**South Carolina General Assembly**

125th Session, 2023-2024

**A77, R94, S397**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Shealy, Setzler and Kimbrell

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Introduced in the Senate on January 17, 2023

Introduced in the House on March 15, 2023

Last Amended on June 14, 2023

Currently residing in the Senate

Summary: Athletic Trainers Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/17/2023 Senate Introduced and read first time (Senate Journal‑page 7)

 1/17/2023 Senate Referred to Committee on **Medical Affairs** (Senate Journal‑page 7)

 3/2/2023 Senate Committee report: Favorable with amendment **Medical Affairs** (Senate Journal‑page 14)

 3/3/2023 Scrivener's error corrected

 3/9/2023 Senate Committee Amendment Adopted (Senate Journal‑page 26)

 3/9/2023 Senate Read second time (Senate Journal‑page 26)

 3/9/2023 Senate Roll call Ayes-38 Nays-0 (Senate Journal‑page 26)

 3/13/2023 Scrivener's error corrected

 3/14/2023 Senate Read third time and sent to House (Senate Journal‑page 16)

 3/15/2023 House Introduced and read first time (House Journal‑page 11)

 3/15/2023 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** (House Journal‑page 11)

 5/3/2023 House Committee report: Favorable **Medical, Military, Public and Municipal Affairs** (House Journal‑page 59)

 5/9/2023 House Debate adjourned (House Journal‑page 21)

 5/10/2023 House Amended (House Journal‑page 18)

 5/10/2023 House Debate adjourned until Thur., 5-11-23 (House Journal‑page 18)

 5/11/2023 House Read second time (House Journal‑page 24)

 5/11/2023 House Roll call Yeas-97 Nays-0 (House Journal‑page 24)

 5/16/2023 House Read third time and returned to Senate with amendments (House Journal‑page 25)

 6/14/2023 Senate Non-concurrence in House amendment (Senate Journal‑page 85)

 6/14/2023 Senate Roll call Ayes-0 Nays-36 (Senate Journal‑page 85)

 6/14/2023 House House recedes from amendment(s) (House Journal‑page 71)

 6/14/2023 Senate Ordered enrolled for ratification (Senate Journal‑page 96)

 6/14/2023 Ratified R 94

 6/19/2023 Signed By Governor

 6/26/2023 Effective date 06/19/23

 6/26/2023 Act No. 77

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(A77, R94, S397)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS by REPEALing CHAPTER 75, TITLE 44 RELATING TO THE REGULATION OF ATHLETIC TRAINERS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; AND BY ADDING ARTICLE 11 to CHAPTER 47, TITLE 40 SO AS TO TRANSFER REGULATORY AUTHORITY OF ATHLETIC TRAINERS TO THE BOARD OF MEDICAL EXAMINERS.

Be it enacted by the General Assembly of the State of South Carolina:

Repeal

SECTION 1. Chapter 75, Title 44 of the S.C. Code is repealed.

Athletic Trainer Act of South Carolina

SECTION 2. Chapter 47, Title 40 of the S.C. Code is amended by adding:

 Article 11

 Athletic Trainer Act of South Carolina

 Section 40‑47‑1710. (1) “Athletic trainer (AT)” means an allied health professional with specific qualifications set forth in Section 40‑47‑1740(A) who provides services under the direction of or in collaboration with a licensed physician in accordance with their education, training, and state law. Services provided by athletic trainers may include the prevention, identification, assessment, treatment, or rehabilitation of injuries and illnesses under the direction of a licensed physician as defined in Section 40‑47‑20; and, in carrying out these functions, the athletic trainer is authorized to use therapeutic interventions including, but not limited to, heat, light, sound, cold, electricity, or mechanical devices related to said functions.

 (2) “Board” means the Board of Medical Examiners for South Carolina.

 (3) “License” means official acknowledgement by the board that an individual has successfully completed educational and other requirements referred to in this act which entitle that individual to perform the functions and duties of an athletic trainer.

 (4) “BOC” means the Board of Certification for the Athletic Trainer or Board of Certification, Inc.

 Section 40‑47‑1720. The board, with the advice of the Athletic Trainers’ Advisory Committee, must develop standards and promulgate regulations to implement the provisions of this article and for the improvement of athletic training services in this State. This includes the authority to unify and set the biennial renewal date of licenses. All administrative responsibility for this program is vested in the board.

 (B)(1) An Athletic Trainers’ Advisory Committee is created consisting of nine members appointed by the board. Two members must be physicians who are licensed to practice in South Carolina, five must be licensed athletic trainers, and two must be members of the general public who are not certified or licensed in any health care field and are not connected in any way with athletic trainers. Of the two physician members, at least one must regularly supervise an athletic trainer.

 (2) Membership on the committee is by appointment by the board. The members appointed shall serve four-year terms and until their successors are appointed and qualify, except that the initial terms of two ATs, one consumer member, and one physician are for two years. Vacancies on the committee must be filled in the same manner of the original appointment for the unexpired portion of the term. Members may succeed themselves; however, no member may serve more than two consecutive terms or eight continuous years, whichever is greater, but he is eligible for reappointment four years from the date that the last full four-year term expires.

