CATA) estimates that approximately 20% of people employed as athletic trainers in California high schools have not actually met those standards, potentially placing thousands of young people at great risk.

¹ [See pp. 190-191 of the report.](#)

California is the only state that does not provide consumer protections and regulations relating to athletic training similar to what exists for other allied health care professionals.”

AB 796 establishes the following in the Act:

Scope of Practice

- A scope of practice for athletic trainers includes (but is not necessarily limited to):
 - Planning, administering, evaluating, and modifying methods for prevention and risk management of injuries and illnesses.
 - Identifying an athlete’s medical conditions and disabilities and appropriately caring for or referring an athlete as appropriate.
 - Recognizing, assessing, treating, managing, preventing, rehabilitating, reconditioning, and appropriately referring to another health care provider to treat injuries and illnesses.
 - Using therapeutic modalities for which the athletic trainer has received appropriate training and education.
 - Using conditioning and rehabilitative exercise.
 - Using topical pharmacological agents, in conjunction with the administration of therapeutic modalities and pursuant to prescriptions issued in accordance with the laws of this state, for which the athletic trainer has received appropriate training and education.
 - Educating and counseling athletes concerning the prevention and care of injuries and illnesses.
 - Educating and counseling the general public with respect to athletic training services.
 - Referring an athlete receiving athletic training services to appropriate health care personnel as needed.
 - Planning, organizing, administering, and evaluating the practice of athletic training.
- States that an athletic trainer must practice under the direction of a physician, defined to mean an order issued by a physician or surgeon to follow as a protocol, recommendation, or oral order that is documented by the registered athletic trainer or physician or surgeon, or both.
- Prohibits an athletic trainer from practicing medicine or any other regulated form of healing. States that an athletic trainer is not authorized to treat a disease or condition that is unrelated to a person’s participation in sports, games, recreation, or exercise.

Title Protection

- Prohibits someone from describing themselves as an athletic trainer or using similar terms or initials that would imply or suggest they are an athletic trainer unless they comply with the requirements of the Act. The bill provides for certain exceptions to those currently using these titles or terms.

Committee Administration

- States that the ATRC shall meet at least annually and consist of seven members:
 - Three registered athletic trainers.
 - Three public members.
 - One physician, licensed by either the Board or the Osteopathic Medical Board of California.
- Provides an unspecified sunset date for the ATRC.
- Establishes the Athletic Trainers Fund and requires all collected fees to be paid into the fund, which shall be available to the ATRC upon appropriation by the Legislature.
- Authorizes the Director of the Department of Consumer Affairs (DCA) to seek and receive funds from any private entity for the initial costs of administering the Act. If private funds are not available, a loan from the state General Fund or a special fund may be used and repaid with fee revenue. Requires the DCA Director to determine that sufficient funds to administer the Act have been obtained and provide notice to the Legislature, the Governor, and public on the DCA website.
- Authorizes the ATRC to hire all personnel necessary to fulfill the requirements of the Act.
- Prohibits the ATRC from using staff not employed directly by the ATRC to carry out the requirement of the Act.
- Requires submission of an annual report to the Legislature.

Athletic Trainer Registration and Renewal Requirements

- Establishes the requirements for registering as an athletic trainer with the ATRC, including:
 - The ATRC has received official verification of the applicant's current certification by an authorized certifying entity. The allowed entities include the [Board of Certification, Inc.](#) or its successor entity, or any other certifying board for athletic trainers that is accredited by the [National Commission for Certifying Agencies](#)².
 - Submission of certain personal information and payment of a fee established by the ATRC.
- To maintain their registration, and authority to practice, an athletic trainer must renew every two years, maintain certification with an authorized entity, and pay a renewal fee established by the ATRC.

² A search on 4/29/23 for the term "athletic trainer" on [this webpage](#) for the National Commission for Certifying Agencies revealed one organization: the [Board of Certification for Athletic Trainers](#).

Discipline of an Athletic Trainer

- States that the ATRC shall accept complaints from the public related to incompetence or unethical practice or patient harm but shall not investigate them. Instead, complaints shall be referred to the to the appropriate certifying entity.
- Prohibits the ATRC from releasing to the public complaints that do not result in a final disciplinary action or criminal conviction.

