



Proposed Regulation Agency Background Document

Agency name	Board of Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC85-120-10 et seq.
Regulation title	Regulations Governing the Licensure of Athletic Trainers
Action title	Supervision of provisional licensees
Document preparation date	6/22/06

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

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

The Board has amended section 130 relating to supervisory responsibilities to specify that supervision of a person holding a provisional license should be daily and on-site, rather than just periodic.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe 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, which 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 legal authority to promulgate the regulation for provisional licensure is found in paragraph C of § 54.1-2957.4.

§ 54.1-2957.4. Licensure as athletic trainer required; requisite training and educational requirements; powers of the Board concerning athletic training.

A. It shall be unlawful for any person to practice or to hold himself out as practicing as an athletic trainer unless he holds a license as an athletic trainer 90 days after the effective date of regulations promulgated by the Board implementing athletic trainer licensure. The Board shall issue licenses to practice athletic training to applicants for such licensure who meet the requirements of this chapter and the Board's regulations.

B. The Board shall establish criteria for the licensure of athletic trainers to ensure the appropriate training and educational credentials for the practice of athletic training. Such criteria may include experiential requirements and shall include one of the following: (i) a Virginia testing program to determine the quality of the training and educational credentials for and competence of athletic trainers, (ii) successful completion of a training program and passage of the certifying examination administered by the National Athletic Training Association Board of Certification resulting in certification as an athletic trainer by such national association, or (iii) completion of another Board-approved training program and examination.

C. At its discretion, the Board may grant provisional licensure to persons who have successfully completed an approved training program or who have met requisite experience criteria established by the Board. Such provisional licensure shall expire as provided for in the regulations of the Board.

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.

Applicants for licensure who are graduates of an accredited education program or have fulfilled internship educational requirements through the National Athletic Trainers Association Board of Certification and who have applied to take the certification examination may currently be granted a provisional license to practice athletic training under the supervision and control of a licensed athletic trainer. Section 80 sets out the requirements for issuance of provisional licensure. Section 130 specifies the supervisory responsibilities of the licensed trainer for a provisional licensee and for student trainers working under his direction and control. The Advisory Board on Athletic Training has information that many new graduates are, in fact, practicing independently with little or no supervision from a licensed trainer who may practice 50 or more miles away from the provisional licensee. If this practice continues without further delineation of the supervisory responsibilities, there is concern that the public health and safety may be at risk. Young people being treated by a provisional licensee may be permanently harmed if the interventions being utilized are inappropriate or ineffective. The purpose of supervision of the trainer who has not yet demonstrated competency by passage of an examination is to ensure that the care being provided is appropriate, and that can only be determined if the supervisor is on-site reviewing and evaluating on a daily basis.

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 only change is an amendment to section 130 relating to supervisory responsibilities to specify that supervision of a person holding a provisional license should be daily and on-site, rather than just "periodic" supervision, which is undefined and too subjective.

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.

1) The primary advantage to the public is greater assurance that the care and treatment of young athletes, primarily in local school systems, is being appropriately supervised if it is provided by persons who do not yet qualify for licensure. There are no disadvantages to the public.

- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other matters of interest.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) 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; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Since most mailings to the PPG list are handled electronically, there is very little cost involved. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There are no on-going costs to the agency.</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 entities that are likely to be affected by these regulations would be persons holding provisional licensure.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are currently 9 persons who hold a provisional license to practice as an athletic trainer. There are no small businesses affected; provisional licensees typically work for school systems or in university athletic departments.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>There are no costs to the affected entities.</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.

In the development of proposed regulations, the Advisory Board discussed the risks of having a provisional licensee practicing without close supervision to check on decisions and interventions relating to the care and treatment of young people participating in athletic programs. There was support for eliminating the difference between supervision of a provisional licensee and a student trainer since neither has qualified for licensure by passage of the NATABOC examination. That would have limited the tasks that could be performed by a provisional licensee to “nondiscretionary” tasks or those that can also be performed by a student trainer. Since a provisional licensee has completed an athletic training educational program, the Advisory Board determined that some distinction was appropriate. Therefore, the recommended amendment was to only change or clarify the level of supervision of provisional licensee to ensure that it is on-site and daily.

Regulations require a graduate of an educational program in athletic training to submit an application for provisional authorization to practice athletic training for review by the chair of the Advisory Board or his designee. Typically, application review has been delegated to the Deputy for the Board of Medicine in charge of Licensure. The Advisory Board has recommended that in the interim, until regulations can be amended and the parameters of supervision further defined, all applications for provisional licensure will be reviewed by the Chair of the Advisory Board to get a sense of the level and extent of supervision.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

The Notice of Intended Regulatory Action was published in the Register on March 6, 2006 and sent to the Public Participation Guidelines list with comment requested until April 5, 2006. There was no public comment received.

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. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Current requirement	Proposed change and rationale
130	Sets out the supervisory responsibilities of an athletic training supervising the practice of a person with a provisional license in athletic training	<p>Change “periodic” review and evaluation of services provided by a provisional licensee to “daily, on-site” review and evaluation.</p> <p><i>A requirement for “periodic” review and evaluation of services has resulted in no supervision occurring at the site where the provisional person is practicing independently of his supervisor. Supervision was intended to be proportionate to the factors set forth in subdivision 2 of subsection A, but it was not intended to occur totally outside the presence of the supervisor. In the Advisory Board’s opinion, it is impossible for a supervisor to adequately review and evaluate services and review the outcomes of individuals being treated without on-going, on-site supervision. It is also risky to athletes for persons who have not demonstrated competency by passage of an examination to be practicing the profession with virtually no supervision or under a supervisor who is physically located in another part of the state. Therefore, the rule is clarified to more accurately reflect the Board’s intent in establishing a provisional license under supervision.</i></p>