 (3) The committee must meet at least once each year to review the standards and regulations for improving athletic training services and to make recommendations to the board.

 Section 40‑47‑1730. (A) A person may not hold himself out as an athletic trainer or perform, for compensation, any activities of an athletic trainer as defined in Section 40‑47‑1710 without obtaining a license.

 (B) Any person desiring licensure as an athletic trainer must apply to the board. The board must make a determination of the applicant’s qualifications and issue the license to the applicant.

 (C) A license so issued is valid for a period not to exceed two years from the date of issuance and may be renewed subject to any requirements of this article and regulations promulgated by the board.

 (D) The board must suspend or revoke a license issued if it is determined that the holder no longer meets the prescribed qualifications set forth by the board or has failed to provide athletic training services of a quality acceptable by the board.

 (E) Any person whose application is denied, suspended, or revoked is entitled to a hearing before the board if he submits a written request to the board. Proceedings for denial, revocation, or suspension of a license must be conducted consistent with the Administrative Procedures Act.

 Section 40‑47‑1740. (A) An applicant for an athletic trainer license must have satisfied the requirements to be an athletic trainer as determined by the BOC and hold a current BOC certification.

 (B) An applicant for the renewal of a license must have completed the biennial continuing education requirements as determined by the BOC, be in good standing with the BOC, and complete two continuing education courses approved by the board in consultation with the Athletic Trainers’ Advisory Committee.

 Section 40‑47‑1750. A license may be issued to any qualified athletic trainer holding a license in any other state if such other state recognizes the license of this State in the same manner.

 Section 40‑47‑1760. The board may levy fees in an amount sufficient to administer the requirements of this article.

 Section 40‑47‑1770. (A) Nothing in this article prevents:

 (1) licensed, registered, or certified professionals such as physicians, nurses, physical therapists, and chiropractors from practicing their professions if they do not hold themselves out to the public by any title or description as being athletic trainers;

 (2) the continued employment of persons employed on the effective date of Act 441 of 1984 by the State Department of Education, local boards of education, or private secondary or elementary schools for the treatment of injuries received by students participating in school sports activities; or

 (3) any person from serving as an athletic training student or in any similar position if service is carried out under the supervision of a physician or certified athletic trainer.

 (B) The provisions of this article shall not apply to any athletic trainer who is employed in another state by an educational institution or athletic organization when the athletic trainer accompanies the athletes or team of such institute or organization in the State for the purpose of an athletic contest or exhibition.

 Section 40‑47‑1780. For purposes of this article, a person is engaged as an athletic trainer if the person is employed on a salary or contractual basis by an educational institution, hospital, rehabilitation clinic, physician’s office, industry, performing arts group, professional athletic organization, military, governmental agency, or other bona fide organization which employs or serves a physically active population and performs the duties of athletic trainer as a major responsibility of this employment.

 Section 40‑47‑1790. Nothing in this article may be construed to require school districts to hire licensed athletic trainers.

 Section 40‑47‑1800. (A) It is unlawful for a person who is not licensed under this article to hold himself out as an athletic trainer. A person who holds himself out as an AT without being licensed under this article, during a period of suspension, or after his license has been revoked by the board is guilty of a misdemeanor and, upon conviction, must be fined not more than three hundred dollars or imprisoned for not more than ninety days, or both.

 (B) For the purpose of any investigation or proceeding under the provisions of this article, the board or a person designated by the board may administer oaths and affirmations, subpoena witnesses, take testimony, and require the production of any documents or records which the board considers relevant to the inquiry.

 (C) If the board has sufficient evidence that a person is violating a provision of this article, the board, in addition to all other remedies, may order the person to immediately desist and refrain from such conduct. The board may apply to an administrative law judge as provided under Article 5, Chapter 23, Title 1 for an injunction enjoining the person from such conduct. An administrative law judge may issue a temporary injunction ex parte and upon notice and full hearing may issue any other order in the matter it considers proper. No bond may be required of the board by an administrative law judge as a condition to the issuance of any injunction or order contemplated by the provisions of this section.

 (D) Investigations and disciplinary proceedings under this article must be conducted in accordance with the provisions of Article 1.

 (E) No provision of this article may be construed as prohibiting the respondent or his legal counsel from exercising the respondent’s constitutional right of due process under the law or prohibiting the respondent from normal access to the charges and evidence filed against him as a part of due process under the law.

Transfer of authority and related provisions

SECTION 3. The programmatic cash balance, powers, functions, duties, responsibilities, and authority statutorily exercised by the Department of Health and Environmental Control concerning the regulation of athletic trainers are transferred to and devolved upon the Board of Medical Examiners for South Carolina. Any regulations promulgated by the Department of Health and Environmental Control under former provisions of law pertaining to the regulation of athletic trainers are continued and are considered to be promulgated under the authority of present provisions of law pertaining to the same.

Savings

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Assumption of licensure by LLR, regulations

SECTION 5. The Department of Labor, Licensing and Regulation shall assume the licensure of athletic trainers upon the effective date of new regulations promulgated by the Department of Labor, Licensing and Regulation related to this article. The regulations shall include a fee schedule and a provision to create a uniform renewal date for all athletic trainers’ licenses.

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 14th day of June, 2023.

Approved the 19th day of June, 2023.

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