Exemptions

- States that the Act does not apply to the following persons:
 - Those licensed or regulated under any other law.
 - A teacher, coach, or other person who does not hold themselves out as an athletic trainer.
 - An athletic training licensed, certified, or registered in another state or country who is in California temporarily to provide services (e.g. an amateur or professional sports organization whose team traveled to California, or by invitation of an organization like the United States Olympic Committee).
 - Students enrolled in an athletic training education program under supervision by another athletic trainer or physician, and the person is clearly identified as a student.
 - A member or employee of the United States Armed Forces licensed, certified, or registered in another state as an athletic trainer who is temporarily deployed to, or employed in, California.
 - Someone providing personal training services.

Comments from Board StaffIntended Role for the Board

The current language does not make clear who will be responsible for performing services on behalf of the ATRC before they hire their own staff. The relevant language in the bill states the following:

BPC section 2529.8.5(h) (as proposed to be added)

“...the committee may employ, within the limits of the funds received by the committee, all personnel necessary for the administration of this article. **The committee shall not use staff that is not employed directly by the committee to carry out this chapter** (emphasis added).”

However, in a conversation with Board staff, the author states that due to the proposed physician supervision of ATs, it is appropriate for this program to be housed within the Board. Further, the author stated her intention for the Board to have general responsibility and oversight for the operations of the ATRC, which would include reviewing and investigating challenges that may arise in the work of the ATRC and take

appropriate action. This would substantially increase the fiscal impact on the Board and the workload of the Board members and executive staff to provide such oversight.

Consumer Protection Aspects of the Bill

The bill was amended on April 27, 2023, to include the ARTC within the structure of the Board (previously it was proposed for the Board of Occupational Therapy) and Board staff have not had time to fully evaluate all aspects of the bill and how it would further consumer protection, including the scope of practice proposed in the bill, or the certification requirements for registration as an athletic trainer³.

The Board staff, however, offer the following initial observations:

- The law states that the Board's highest priority is consumer protection, but similar language is not provided in the bill for the ATRC.
- There is no authority for the ATRC to obtain fingerprints or perform a criminal background check (such authority was in a prior version but was amended out).
- There is no provision to deny a registration to someone who is a registered sex offender or to someone who has committed sexual misconduct with a patient/client.
- No online verification option is provided for consumers to verify the registration of an AT.
- No limits are provided for the number of ATs that a physician may supervise at one time (note that [BPC section 3516](#) generally prohibits a physician from supervising more than four physician assistants (PA) at one time).
- The ATRC relies upon private, non-profit organizations to investigate and revoke certification of an AT, subject to the judgment of that certifying body.
- Someone who is denied a registration or has a registration revoked can simply reapply under proposed section BPC section 2529.8.10 and 2529.8.8. There is no waiting period nor a requirement for them to demonstrate to the committee that they are safe to practice.

As discussed below (see Opponent's Arguments), significant concerns with the scope of AT practice defined in the bill have been raised. The bill defines the scope to include various activities but does not state specifically the limits of their practice.

Opponent's Arguments

According to the analysis of the Assembly Business & Professions Committee, opponents make the following arguments (edited for brevity):

³ According to this [graphic from the National Athletic Trainers Association](#) and the [Board of Certification, Inc.](#), an athletic trainer may be eligible for certification by completing an accredited bachelor's degree training program.

- Lack of necessity: There is no crisis in this state that warrants a new bureaucracy in place for athletic trainers.
- The scope of practice is overly broad and physician supervision is insufficient: The bill allows athletic trainers to assess and treat patients pursuant to an ill-defined relationship with a physician located somewhere.
- The supervision of an athletic trainer in the bill is insufficient: Physicians may supervise an unlimited number of athletic trainers. Physical Therapists, who have a master's or doctoral degree have stricter physician supervision requirements than are proposed for athletic trainers under this bill.

FISCAL: Unknown expenses related to providing oversight of the ATRC, depending on future amendments to the bill.

SUPPORT: American Medical Society for Sports Medicine
Arroyo Grande High School
Board of Certification, INC.
California Coaches Association
California Community College Athletic Association
California Interscholastic Federation
California Orthopedic Association
California State University, Fullerton
Commission on Accreditation of Athletic Training Education
Fresno Unified School District
Fullerton College Student Athletes
Korey Stringer Institute Los Angeles Chargers
Los Angeles Unified School District
National Athletic Trainers' Association
National Basketball Athletic Trainers' Association
National Football League
Stanford Medicine Children's Health
The Oakland Roots Soccer Club
University of California, San Francisco
[partial list]

OPPOSITION: California Nurses Association
California Physical Therapy Association
California Academy of Pas
Occupational Therapy Association of California
United Nurses Association of California/United Health Care Professionals

ATTACHMENT: [AB 796, Weber – Athletic Trainers.](#)
Version: 5/26/23 – Amended