



## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 85 -120
<b>Regulation title</b>	Regulations Governing the Licensure of Athletic Trainers
<b>Action title</b>	Supervision of provisional licensees
<b>Document preparation date</b>	6/21/07

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

*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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation.*

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.

### 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 June 21, 2007, the Board of Medicine adopted final amended regulations for 18 VAC 85-120-10 et seq., Regulations Governing the Licensure of Athletic Trainers.

### 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 numbers, if applicable, and (2) promulgating entity, i.e., 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 (6), 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:*

*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 (as revised by the 2004 General Assembly in Chapter 669).

**§ 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 certification 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 it 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.*

---

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 identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" 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 there are no disadvantages to the public or the Commonwealth, please 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.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

There are no changes to the text since the publication of the proposed stage.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

Amended regulations were published in the Virginia Register of Regulations on February 5, 2007. Public comment was requested for a 60-day period ending April 6, 2007. A public hearing on the proposed regulations on February 8, 2007. During that period, no comments were received.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

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	Change “periodic” review and evaluation of services provided by a provisional licensee to “daily, on-site” review and evaluation. <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</i>

		<i>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>
--	--	--

**Family impact**

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

---

In its analysis of the final regulatory action, the agency has determined that there is no potential impact on the institution of the family and family stability.