WEST VIRGINIA CODE CHAPTER 30 ARTICLE 20A

WV Legislature

§30-20A-1. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice athletic training in this state without a license or permit issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that they are an athletic trainer unless the person has been duly licensed or permitted under the provisions of this article, and the license or permit has not expired, been suspended, or revoked.

(b) A business entity may not render any service or engage in any activity which, if rendered or engaged in by an individual, would constitute the practice of athletic training, except through a licensee or permittee.

(c) A person may not advertise or represent himself or herself as an "athletic trainer", "licensed athletic trainer", "certified athletic trainer", "athletic trainer certified", "L.A.T.", "C.A.T.", and/or "ATC" or make use of any words, abbreviations, titles, or insignia that indicate, imply, or represent that he or she is an athletic trainer, unless he or she is licensed by the board.

WV Legislature

§30-20A-2. Applicable law.

The practices licensed under the provisions of this article and the Board of Physical Therapy are subject to §30-1-1 et seq. and §30-20A-1 et seq. of this code and any rules promulgated hereunder.

(a)The board has all the powers and duties set forth in this article, by rule, §30-1-1 et seq. of this code, and elsewhere in law.

(b)The board shall:

(1) Hold meetings, conduct hearings, and administer examinations;

(2) Establish requirements for licenses and permits;

(3) Establish procedures for submitting, approving, and rejecting applications for licenses and permits;

(4) Determine the qualifications of any applicant for licenses and permits;

(5) Prepare, conduct, administer, and grade examinations for licenses;

(6) Determine the passing grade for the examinations;

(7) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examination and the pass and fail rate;

(8) Hire, discharge, establish the job requirements, and fix the compensation of the executive secretary;

(9) Maintain an office, and hire, discharge, establish the job requirements, and fix the compensation of employees, investigators, and contracted employees necessary to enforce the provisions of this article;

(10) Investigate alleged violations of the provisions of this article, legislative rules, orders, and final decisions of the board;

(11) Conduct disciplinary hearings of persons regulated by the board;

(12) Determine disciplinary action and issue orders;

(13) Institute appropriate legal action for the enforcement of the provisions of this article;

(14) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(15) Keep accurate and complete records of its proceedings, and certify the same as may be

WV Legislature

necessary and appropriate;

(16) Establish the continuing education requirements for licenses;

(17) Issue, renew, combine, deny, suspend, restrict, revoke, or reinstate licenses and permits;

(18) Establish a fee schedule;

(19) Take all other actions necessary and proper to effectuate the purposes of this article;

(20) Propose rules for legislative approval, in accordance with the provisions of §29A-3-1 et seq. of this code to implement provisions of this article, including:

(A) Establish standards and requirements for licenses and permits;

(B) Establish procedures for examinations and re-examinations;

(C) Establish requirements for third parties to prepare and administer examinations and re-examinations;

(D) Establish educational and experience requirements;

(E) Establish the passing grade on examinations;

(F) Establish standards for approval of courses and curriculum;

(G) Establish procedures for the issuance and renewal of licenses and permits;

(H) Establish a fee schedule;

(I) Establish continuing education requirements for licenses;

(J) Establish the procedures for denying, suspending, restricting, revoking, reinstating, or limiting the practice of licensees and permittees;

(K) Adopt a standard for ethics;

(L) Establish requirements for inactive or revoked licenses or permits;

(M) Any other rules necessary to effectuate the provisions of this article; and

(N) All of the board’s rules in effect January 1, 2020, shall remain in effect until they are amended or repealed, and references to provisions of former enactments of this section are interpreted to mean provisions of this article;

(21) All fees and other moneys, except administrative fines, received by the board shall be

WV Legislature

deposited in a separate special revenue fund in the State Treasury designated the West Virginia Board of Physical Therapy Fund which is continued. The fund is used by the board for the administration of this article. Except as may be provided in §30-1-1 et seq. of this code, the board retains the amount in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund;

(22) Any amounts received as fines pursuant to this article shall be deposited into the General Revenue Fund of the State Treasury.

(c)The board may:

(1) Contract with third parties to administer examinations required under the provisions of this article;

(2) Sue and be sued in its official name as an agency of this state; and

(3) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

WV Legislature

§30-20A-3. Definitions.

As used in this article:

"Applicant" means any person making application for an original or renewal license to act as an athletic trainer under the provisions of this article.

