

STORAGE NAME: h0699a.brc

DATE: February 21, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
BUSINESS REGULATION AND CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 699 (PCB HCL 99-02)

RELATING TO: Board of Athletic Training

SPONSOR(S): Committee on Health Care Licensing & Regulation and Representative Fasano

COMPANION BILL(S): SB 1020(s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

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|-----|--|--------|--------|
| (1) | HEALTH CARE LICENSING & REGULATION | YEAS 9 | NAYS 0 |
| (2) | BUSINESS REGULATION & CONSUMER AFFAIRS | | |
| (3) | HEALTH & HUMAN SERVICES APPROPRIATIONS | | |
| (4) | | | |
| (5) | | | |

I. SUMMARY:

This bill replaces the Department of Health's 7-member Council of Athletic Training with a 9-member Board of Athletic Training, appointed by the Governor and confirmed by the Senate. The membership of the board includes: five (5) athletic trainers; one (1) medical or osteopathic physician; one (1) chiropractic physician; and two (2) consumer members.

The bill effectively transfers to the board a number of powers and duties presently performed by the Department of Health, including matters relating to examinations and continuing education, as well as rulemaking, licensure fee, and disciplinary authority.

Regulation of athletic trainers was established in 1994 under the jurisdiction of the Department of Business and Professional Regulation, and was transferred to the Department of Health in 1997. Since implementation, there has been no discipline taken by the Department of Health. The department implemented continuing education requirements effective July 1998, requiring 24 hours per biennium.

By the end of this fiscal year (June 1999), it is estimated that over 1,000 athletic trainers will be licensed (986 were licensed as of January 1999).

The Department of Health reports that to add two (2) additional board members would create an increase in expenses of \$7,732 the first year, and \$6,560 the second year.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The 1994 Legislature established regulation of athletic trainers under the jurisdiction of the Department of Business and Professional Regulation (ch. 94-119, Laws of Florida). The 1994 act created a 5-member Athletic Training Regulatory Task Force to assist the department in developing the proper regulatory scheme for athletic trainers. The recommendations of the task force were presented to the Legislature on December 31, 1995.

Pursuant to ch. 95-388, Laws of Florida, a 7-member Council of Athletic Training was created within the department with members appointed by the secretary of the department. Four members were licensed athletic trainers, one member was a medical physician or an osteopathic physician, one member was a licensed chiropractor certified in the specialty of sports medicine, and one member was a consumer who never worked as an athletic trainer and who had no financial interest in the practice of athletic training.

Effective July 1, 1997, the regulation of athletic trainers was transferred to the Department of Health (ch. 96-403, Laws of Florida). Since implementation, there has been no discipline taken by the Department of Health. The department implemented continuing education requirements effective July 1998, requiring 24 hours of continuing education per biennium.

At one of the 1994-95 task force meetings, early projections estimated that the department would license approximately 500 licensees for the first five years beginning in October 1996. By the end of this fiscal year (June 1999), it is estimated that over 1,000 athletic trainers will be licensed (986 as of January 1999).

To be licensed as an athletic trainer, the person must:

- 1) Be at least 21 years of age;
- 2) Have obtained a baccalaureate degree from an accredited college or university;
- 3) Have completed coursework from an accredited college or university in the areas of health, human anatomy, kinesiology/biomechanics, human physiology, physiology of exercise, basic athletic training, and advanced athletic training;
- 4) Have current certification in standard first aid and cardiovascular pulmonary resuscitation;
- 5) Have, within 2 of the preceding 5 years, attained a minimum of 800 hours of athletic training experience under the direct supervision of a licensed or certified athletic trainer; and
- 6) Have passed an examination administered or approved by the department.

Each licensee is required to complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome (HIV/AIDS) as part of the initial licensure.

Applicants and/or licensees are subject to: an application fee, not to exceed \$100; an examination fee, not to exceed \$200; an initial licensure fee, not to exceed \$200; a biennial renewal fee, not to exceed \$200; an inactive fee, not to exceed \$100; a

delinquent fee, not to exceed \$100; a reactivation fee, not to exceed \$100; and a voluntary inactive fee, not to exceed \$100.

Section 468.713, F.S., requires each athletic trainer to work within a written protocol established between the trainer and a supervising physician (medical, osteopathic, or chiropractic). This protocol is also required at any athletic event.

