

October 7, 2020

Dear Members of the Athletic Trainers Technical Review Committee,

This letter is in response to the last 407 credentialing review process for the Nebraska State Athletic Trainers Association (NSATA) held on September 2, 2020. We would like to take this opportunity to provide feedback and rebuttal on information presented during testimonies, as well as provide a response to NSATA’s written statement to our letter submitted for the committee meeting.

The NSATA’s proposed language in section 38-403 Athletic Injuries, defined. imparts a significant scope of practice change that is highly debatable depending on the individual and profession one represents. NOTA initially requested numerous changes to NSATA’s proposed scope of practice language, and NSATA did not agree to any of our initial recommendations. NOTA compromised in agreeing to NSATA’s proposed language in sections 38-404 and 38-405 if clarity could be provided to section 38-403 because it sets the precedent for sections 38-404 and 38-405. NSATA made changes to section 38-403, but utilized different language to state the same depth of expansion. NOTA’s concern here is twofold.

First, it is important to address the language utilized to define section 38-403 as it guides all decision making for an athletic trainer. NOTA has been consistent in the concerns brought forth to NSATA with the use of the term “vocational.” As mentioned in testimony, the state examples provided in NSATA’s Initial Application (Colorado, Idaho, Washington, Wyoming), as well as those included in NSATA’s submission for the third technical review committee (Georgia, Missouri, Ohio, Vermont), do not include the language “vocational” to define an athletic injury:

Example State’s Definitions of “Athletic Injury” provided by NSATA	
Colorado	Colorado "injuries and illnesses" includes those conditions in an athlete for which athletic trainers, as the result of their education, training, and competency, are qualified to provide care.
Idaho	"Athletic injury" means a physical injury, harm, hurt or common condition (such as heat disorders), incurred by an athlete, preventing or limiting participation in athletic activity, sports or recreation, which athletic trainers are educated to evaluate and treat or refer to the directing physician.
Washington	"Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.
Wyoming	"Athletic injury" means: (A) An injury or athletic-related illness or both that affects the athlete's participation or performance in sports, games and exercise related to participation with an educational institution or professional, amateur or recreational sports club or organization; and (B) A condition that is within the scope of practice of on athletic trainer identified by a directing physician as benefiting from athletic training services.

Georgia	'Athletic injury' means any injury sustained by a person as a result of such person's participation in exercises, sports, games, or recreational activities, or any activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina without respect to where or how the injury occurs. Nothing in this paragraph shall be construed to expand the scope of practice of an athletic trainer beyond the determination of the advising and consenting physician as provided for in paragraph (2) of this Code section.
Missouri	"Athlete", any person who engages in exercise, recreation, sport, or other activity requiring physical strength, agility, flexibility, range of motion, speed, or stamina;
Ohio	"Athletic injury" means any injury sustained by an individual that affects the individual's participation or performance in sports, games, recreation, exercise, or other activity that requires physical strength, agility, flexibility, speed, stamina, or range of motion.
Vermont	"Athlete" means any individual participating in fitness training and conditioning, sports, or other athletic competition, practices, or events requiring physical strength, agility, flexibility, range of motion, speed, or stamina.

There is no evidence to support the inclusion of the language "vocational" that is provided "by unbiased sources, sources that explicitly take into account the protection of the public and which provide statistical or scientific data to support conclusions," as per page 17 of the Credentialing Review Manual. Therefore, NOTA suggested the language that more clearly articulates the desired population NSATA is wanting to work with "tactical athletes" (e.g. firefighters, military, police, etc.) with using "tactical athletic" instead of "vocational."

Additionally, upon further examination of the aforementioned definitions, it is concerning that all of the provided definitions include either the word "athlete" or "sport" and NSATA's proposal includes *neither*. This should be a concern to the technical review committee when reviewing the proposed definition of an "athletic injury." The varied use of nouns and adjectives also makes it hard to understand which clauses or phrases correlate to each other within the first sentence, and this presentation of language can have a remarkable impact on how a person interprets the definition.