"Athletic injury or condition" means any injury or condition sustained by an individual that occurs during, or as a result of, the individual's participation in organized athletic or recreational athletic activity that requires physical strength, agility, flexibility, speed, stamina, or range of motion or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition.

"Athletic trainer" is an individual engaged in the practice of athletic training who holds a license under the provisions of this article.

"Athletic training" and "the practice of athletic training" means the care and services provided by a licensed athletic trainer as described under the provisions of this article.

"Board" means the West Virginia Board of Physical Therapy established under §30-20-1 et seq. of this code.

"Consulting" means that an athletic trainer renders an opinion or advice to another athletic trainer or health care provider through telecommunication or other means or electronic communication.

"Direct supervision" means the licensed athletic trainer must be physically present and be able to intervene on behalf of the athletic training student, permittee, and patient when the athletic training student is providing athletic training services.

"General supervision" means referral by prescription to treat conditions for an athletic injury or condition from a licensed doctor of medicine, doctor of osteopathy, doctor of chiropractic, podiatrist, or physical therapist except that the physical presence of the licensed doctor of medicine, doctor of osteopathy, doctor of chiropractic, podiatrist, or physical therapist is not required if the supervising licensed doctor of medicine, doctor of osteopathy, doctor of chiropractic, podiatrist, or physical therapist is readily available for consultation by direct communication, radio, telephone, facsimile, telecommunication, or other electronic means.

"License" means an athletic trainer license or license to act as an athletic trainer issued by the board under the provisions of this article.

"Licensee" means a person licensed as an athletic trainer under the provisions of this article.

"Permittee" means any person holding a temporary permit issued pursuant to the provision of this article.

www.legislature

"Permit" or "temporary permit" means a temporary permit issued under the provisions of this article.

"The practice of athletic training" means the services as described in §30-20A-5 of this code.

WV Legislature

§30-20A-4. License to practice athletic training.

(a) To be eligible for a license to engage in the practice of athletic training, the applicant must:

(1) Be at least 18 years of age;

(2) Submit an application in the form prescribed by the board;

(3) An athletic trainer registration issued by the board prior to January 1, 2020, is considered a license issued under this article: Provided, That a person holding a license issued prior to January 1, 2020, must renew the license pursuant to a registration and renewal schedule adopted by the board and the provisions of this article;

(4) If subsequent to January 1, 2020, be a graduate of an accredited institution as approved by the Commission on Accreditation of Athletic Training Education or successor organization;

(5) Pass a national examination approved by the board;

(6) Complete a criminal background check as required by §30-1D-1 of this code;

(7) Pay the required fee;

(8) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: Provided, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered;

(9) Not have been convicted of a felony in any jurisdiction within 10 years preceding the date of application for license which conviction remains unreversed;

(10) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of athletic training, which conviction remains unreversed; and

(11) Has fulfilled any other requirement specified by the board.

(b) An athletic trainer shall use the letters "LAT" immediately following his or her name followed by the "ATC" credential to designate licensure under this article.

WV Legislature

§30-20A-5. Scope of practice of an athletic trainer.

(a) The practice of athletic training is defined as the application of principles, methods, and procedures for managing athletic injuries or conditions, which shall include the prevention, emergency care, clinical examination and assessment, therapeutic intervention, and treatment of athletic injuries or conditions through the use of appropriate preventative and supportive devices, and within the professional preparation and education of a licensed athletic trainer subject to the general supervision within this article. Athletic training includes recognizing illness and referring to the appropriate health care professional and implementation of treatment pursuant to the orders of those professionals listed under "General Supervision" within this article. Athletic training also includes instruction to coaches, athletes, parents, medical personnel, and communities in the area of care and prevention of athletic injuries or conditions.

(b) The scope of practice described in this section does not include the practice of physical therapy, the practice of occupational therapy, the practice of medicine, the practice of osteopathic medicine, surgery, the practice of chiropractic, or the management of systemic medical or neurological conditions or diseases of body systems that are not within the professional preparation and education of a licensed athletic trainer.

WV Legislature

§30-20A-6. License to practice athletic training from another jurisdiction.