B. EFFECT OF PROPOSED CHANGES:

This bill replaces the 7-member Council of Athletic Training with a 9-member Board of Athletic Training appointed by the Governor and confirmed by the Senate. The membership of the board includes: five (5) athletic trainers; one (1) medical or osteopathic physician; one (1) chiropractor; and two (2) consumer members. The bill provides for staggered terms for initial appointments.

The board will have direct access for rulemaking authority and setting licensure fees. Probable cause hearings and all disciplinary actions will come before the board, rather than the department. All powers and duties once handled by the department will be handled by the board.

The Department of Health reports that to add two (2) additional board members would create an increase in expenses of \$7, 732 the first year and \$6,560 the second year.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. Rules adopted by the department prior to October 1, 1999, shall remain in effect until the new board adopts rules relating to the regulation of athletic trainers.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Duties and responsibilities once handled by the Department of Health will be transferred to the Board of Athletic Training.

- (2) what is the cost of such responsibility at the new level/agency?

The department reports no additional costs for replacing the council with a board. However, the bill increases the number of members on the board from seven to nine thereby increasing the cost of regulation.

- (3) how is the new agency accountable to the people governed?

Accountability will remain the same.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Each profession is required to be self-sufficient and is expected to generate adequate funds to handle the cost of regulation. No additional fees are required under this bill.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 468.701, 468.703, 468.705, 468.707, 468.709, 468.711, 468.719, 468.721, 20.43, 232.435, 455.607, and 455.667, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 468.701, F.S., to revise the definitions.

Section 2. Amends s. 468.703, F.S., to replace the Council of Athletic Training with the Board of Athletic Training. Establishes a 9-member board appointed by the Governor and confirmed by the Senate. Five (5) members are to be licensed athletic trainers, one (1) member must be a medical physician or an osteopathic physician, (1) one member must be a chiropractic physician, and (2) two members shall be consumers. Provides for staggered terms for initial appointments.

Sections 3-7. Amend ss. 468.705, 468.707, 468.709, 468.711, and 468.719, F.S., to change "department" to "board." Transfer to the Board of Athletic Training certain duties of the Department of Health relating to the regulation of athletic training. Revise provisions relating to rulemaking authority, licensure by examination, fees, continuing education, disciplinary actions, and certain regulatory transition.

Section 8. Amends s. 468.721, F.S., to authorize existing rules adopted by the department to remain in effect until such time as the newly-appointed board adopts its rules.

Section 9. Amends s. 20.43, F.S., to place the Board of Athletic Training within the organizational structure of the Division of Medical Quality Assurance of the Department of Health.

Sections 10-12. Amend ss. 232.435, 455.607, and 455.667, F.S., to correct a cross-reference.

Section 13. Makes permissible the appointment of former council members to the newly-created Board of Athletic Training.

Section 14. Provides an effective date of October 1, 1999.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Department reports that "it should not cost any more to make this change from Council to Board. However, to add two additional board members would cause an increase in Other Personal Services (OPS) Expense and Travel Expense. Board members would attend an average of six meetings per year."

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Concerns have been raised that placing regulation of athletic trainers under the Board of Athletic Training may allow for "independent practice." However, s. 468.713, F.S., *Responsibilities of athletic trainers* -- was not revised under this bill. That section requires an athletic trainer to practice within the written protocol established between the athletic trainer and a supervising medical, osteopathic, or chiropractic physician.

Additionally, there were concerns that the Board of Athletic Training may establish rules in conflict with those of the Board of Medicine, the Board of Osteopathic Medicine, or the Board of Chiropractic. Section 455.534(5), F.S., *Boards; organization; meetings; compensation*

and travel expenses -- states that "When two or more boards have differences between them, the boards may elect to...establish a special committee to settle those differences....The committee shall recommend rules necessary to resolve the differences." The secretary of the department has the authority to ensure that there is no conflict.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One amendment was adopted by the Health Care Licensing & Regulation Committee on January 19, 1999, to increase the membership of the Board of Athletic Training from seven to nine. The original bill provided for one less athletic trainer than was on the council, therefore, in order to have a majority of training professionals on the board, the amendment added two athletic trainers.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Lucretia Shaw Collins

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON BUSINESS REGULATION AND CONSUMER AFFAIRS:

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