

Madame Chair, members of the Committee. My name is Denise Fandel. I appreciate this opportunity provided by the Nebraska Department of Health and Human Services and the Technical Review Committee. I value this process and your work here on behalf of the health and safety of the citizens of Nebraska. I too served the public as a member of the Athletic Trainers Advisory Board from 1988-1990. In addition, I have participated in the last two 407 public hearings related to applications for changes to the athletic trainers practice act.

I began my career as a clinical athletic trainer at the University of Nebraska Omaha in 1982. In 1985, I was named the head athletic trainer overseeing the health and safety of all UNO student-athletes. Throughout the subsequent 12 years I worked with our medical directors, headquartered at the University of Nebraska Medical Center. We had medical students, residents and Fellows rotate through our athletic training clinic as part of their education at the Medical Center. In addition to providing healthcare to our student-athletes, we expanded the coursework for athletic training students that evolved to meet the national accreditation standards for both an undergraduate and graduate program in Athletic Training; the first dual athletic training education program accredited in the US. With the changes in athletic training education standards, only the graduate program exists at UNO and has been continuously accredited since 2000.

In 1997, I left clinical practice as an athletic trainer and became CEO of the Board of Certification for the Athletic Trainer or BOC, which is headquartered in Omaha. The BOC is the only certification program for athletic trainers in the United States and has been continuously accredited since 1982 by the National Commission for Certifying Agencies. The same organization that accredits the certification programs for Occupational Therapists. Currently, 49 states and the District of Columbia recognize the BOC examination as a part of their regulatory eligibility requirements, California being the only state that does not regulate the practice of athletic trainers.

The BOC examination is based on a job analysis that is national in scope. This is the gold standard for developing certification examinations. The examination is psychometrically valid and legally defensible. Many of the health professions regulated by the state use this process, although not all are recognized by an

independent, third-party accreditor. I know this because I served on the National Commission for Certifying Agencies for 5 years, serving as Chair of the Commission for 3 years.

Becoming certified and licensed is not the end of education for any healthcare professional. The body of knowledge in all disciplines are constantly changing and evolving, especially in healthcare. It is estimated that in 2020, the body of knowledge in healthcare is doubling every 73 days<sup>1</sup>! Staying abreast of the most current evidence-based treatment demands a commitment to continuing professional development.

The athletic training profession has required continuing professional education (CE) since 1976. Athletic trainers recognize and hold themselves responsible for their continuing professional education. The BOC's CE requirements are "intended to promote continued competence, development of current knowledge and skills and enhancement of professional skills and judgment. They must focus on increasing knowledge skills and abilities related to the practice of athletic training."<sup>2</sup> To maintain BOC certification, an athletic trainer must obtain 50 hours of CE every two years, 25 hours more than Nebraska currently requires of licensees. Physical Therapists and Occupational Therapists must obtain 20 hours of CE every two years in Nebraska.

One concern to the proposed change expressed by the physical therapist is that a licensee **could** provide care to a patient whose condition, age or comorbidities fall 'outside of their education and training. Specifically, in the Nebraska APTA letter of July 28, 2020 they state:

"This would include the hypotonic baby with cerebral palsy, the person with advanced pancreatic cancer with bone metastasis that needs gait training, or the lower limb amputee who needs prosthetic training who also has congestive heart failure and diabetes mellitus Type II. We do not believe they have adequate clinical experiences to treat the entire

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<sup>1</sup> Densen P. (2011). Challenges and opportunities facing medical education. *Transactions of the American Clinical and Climatological Association*, 122, 48–58.

<sup>2</sup> <https://bocatc.org/athletic-trainers#maintain-certification> accessed August 20, 2020.

spectrum of people across the lifespan with a multitude of illnesses, diseases, injuries and co-morbidities.”<sup>3</sup>

In situations such as the ones imagined by the physical therapists, the AT should refuse care and refer the patient to an appropriately trained healthcare colleague. Yes, an athletic trainer or other healthcare professional **could** provide care to a patient whose condition, age or comorbidities fall outside of their education and training under the current practice act. However, it must be remembered that if they did provide services to a patient whose condition fell outside of their knowledge and training, they would have violated the Nebraska statutes; current or proposed. The final measure of public protection lies with the disciplinary statutes and rules and regulations. This part of the regulatory process provides the public an avenue for action if a licensee exceeds their scope, education or training.

The BOC is a partner with state regulatory agencies. In this example the AT who violated the Nebraska practice act would also have violated the *BOC Standards of Professional Practice*<sup>4</sup> and face disciplinary action from the BOC. The BOC generally defers to the state, waiting to see if they take action due to the State’s higher level of authority and legal responsibility. If an athletic trainer is found to have violated their license, disciplinary action can, and most often is, taken by the BOC.

A review of the past 10 years of disciplinary cases for Athletic Trainers in Nebraska shows that the most common action has been for practicing without a license. In my 22 years at the Board of Certification we had 2 cases where violating scope was involved. In both cases, the infraction involved illegal activity related to prescription medicine.

As our healthcare system has been meeting the challenges of the current pandemic, new and innovative ways of meeting the needs of Nebraska patients are being created every day. It is impossible to forecast every possible scenario for the future. I hope that my testimony today has helped provide an understanding of the mechanisms that exist to protect the citizens of Nebraska

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<sup>3</sup> <http://dhhs.ne.gov/licensure/Credentialing%20Review%20Docs/CRAthTrnAPTALetter.pdf> Accessed August 20, 2020

<sup>4</sup> [https://bocatc.org/system/document\\_versions/versions/171/original/boc-standards-of-professional-practice-2019-20181207.pdf?1544218543](https://bocatc.org/system/document_versions/versions/171/original/boc-standards-of-professional-practice-2019-20181207.pdf?1544218543) Accessed August 20, 2020

who may interact with a licensed athletic trainer. I believe the proposal you are reviewing should be approved.