(a) The board may issue a license to practice athletic training to an applicant who holds a valid license or other authorization to practice athletic training from another state, if the applicant:

(1) Holds a license or other authorization to practice athletic training in another state which was granted after completion of educational requirements substantially equivalent to those required in this state;

(2) Passed an examination that is substantially equivalent to the examination required in this state;

(3) Does not have charges pending against his or her license or other authorization to practice, and has never had a license or other authorization to practice revoked;

(4) Has paid the applicable fee;

(5) Is a citizen of the United States or is eligible for employment in the United States; and

(6) Has fulfilled any other requirement specified by the board.

(b) The board may issue a license to practice athletic training to an applicant who has been educated outside of the United States, if the applicant:

(1) Provides satisfactory evidence that the applicant's education is substantially equivalent to the educational requirements for athletic trainers under the provisions of this article;

(2) Provides written proof that the applicant's school of athletic training is recognized by its own ministry of education;

(3) Has undergone a credentials evaluation as directed by the board that determines that the candidate has met uniform criteria for educational requirements as further established by rule;

(4) Has paid the applicable fee;

(5) Is eligible for employment in the United States; and

(6) Completes any additional requirements as required by the board.

(c) The board may issue a restricted license to an applicant who substantially meets the criteria established in subsection (b) of this section.

WV Legislature

§30-20A-7. Temporary permits.

(a) Upon completion of the application and payment of the nonrefundable fees, the board may issue a temporary permit, for a period not to exceed 90 days, to an applicant to practice as an athletic trainer in this state if the applicant has completed the educational requirements set out in this article, pending the examination, and who works under the direct supervision of a licensed athletic trainer.

(b) The temporary permit expires 30 days after the board gives written notice to the permittee of the results of the first examination held following the issuance of the temporary permit, if the permittee receives a passing score on the examination. The permit shall expire immediately if the permittee receives a failing score on the examination.

(c) A temporary permit may be revoked by a majority vote of the board.

(d) An applicant may be issued only one temporary permit, and, upon the expiration of the temporary permit, may not practice as an athletic trainer until he or she is fully licensed under the provisions of this article.

WV Legislature

§30-20A-8. Renewal requirements.

(a) All persons regulated by this article shall annually or biennially by June 30 renew his or her license by completing a form prescribed by the board and submitting any other information required by the board.

(b) The board shall charge a fee for each renewal of a license and shall charge a late fee for any renewal not paid by the due date.

(c) The board shall require as a condition of renewal that each licensee complete continuing education as defined by rule.

(d) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

WV Legislature

§30-20A-9. Delinquent and expired license requirements.

(a) If a license is not renewed when due, then the board shall automatically place the licensee on delinquent status.

(b) The fee for a person on delinquent status shall increase at a rate, determined by the board, for each month or fraction thereof that the renewal fee is not paid, up to a maximum of 36 months.

(c) Within 36 months of being placed on delinquent status, if a licensee wants to return to active practice, he or she must complete all the continuing education requirements and pay all the applicable fees as set by rule.

(d) After 36 months of being placed on delinquent status, a license is automatically placed on expired status and cannot be renewed. A person whose license has expired must reapply for a new license.

WV Legislature

§30-20A-10. Inactive license requirements.

(a) A licensee who does not want to continue an active practice shall notify the board in writing and be granted inactive status.

(b) A person granted inactive status is not subject to the payment of any fee and may not practice athletic training in this state.

(c) When the person wants to return to the practice of athletic training, the person shall submit an application for renewal along with all applicable fees as set by rule.

WV Legislature

§30-20A-11. Exemptions from licensure.

The following persons are exempt from licensing requirements under the provisions of this article:

(1) A person who practices athletic training pursuant to a course of study at an institution of higher learning including, but not limited to, activities conducted at the institution of higher learning and activities conducted outside the institution if under the direct supervision of a licensed athletic trainer;

(2) An athletic trainer who practices athletic training in the United States armed services, United States Public Health Service or Veterans Administration pursuant to federal regulations for state licensure of health care providers;

(3) An athletic trainer who is licensed in another jurisdiction of the United States or credentialed to practice athletic training in another country if that person is teaching, demonstrating, or providing athletic training services in connection with teaching or participating in an educational seminar of no more than 60 calendar days in a calendar year;

(4) An athletic trainer who is licensed in another state if that person is consulting;

(5) An athletic trainer who is licensed in another jurisdiction, if that person by contract or employment is providing athletic training to individuals affiliated with or employed by established athletic teams, athletic organizations, or performing arts companies temporarily practicing, competing, or performing in the state for no more than 60 calendar days in a calendar year;

