

Legislative Analysis



LICENSE EXEMPTION FOR OUT-OF-STATE ATHLETIC TRAINERS

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Senate Bill 263 as passed by the Senate
Sponsor: Sen. Tory Rocca
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

First Analysis (4-22-11)

BRIEF SUMMARY: The bill would create an exemption from state licensure for certain out-of-state athletic trainers who are in Michigan as part of an athletic event that is using their services.

FISCAL IMPACT: Without the bill, some out-of-state athletic trainers may choose to obtain a Michigan license, which would increase the costs and revenue to the Department of Community Health for licensure of this health profession. The licensure fees support the cost of the licensure processing and enforcement program. Given that current rules allow for delegated authority under certain circumstances, the fiscal impact of the bill is likely to be modest.

THE APPARENT PROBLEM:

The field of athletic training, first established in 1950, has evolved into a highly specialized health profession that provides health services to professional athletic teams, intercollegiate athletes, high school athletes, amateur athletes, and physically active citizens. The National Football League, Major League Baseball, and the National Basketball Association, among others, require teams to employ athletic trainers (ATs). The National Collegiate Athletic Association requires member colleges and universities to have athletic trainers on staff. In addition, many high schools and youth sports organizations either employ or contract with a sports medicine clinic for athletic trainers to be on hand during sporting events.

In 2006, legislation was enacted to require state licensure before a person could engage in the practice of athletic training. The rules and regulations for the practice of athletic training, which have only recently been completed, failed to anticipate the fact that many sports teams, amateur and professional, travel with their own athletic trainer or trainers. The recently implemented rules and regulations, however, have been interpreted to require these persons to be licensed in this state before providing services to their players.

The new regulations do allow a Michigan athletic trainer to delegate certain tasks or functions of an AT to an out-of-state AT, but only under direct supervision. In practice, this means that an AT working for the Detroit Red Wings would have to be in the locker room or by the bench of the opposing team to OK and supervise every function performed by that team's AT, even such things as taping a wrist or ankle. In addition, the

supervising AT may be civilly liable if the out-of-state AT being supervised practices incompetently and injures an athlete. Some feel legislation is needed to address these concerns.

THE CONTENT OF THE BILL:

Currently, an individual is prohibited from engaging in the practice of athletic training unless licensed under the Public Health Code or otherwise authorized to do so. Under departmental rules (R 338.1369), a licensed athletic trainer (AT) may delegate the performance of an act, task, or function related to the practice of athletic training to another person under certain circumstances, including to a person who is an AT employed by or who accompanies an out-of-state team that is participating in an athletic event held in Michigan if the out-of-state AT is licensed or credentialed in his or her home state, or is certified by a national certification board (BOC certification).

Senate Bill 263 would amend Part 179 of the Public Health Code (Athletic Training) to specify that Part 179 would not apply to a person who is temporarily present in the state for an event that uses the services of athletic trainers and who is a BOC certified athletic trainer or is licensed as an athletic trainer in another state. (MCL 333.17902)

(Part 179 defines "practice of athletic training" as the treatment of an individual for risk management and injury prevention, the clinical evaluation and assessment of an individual for an injury or illness, or both, the immediate care and treatment of an individual for an injury or illness, or both, and the rehabilitation and reconditioning of an individual's injury or illness, or both, as long as those activities are within the rules promulgated under Part 179 and performed under the direction and supervision of a licensed physician.)

HOUSE COMMITTEE ACTION:

The committee reported the Senate-passed version.

BACKGROUND INFORMATION:

Athletic training has been recognized by the American Medical Association as an allied health profession and certified athletic trainers provide services under the direction of licensed physicians. An athletic trainer must undergo a rigorous educational and training program (including completion of a bachelor's degree) and pass a three-part national exam in order to be certified. Certified athletic trainers must also meet recertification standards, which include acquiring continuing education units.

ARGUMENTS:

For:

The newly implemented rules regulating the practice of athletic training in the state have proven to be problematic in regards to ATs from other states who travel with sports teams

to competitions or events in Michigan. The current wording requires any AT, even one who is temporarily in the state with a team, to be licensed under the state Public Health Code. An out-of-state AT can still practice under the delegation and direct supervision of a Michigan-licensed AT, but at a great burden to the Michigan AT. For instance, the Michigan AT would have to be in the locker room or at the bench where the visiting AT is treating or examining team members. In addition, the Michigan AT must determine if the act, task, or function being performed is within the skill level and knowledge of the visiting AT – an impossible task. Furthermore, the Michigan AT providing the supervision could be held civilly liable for injuries suffered by an athlete related to the incompetency of a visiting AT.

The bill would provide a fix by recognizing the license or accreditation held by a visiting AT from that AT's home state, but only during the time the AT was in the state for an event using the services of an AT; for instance, the bill would exempt ATs who travel with high school, collegiate, amateur, or professional sports teams from having to first obtain a Michigan license.

Response:

The language proposed by the bill is still a bit vague. For example, the term "temporarily" present in the state is not defined. Would this mean a period of hours, days, or weeks? Further, the bill does not specify that in order to be exempted from the licensing requirements, the visiting AT should be attached in some way to the event as opposed to being a spectator at the event; that is to say, be employed by or volunteering for the team or organizers of the event.

POSITIONS:

A representative of the Detroit Tigers and Detroit Red Wings sports franchises testified in support of the bill. (4-13-11)

The Detroit Lions sports franchise indicated support for the bill. (4-13-11)

The Michigan Athletic Trainers Society indicated support for the bill. (4-13-11)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.