

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1020

SPONSOR: Senator Latvala

SUBJECT: Athletic Trainers

DATE: March 1, 1999 REVISED: 03/04/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/2 amendments</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill creates the nine-member Board of Athletic Training in lieu of the existing Council of Athletic Training. The bill adds a consumer member and an additional athletic trainer member to the newly-created board. The bill staggers the terms of appointment for the initial members of the board and provides that all parts of part II of chapter 455, F.S., relating to activities of the board shall apply. The bill provides that rules relating to the regulation of athletic trainers in force before October 1, 1999, shall remain in effect until the newly-created board adopts administrative rules which supersede the earlier rules. The bill provides that the Council of Athletic Training and the terms of all council members are terminated on October 1, 1999. The bill makes other minor and conforming changes relating to the creation of the Board of Athletic Training. The bill provides an effective date of October 1, 1999.

This bill substantially amends sections 468.701, 468.703, 468.705, 468.707, 468.709, 468.711, 468.719, 468.721, 20.43, 232.435, 455.607, and 455.667, Florida Statutes. The bill creates a section which has not been designated to the Florida Statutes.

II. Present Situation:

Chapter 468, Part XIII, Florida Statutes, regulates the practice of athletic training. The Department of Health regulates athletic trainers with advice from a seven member council that is appointed by the Secretary of the Department of Health. The council advises and assists the department in the development of rules relating to licensure requirements, the licensure examination, continuing education requirements, fees, records and reports to be filed by licensed athletic trainers, and any other requirements necessary to regulate the practice of athletic training. The Department of Health is authorized to adopt administrative rules that are not inconsistent with law to carry out the duties and authority conferred on the department to enforce athletic training regulations and which are necessary to protect the health, safety, and welfare of the public. Such rules must include, but not be limited to, the *allowable scope of practice* regarding the use of equipment, procedures, and medication.

The part defines “athletic training” to mean the recognition, prevention, and treatment of athletic injuries. The part defines “athletic injury” to mean an injury sustained which affects the athlete’s ability to participate or perform in athletic activity. “Athletic activity” is defined to mean the participation in an activity, conducted by an educational institution, a professional athletic organization, or an amateur athletic organization involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina. The part defines “athletic trainer” to mean a person licensed under the part.

Athletic trainers may not practice independently and may only practice under a protocol with a supervising health care practitioner. Athletic trainers must practice within a written protocol established between the athletic trainer and a supervising medical physician, osteopathic physician, chiropractic physician, or a health care practitioner otherwise authorized by Florida law to practice medicine. Athletic trainers are authorized to practice at an athletic event under the direction of a medical physician, osteopathic physician, chiropractic physician, or other person authorized by Florida law to practice medicine. A written protocol must require that the athletic trainer notify the supervising physician of new injuries as soon as practicable.

Section 20.43, F.S., provides for the organizational structure of the Department of Health, including the Division of Medical Quality Assurance, which is responsible for specified health professions and regulatory boards. The section requires the members of each board to be appointed by the Governor, subject to confirmation by the Senate. Each board with five or more members must have at least two consumer members who are not, and have never been, members or practitioners of the profession regulated by the board or of any closely related profession. Members of each board are appointed for 4-year terms, although terms of less than 4 years may be established to ensure that terms of membership are staggered.

For purposes of administrative rulemaking, each professional regulatory board is an independent agency. Each professional regulatory board may adopt administrative rules to *implement, interpret, or make specific* the particular powers and duties granted by the enabling statute. Under section 120.565, F.S., any substantially affected person may seek a declaratory statement regarding an agency’s opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner’s particular set of circumstances. Typically the administrative rulemaking authority of professional boards has involved the resolution of issues presented to the board when a licensed practitioner regulated by the board wishes to engage in a course of action, but wonders whether it could result in disciplinary action. The administrative rulemaking authority of professional boards can become problematic when the resolution of the issue relates to that board’s encroachment into the scope of practice of comparable professions. Under section 455.544, F.S., no board created within the Department of Health has standing to challenge an administrative rule or proposed rule of another board, however, the boards may establish a special committee to settle those differences. Pursuant to section 455.534, F.S., when two or more boards have differences between them, the boards may elect to, or the Secretary of the Department of Health may request that the boards, establish a special committee to settle those differences. The special committee must recommend rules necessary to settle the differences between the boards.

III. Effect of Proposed Changes:

The bill creates the Board of Athletic Training in lieu of the existing Council of Athletic Training. The newly created Board of Athletic Training consists of nine members appointed by the Governor and confirmed by the Senate. Five board members must be licensed athletic trainers. Two members of the board must be consumers who are Florida residents. The consumer members of the board must have never worked as an athletic trainer, have no financial interest in the practice of athletic training, and have never been a licensed health care practitioner. The remaining members of the board must include a licensed medical physician or licensed osteopathic physician, and a licensed chiropractic physician.

The bill staggers the terms of appointment for the initial members of the board. The bill provides that all parts of part II of chapter 455, F.S., relating to activities of the board shall apply and that the board maintain its official headquarters in Tallahassee. The bill provides that rules relating to the regulation of athletic trainers before October 1, 1999, shall remain in effect until the newly-created board adopts administrative rules which supersede the earlier rules. The bill provides that the Council of Athletic Training and the terms of all council members are terminated on October 1, 1999. The termination of the council does not preclude the Governor from considering any former council member for appointment to the Board of Athletic Training. The bill makes other minor and conforming changes relating to the creation of the Board of Athletic Training. The bill provides an effective date of October 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Health estimates that the costs of per diem and travel associated with two additional board members will be \$7,852 for 1999-2000 and \$6,560 for 2000-2001. The Department's estimate is based on per diem at \$50 per day (13 days for 1999-2000 and 11 days for 2000-2001) and an average of \$546 per trip (board members attend an average of five meetings per year).

VI. Technical Deficiencies:

None.

VII. Related Issues:

Under the bill, the Board of Athletic Training could potentially adopt administrative rules that conflict with the rules of the regulatory boards which have jurisdiction over the supervisory practitioners who direct the professional acts of athletic trainers. The potential for conflict with the administrative rules may lead to unnecessary litigation between licensed professional boards and licensed health care professionals involved in the dispute. To the extent an athletic trainer may only recognize, prevent, and treat athletic injuries under the direction of another health care practitioner, it is unclear what constitutes the scope of practice for independent acts within the profession relative to other licensed health care professions.

VIII. Amendments:

#1 by Health, Aging and Long-Term Care:

Provides that s. 455.534 (5), F.S., which provides a mechanism for boards to resolve their differences, applies to the activities of the newly-created Board of Athletic Training.

#2 by Health, Aging and Long-Term Care:

Gives the newly-created Board of Athletic Training specific rulemaking authority to adopt rules relating to licensure requirements, licensure examination, continuing education requirements, fees, records and reports to be filed by licensees, protocols, and any other requirements necessary to regulate the practice of athletic training.