(6) An athletic trainer who is licensed in another jurisdiction who enters this state to provide athletic training during a declared local, state, or national disaster or emergency. This exemption applies for no longer than 60 calendar days in a calendar year following the declaration of the emergency. The athletic trainer shall notify the board of his or her intent to practice;

(7) An athletic trainer licensed in another jurisdiction who is forced to leave his or her residence or place of employment due to a declared local, state, or national disaster or emergency and due to the displacement seeks to practice as an athletic trainer. This exemption applies for no longer than 60 calendar days in a calendar year following the declaration of the emergency. The athletic trainer shall notify the board of his or her intent to practice;

(8) Nothing in this article may be construed to prohibit or otherwise limit the use of the term "athletic trainer" in secondary school settings by persons who were practicing athletic training under a West Virginia Board of Education Athletic Certification, provided the practice is in accordance with Board of Education policy in effect prior to July 1, 2011: Provided, That this provision only applies to persons practicing athletic training certified by

WV Legislature

the West Virginia Board of Education prior to July 1, 2011, and any additional persons practicing athletic training excluding these specified individuals, shall meet the provisions of this article; and

(9) Nothing contained in this article prohibits a person from practicing within his or her scope of practice as authorized by law.

WV Legislature

§30-20A-12. Display of license.

(a) The board shall prescribe the form for a license and permit, and may issue a duplicate license or permit upon payment of a fee.

(b) Any person regulated by the article shall conspicuously display his or her license or permit at his or her principal business location.

WV Legislature

§30-20A-13. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion based on credible information and shall upon the written complaint of any person cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules promulgated pursuant to this article.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee or permittee.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license or permit or the imposition of sanctions against the licensee or permittee. Any hearing shall be held in accordance with the provisions of this article.

(e) Any member of the board or the executive secretary of the board may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.

(f) Any member of the board or its executive secretary may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict, or revoke the license or permit of, or impose probationary conditions upon or take disciplinary action against, any licensee or permittee for any of the following reasons once a violation has been proven by a preponderance of the evidence:

(1) Obtaining a license or permit by fraud, misrepresentation, or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude;

(3) Being guilty of unprofessional conduct which placed the public at risk, as defined by legislative rule of the board;

(4) Intentional violation of a lawful order or legislative rule of the board;

(5) Having had a license or other authorization revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization revoked or suspended by the proper authorities of another jurisdiction;

WV Legislature

(6) Aiding or abetting unlicensed practice; or

(7) Engaging in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare, or safety of the public.

(h) For the purposes of subsection (g) of this section, effective January 1, 2020, disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Restrictions;

(4) Administrative fine, not to exceed $1,000 per day per violation;

(5) Mandatory attendance at continuing education seminars or other training;

(6) Practicing under supervision or other restriction; or

(7) Requiring the licensee or permittee to report to the board for periodic interviews for a specified period of time.

(i) In addition to any other sanction imposed, the board may require a licensee or permittee to pay the costs of the proceeding.

WV Legislature

§30-20A-14. Procedures for hearing; right of appeal.

(a) Hearings are governed by §30-1-8 of this code.

(b) The board may conduct the hearing or elect to have an administrative law judge conduct the hearing.

(c) If the hearing is conducted by an administrative law judge, at the conclusion of a hearing he or she shall prepare a proposed written order containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject, or modify the decision of the administrative law judge.

(d) Any member or the executive secretary of the board has the authority to administer oaths, examine any person under oath, and issue subpoenas and subpoenas duces tecum.

(e) If, after a hearing, the board determines the licensee or permittee has violated provisions of this article or the board's rules, a formal written decision shall be prepared which contains findings of fact, conclusions of law, and a specific description of the disciplinary actions imposed.

WV Legislature

§30-20A-15. Judicial review.

Any licensee or permittee adversely affected by a decision of the board entered after a hearing may obtain judicial review of the decision in accordance with §29A-5-4 of this code, and may appeal any ruling resulting from judicial review in accordance with §29A-6-1 et seq. of this code.

WV Legislature

§30-20A-16. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a licensee or permittee has committed a criminal offense under this article, the board may bring its information to the attention of an appropriate law-enforcement official.

(b) A person violating §30-20A-1 of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $5,000, or confined in jail not more than six months, or both fined and confined.

WV Legislature