NSATA Proposed Language for 38-403	NOTA Language Recommendation for 38-403
Means injuries or common illnesses and conditions related to, or limits participation in, exercise, athletic, recreational, vocational, or activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina, and which athletic trainers as a result of their education and training are qualified to provide care and make referrals to the appropriate health care professionals. An individual who is licensed as an athletic trainer may not provide, offer to provide, or represent that he or she is qualified to provide any care or services that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing.	Means injuries or common illnesses and conditions related to, or limits participation in, exercise, athletic, recreation, or tactical athletic activities that require physical strength, agility, flexibility, range of motion, speed, or stamina, and which athletic trainers as a result of their education and training are qualified to provide care and make referrals to the appropriate health care professionals. An individual who is licensed as an athletic trainer may not provide, offer to provide, or represent that he or she is qualified to provide any care or services that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing.
Vocational Defined: Of, relating to, or concerned	Condition Defined: A disease, illness, or injury

with the work in which a person is employed

Condition Defined: A disease, illness, or injury

In response to NSATAs’ response to NOTA’s testimony from the September 2, 2020 technical review meeting, NOTA is also concerned that NSATA is refusing to update their language with recommendations in an effort to insert statutory language that is based on promoting the professional interests of their members as much as they are attempting to serve additional populations, which they claim are underserved. There is no evidence that these populations are underserved. While we understand the purpose of a professional organization, we are disappointed that NSATA would claim NOTA is promoting the interests of their members by expressing concern for public safety, when, in fact, NSATA is expanding their scope of practice through the 407 process to benefit their members. Both professional concerns are different sides of the same coin.

There is additional concern with proponents, such as Jacobsen, indicating having an athletic trainer would “increase productivity in the office.” Increasing the productivity and ability of physicians to see more patients in an office is not a valid reason to widen the scope of athletic trainers. Reasoning to update the scope to benefit a physician’s productivity is an ethical concern the review committee should not ignore. What does the proposed scope of practice language in 38-403 Athletic Injuries, defined. really intend to do?

NOTA’s second concern with the proposed language in section 38-403 is that the depth of education does not warrant the significant expansion requested by NSATA. It is not clear if Criterion 4 set forth in the Credentialing Review Program section 4-008 “Criteria and Standards for a Change in Scope of Practice of a Regulated Profession” has been met.

Testimony was given that the current academic standard for athletic trainers requires four weeks of non-athlete settings with simulations being acceptable for their fieldwork experience. This equates to 160 hours of experience with non-athletes in stark comparison to the education of occupational therapists, which includes both Level I fieldwork, where hours vary by program, and 960-1,600 hours of Level II fieldwork, which is the equivalent of 24 (minimum) to 40 full time work weeks, depending on whether the student is pursuing their Master or Doctorate degree. These experiences occur across multiple practice settings with a variety of diagnoses and ages from birth to death. The Accreditation Council for Occupational Therapy Education (ACOTE) standard for occupational therapy does not allow for simulation in place of contact hours for Level II fieldwork. Although the current athletic trainer academic standards require experience in non-athlete settings, and current and future graduates may meet this requirement, all those who graduated prior to these standards being in place would not have had experience with non-athletes in their education.

NOTA is in support of NSATA’s desire to expand their scope of practice; however, NOTA is concerned that the rationales and evidence provided throughout the application do not provide adequate evidence, as noted in the Credentialing Review Manual, to justify the language used to define section 38-403 Athletic Injuries, defined. The information provided in the application is overall vague, and the evidence does not appear to meet the requirements set forth in the 407 process. While there were quite a few proponent testimonies, these were however anecdotal, were not from unbiased sources, and therefore do not support the change to public policy in regard to athletic trainers



expanding their scope of practice (and this is according to the language from the Credentialing Review Manual (pg. 17)).

NOTA's concern has remained the same. The language of section 38-403 must be clarified for the safety of the general public. We hope our more robust analysis and explanation is helpful. If you have further questions for us, please contact us at our provided emails.

Respectfully,

A handwritten signature in black ink that reads "Lindsay Tuxhorn, OTD, OTR/L".

Lindsay Tuxhorn, OTD, OTR/L
NOTA President
president.nota@gmail.com

A handwritten signature in black ink that reads "Janel Meis, OTD, OTR/L, BCP".

Janel Meis, OTD, OTR/L, BCP
NOTA Past President
notaexec@gmail.com