



Fast Track Regulation Agency Background Document

Agency name	Board of Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 85-120
Regulation title	Regulations Governing the Licensure of Athletic Trainers
Action title	Requirement for current NATABOC certification
Document preparation date	5/26/05

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The proposed action would ensure that an applicant for licensure as an athletic trainer has maintained current certification by the National Athletic Trainers' Association Board of Certification (NATABOC).

Statement of agency final action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On May 20, 2005, the Board of Medicine took action to amend 18 VAC 85-120-10 et seq., Regulations Governing the Licensure of Athletic Trainers through the fast-track regulatory

process to amend section 50, establishing qualifications for an applicant for licensure. The amendment is a recommendation from the Advisory Board on Athletic Training.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- ...*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

The specific mandate for evidence of continued competency is found in:

§ 54.1-2912.1. Continued competency and office-based anesthesia requirements.

A. The Board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, and/or any other requirement.

B. In promulgating such regulations, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

C. The Board may approve persons who provide or accredit such programs in order to accomplish the purposes of this section.

D. Pursuant to § 54.1-2400 and its authority to establish the qualifications for registration, certification or licensure that are necessary to ensure competence and integrity to engage in the regulated practice, the Board of Medicine shall promulgate regulations governing the practice of medicine related to the administration of anesthesia in physicians' offices.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

Current regulations require the applicant to have attained NATABOC certification but do not require that it be current at the time of application. However, in order to renew Board licensure each biennium, an athletic trainer must attest that his NATABOC is current as evidence of continuing competency. That may place the trainer in the position of being licensed but unable to renew that license two years later. Therefore, the Board has determined that current certification should be a requirement for initial licensure.

The intent is to ensure that the athletic trainer has not only been deemed initially competent, by completion of an accredited educational program and passage of the certification examination, but continues to be competent through continuing education required for maintaining NATABOC certification. Athletes of all ages can be permanently injured or harmed by an incompetent trainer. Athletic trainers are usually the first responders when there is an injury and are also the persons responsible for the prevention of injury and rehabilitation of an injury. For that reason, licensure of trainers and evidence of continued competency are mandated by the Code of Virginia. The mechanism for assuring continued competency is NATABOC certification, so the Board has determined that it is necessary to protect the health and safety of consumers who receive services from an athletic trainer.

Rationale for using fast track process

Please explain why the fast track process is being used to promulgate this regulation.

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from (1) 10 or more persons, (2) any member of the applicable standing committee of either house of the General Assembly or (3) any member of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast-track process is being used to promulgate the amendment because it is strongly recommended by the Advisory Board on Athletic Training to clarify the intent of the regulation,

which currently requires NATABOC certification for licensure. It was the Board of Medicine’s intent that the NATABOC be current at the time of licensure, but the regulation does not state that, so it needs to be appropriately amended. Of the 749 persons who have been licensed as athletic trainers, only one applicant met all qualifications but did not have current NATABOC certification. It was necessary to license that person even though he cannot be renewed until he is recertified by NATABOC.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)

The proposed fast-track action amends 18VAC85-120-50 by adding subdivision 6 to require that an applicant submit evidence of current NATABOC certification.

Issues

- Please identify the issues associated with the proposed regulatory action, including:*
- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

There are no disadvantages to the public of this amendment. Current certification is an indicator of continued competency and is required for renewal of licensure in Virginia. If an athletic trainer has not maintained NATABOC certification, there is no evidence that he has maintained current knowledge and skills involved with the profession. The public is better protected by licensing individuals who have continued to take courses and learn new techniques as evidence of minimal competency to practice.

There are no disadvantages to the agency or the Commonwealth; the proposed regulation is consistent with the Board’s intent of licensing individuals who have NATABOC certification.

There are no other pertinent matters of interest.

Economic impact

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a	The agency will incur some one-time costs (less than \$1,000) for mailings and conducting a public hearing. Every effort will be made to incorporate
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<p>delineation of one-time versus on-going expenditures</p>	<p>those into anticipated mailings or distribute notices by email. There are no ongoing expenditures related to this amendment. As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation.</p>
<p>Projected cost of the regulation on localities</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>The individual who may be affected would be an applicant for licensure as an athletic trainer who has allowed his NATABOC certification to lapse.</p>
<p>Agency’s best estimate of the number of such entities that will be affected</p>	<p>To date, there has been one person who applied and was granted a license without current NATABOC certification. It is unknown whether any future applicants could be affected.</p>
<p>Projected cost of the regulation for affected individuals, businesses, or other entities</p>	<p>If a person is licensed without current NATABOC certification, he would be unable to renew licensure until the certification is made current. Re-certification of a lapsed certificate for up to three years requires a payment of \$40 and a \$20 late fee for each year (\$180) and meeting the CEU requirements for that time period (75 hours for 3 years). If the certification is lapsed for more than three years, a re-certification exam is required. The fee for maintaining NATABOC certification is included in National Athletic Trainer Association (NATA) membership (\$160 fee) but costs \$40 per year for a non-NATA member. Therefore, it would be less costly for an athletic trainer to maintain current certification (as is proposed in the fast-track regulation) than to have to be re-certified by NATABOC in order to renew licensure.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

There are no alternatives to the proposal; it is consistent with the Board’s intent to license individuals who hold certification as athletic trainers. Without the amendment, the Board would have to license an applicant who was once certified by NATABOC but no longer holds certification. There would be no indication that the person has maintained continued competency and no ability for that person to renew his license. Clarifying that current certification is necessary is the only alternative that assures current competency and qualifies a trainer to renew each biennium.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family and family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes.

Current section number	Current requirement	Proposed change and rationale
50	Sets out the requirements for filing an application for licensure as an athletic trainer.	Addition of subdivision 6 to require an applicant to submit evidence of current NATABOC certification.