



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	Periodic review clarifications
Document preparation date	10/26/07

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 will clarify and simplify the regulations for ease of compliance by licensees. The only substantive change is the addition of an inactive license in athletic training, with requirements for fees and evidence of continuing competency for reactivation.

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 October 18, 2007, the Board of Medicine took action to amend 18 VAC 85-120-10 et seq., Regulations Governing the Practice of Athletic Trainers through the fast-track regulatory process

to implement changes recommended by the Advisory Board on Athletic Training pursuant to a periodic review of regulations.

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.

Regulations require the submission of evidence that the applicant has current certification from the National Athletic Trainers' Association Board of Certification (NATABOC). Such certification is granted to persons who have graduated from an accredited educational program in athletic training and have passed the certifying examination. Verification is provided directly by NATABOC, so requiring evidence to also be submitted by the applicant is unnecessarily burdensome.

Currently, there is no provision for an inactive license, so an athletic trainer who is not actively practicing in Virginia must either continue to pay for an active license or allow his license to lapse. The availability of an inactive license, which is less costly to renew or reactivate, may encourage athletic trainers to return to practice in Virginia at a future date. Any increased availability of athletic trainers for practice is likely to benefit the health and safety of the citizens of the Commonwealth, especially young persons who engage in sports in schools and colleges.

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 recommended by the Advisory Board on Athletic Training and by staff to clarify certain provisions of the regulations. The only substantive change is adding the option of inactive licensure for those trainers who are not currently working in the field. Since there are no changes to requirements for initial licensure, renewal of licensure or practice, there should be no objections raised.

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 18VAC85-120-150 by adding fees for inactive licensure, and 18VAC85-20-95 is added to establish an inactive license with requirements for reactivation.

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 advantages or disadvantages to the public of these amendments. Current requirements for licensure, renewal and practice are not being amended, so the competency of athletic trainers to practice should not be affected. There is an advantage to an athletic trainer who is not currently practicing in Virginia but who would like to maintain an inactive license. With these amendments, that less costly option would be available.

There are no disadvantages to the agency or the Commonwealth; the proposed amendments are consistent with the Board’s regulations.

There are no other pertinent matters of interest.

Economic impact

<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>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 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</p>	<p>The only individuals affected would be those who</p>

other entities likely to be affected by the regulation	opt to take an inactive licensure status.
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.	There is no estimate for this profession. Occupational therapists have 2545 licensees and 70 are inactive, or less than 4%. There are 842 licensed athletic trainers, so the number of inactive licensees may be less than 26.
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.	There would be a reduction in costs to the affected entities if an athletic trainer chooses to request an inactive license.

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.

Since the only substantive change is the establishment of an inactive license, there is no alternative to the proposed amendments that would accomplish that action. Elimination of requirements for applicants to submit verification of professional education and passage of the national examination in applying for licensure removes both burden and expense and should facilitate the initial licensure of athletic trainers.

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
10	Sets out definitions of words and terms used in the regulation	Corrects the name of the body that accredits educational programs in athletic training to the Commission on Accreditation of Athletic Training Education (CAATE)

50	Sets out the requirements for initial licensure	The proposed amendments would eliminate the verification of professional education as required in section 60 and the documentation of passage of the national examination as required in section 70. In order to obtain current NATABOC certification, which is a requirement for licensure, an applicant must provide both verification of professional education and documentation of passage of the NATABOC examination. Therefore, it is unnecessary and redundant to require an applicant for licensure to submit those documents in Virginia as well.
70	Sets out the examination requirements for initial licensure	This section is amended to eliminate the requirement for documentation to be sent to the Board, since NATABOC certification would be proof of passage of the exam.
90	Sets out requirements for renewal of licensure	There is a correction of an inaccurate regulation cite.
95	N/A	<p>Section 95 adds provisions for an inactive license and specifies that the holder of such a license is not authorized to engage in the practice of athletic training. The requirements for reactivation of an inactive license are set forth in subsection B.</p> <p><i>Since current NATABOC is required for initial licensure and for renewal of licensure, an applicant for reactivation must document that he has maintained his certification or has been recertified. Such a requirement is necessary to ensure that a person who has not actively practiced in Virginia continues to be competent.</i></p> <p><i>Reactivation also requires the payment of the difference between the current inactive renewal fee and the current active renewal fee. The Board also reserves the right to deny a request for reactivation based on grounds established by law or regulation.</i></p>
150	Sets out the fees for licensure for athletic trainers	The fee for renewal of an inactive license (\$70) is set at approximately half the amount of the active license renewal (\$135). All professionals with inactive licenses have the same proportionate fees.