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Fast Track 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	Regulatory reform changes
Date this document prepared	3/4/13

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The Board has determined that evidence of graduation by way of a transcript, as required in section 60, and documentation of passage of the National Athletic Trainers' Association Board of Certification (NATABOC) examination, as required in section 70, are redundant to criteria for certification and unnecessarily burdensome on applicants, educational institutions and the Board. Evidence of current NATABOC certification provides assurance that an applicant has met the educational and examination requirements for licensure, so sections 60 and 70 are repealed. Other changes are proposed for clarification of the current regulations.

Statement of final agency 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 February 21, 2013, the Board of Medicine adopted amendments to 18VAC85-120-10 et seq., Regulations Governing the Licensure of Athletic Trainers by a fast-track action.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

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. ...*

Specific authority for regulation of athletic trainers is found in:

§ 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.

D. The Board shall promulgate such regulations as may be necessary for the licensure of athletic trainers and the issuance of licenses to athletic trainers to practice in the Commonwealth. The Board's regulations shall assure the competence and integrity of any person claiming to be an athletic trainer or who engages in the practice of athletic training.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the amended regulation is to update terminology and reduce the burden of applicants who are currently required to submit transcripts to confirm graduation from an accredited athletic training educational program and evidence of passage of the NATABOC examination. The amendments will not change the educational and examination criteria as evidence of minimal competency in providing services and will continue to protect the health and safety of the public.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

The action is less restrictive regulation, has been approved by the Advisory Board on Athletic Trainers, and has unanimous approval of the Board of Medicine. It will not be controversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

The Board has determined that evidence of graduation by way of a transcript, as required in section 60, and documentation of passage of the National Athletic Trainers' Association Board of Certification (NATABOC) examination, as required in section 70, are redundant to criteria for certification and unnecessarily burdensome on applicants, educational institutions and the Board. Evidence of current NATABOC certification provides assurance that an applicant has met the educational and examination requirements for licensure, so sections 60 and 70 are repealed. Other changes are proposed for clarification of the current regulations.

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 there are no disadvantages to the public or the Commonwealth, please indicate.

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- 1) There are no advantages or disadvantages to the public, which will continue to be protected by the same criteria for minimal competency for initial licensure.
 - 2) There are no advantages or disadvantages to the agency or the Commonwealth.
 - 3) There are no other pertinent issues.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

To achieve this less restrictive regulation, there are no alternative methods, other than the promulgation of an amendment to the licensure requirements.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated 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>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 no costs for electronic notifications to the Public Participation Guidelines. There are no on-going expenditures relating amendments to regulations for athletic trainers.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>The entities that are likely to be affected by these regulations are applicants for licensure as athletic trainers.</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>It is unknown how many future applicants for licensure as athletic trainers may be affected. There are currently 1210 athletic trainers licensed. There is no estimate of the number of small businesses, but most athletic trainers work for universities, school systems or other athletic-centered organizations.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of</p>	<p>There are no costs to small businesses or other entities.</p>

<p>real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Filing a complete application will be less costly and burdensome because the Board will not require transcripts from educational institutions and documentation of passage on the national examination.</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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no viable alternatives.

Periodic review/small business impact review result

If this fast-track regulation is not the result of a periodic review/small business of the regulation, please delete this entire section.

If this fast-track regulation is the result of a periodic review/small business impact review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

There were no comments on the Notice of Periodic Review

1) In accordance with the Code of Virginia, the Board is required to promulgate regulations for the licensure of athletic trainers. *The Board shall promulgate such regulations as may be necessary for the licensure of athletic trainers and the issuance of licenses to athletic trainers to practice in the Commonwealth. The Board's regulations shall assure the competence and integrity of any person claiming to be an athletic trainer or who engages in the practice of athletic training.*

Therefore, there is a continued need for the regulation.

2) There were no complaints or comments received from the public.

- 3) The regulation is organized and written similarly to all other chapters promulgated by the Board of Medicine; it appears to be clear and easily understood.
 - 4) The regulation does not overlap with federal or state law, which is not specific about the criteria for licensure or the standards of practice. Grounds for unprofessional conduct in § 54.1-2915, which apply to all regulated entities under the Board, are not repeated in the regulations.
 - 5) The regulation is frequently reviewed for consistency with changes in technology and practice. Accordingly, since initial regulations for certification became final in 2001, the regulation has been amended 11 times in the last 10 years.
- The economic impact of this regulation is minimal for a licensure scheme. Fees of \$135 per biennium are required to maintain a license and do not appear to be burdensome or inhibiting the growth of the profession as there was a growth rate in the number of licensed athletic trainers of 13.7% in the last biennium.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the family.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	Sets out definitions of words and terms used in regulations	<i>The term “accredited educational program” is deleted because the term is used in a section being deleted and is no longer necessary</i>
New section 35	Sets out the fees charged to applicants and licensees	Currently, fees are set in Part V in section 150, which is inconsistent with all other regulations under the Board of Medicine. For consistency and logical placement, the fees are moved to Part I, General Provisions. <i>There are <u>no changes</u> from the current fees.</i>
60 & 70	Sections that establish the educational and examination requirements for licensure	Currently, section 150 requires that: “An applicant for licensure shall submit evidence of meeting the following requirements for licensure on forms provided by the board:... 3. Evidence of current NATABOC certification.” As criteria for certification, he National Athletic Trainers’

		<p>Association Board of Certification (NATABOC) has the same educational requirements as stated in section 60 and requires passage of the NATABOC entry level examination as required in section 70. Therefore, the Board has determined that evidence of graduation by way of a transcript and documentation of passage of the NATABOC examination, as required in section 70, are redundant to criteria for certification and unnecessarily burdensome on applicants, educational institutions and the Board. Evidence of current NATABOC certification provides assurance that an applicant has met the educational and examination requirements for licensure.</p> <p>Therefore, sections 60 and 70 are being repealed.</p>
75	Sets the criteria for provisional authorization to practice	<p>Regulations allow the Board to grant short-term (45 days) authorization for an applicant to begin practice prior to full licensure if he has current NATABOC certification and, if licensed or certified in another jurisdiction, has documentation that the license is current and unrestricted. The term “provisional authorization” is confused with “provisional licensure,” which requires practice under supervision while a person is awaited the results of the NATABOC certification examination. Therefore, the terminology is amended in section 75 to refer to “temporary” authorization and eliminate “provisional.”</p>
80	Sets out the criteria for provisional licensure and practice	<p>Clarifies that provisional may be granted after someone has been approved to sit for the NATABOC certification examination. <i>Unless NATABOC has approved the applicant to sit for the exam, there is no evidence that he has, in fact, graduated from an accredited program – as required for a provisional license. The amendment is not a change in policy; it is a clarification of the current requirement.</i></p>
150	Sets the fees	Repealed but moved to a new section in Part I.