

June 15, 2020

Dear Credentialing Review Committee,

The Nebraska State Athletic Trainers' Association (NSATA) thanks the Nebraska Chiropractic Physicians Association (NCPA) for providing written testimony to the Technical Review Committee. The NSATA appreciated the meeting with the NCPA in November 2019 and is continuing efforts to secure another meeting to discuss this proposal and come to a shared understanding. There are several concerns the NCPA identified encompassing specific themes. The following is offered to provide clarification of those concerns.

**Portal of Entry Providers**—*paragraphs three, four, five, and eight in the NCPA testimony*

The NSATA would like to clearly state it is not the intent to achieve this with the language proposed in the application. The first draft shared with the NCPA in November 2019 included alternate wording for the presence of physician oversight; however, the NSATA realized the original proposal did not accurately reflect our intentions. In the submitted application, 38-404 maintains much of the existing statute and carries forward language clearly establishing a relationship between the referring provider and the athletic trainer, specifically “under guidelines established with a licensed physician” and requiring a referral from a licensed physician when practicing in an outpatient rehabilitation setting or medical facility. Those provisions restate the existing statute that has been in place for 22 years, which have not resulted in athletic trainers becoming portal of entry providers. The goal is to provide language which clearly maintains boundaries for the practice of athletic training. The proposed language is supported by the Nebraska Medical Association (NMA). The proposal does include the addition of chiropractors, podiatrists, nurse practitioners, dentists, and physician assistants as providers that can refer to athletic trainers. The NSATA believes the provisions established in 38-404, as well as the existence of the current disciplinary system under the Uniform Credentialing Act (UCA) by which the athletic training license is governed, are sufficient for public safety. The NSATA is not seeking direct access in our application.

Additionally, the NCPA has mentioned other providers having informal agreements and the handling of those agreements. The NSATA has made note of these comments and emphasizes this technical review process is about the practice of athletic training, not other professions.

**Diagnosis** – *paragraph three in the NCPA testimony*

The term diagnosis used in the first draft shared in November 2019 was a point of concern for many groups. Prior to submitting the application, diagnosis was removed and replaced with the term impression. The definition of ‘clinical diagnosis’ was used to define impression and was found to be acceptable through discussions with the NMA as accurately describing the result of an athletic trainer’s evaluation process. The definition used is not that of the term ‘diagnosis’ and does not provide for the use of laboratory examination or medical imaging.

**Profession Comparison** –*paragraphs four, eight and eleven in the NCPA testimony*

The NSATA is not asserting athletic trainers should have a scope of practice allowing performance of chiropractic medicine or emergency medicine. Further, the NSATA is not claiming to have the educational equivalency of an emergency physician or chiropractic physician. Specifically included within the application in 38-405 is language from Nebraska Statute 38.2025, Medicine and Surgery practice; to make it clear athletic trainers are not holding themselves out to be a physician. The NSATA does believe there are some cross over of skills with the professions listed. Assessment, musculoskeletal care, and use of therapeutic modalities are just a few examples. When athletic trainers perform these functions, however, they are doing so within the boundaries of 38-404.

Additionally, there may be some misunderstanding coming from the term ‘emergency medical services’ as used in the application. The NSATA wishes to confirm it is not asserting, nor is it believed, athletic trainers have education or training to practice emergency medicine. There are, however, some skills that

cross over with the profession of emergency medical services, a profession defined in Title 172, Chapter 12, Licensure of Emergency Medical Services.

To address the overlap of skills, the following citation from *Changes in Healthcare Professions' Scope of Practice: Legislative Considerations* addresses the following:

“Overlap among professions is necessary. No one profession actually owns a skill or activity in and of itself. One activity does not define a profession, but it is the entire scope of activities within the practice that makes any particular profession unique. Simply because a skill or activity is within one profession’s skill set does not mean another profession cannot and should not include it in its own scope of practice.” (The National Council of State Boards of Nursing, 2012)

**Grade 5 Manipulations** –*paragraph 6 in the NCPA testimony*

The NSATA agrees and understands the concern. We look forward to further dialogue on how to best address this item.

**Acupuncture and Dry Needling** – *paragraph 7 in the NCPA testimony*

For athletic trainers, these two terms are not interchangeable. Acupuncture is a licensed health care profession as defined in Title 172, Chapter 89, Regulations Governing the Practice of Acupuncture. If an athletic trainer desires to perform acupuncture, obtaining an additional license is required. The NSATA agrees athletic trainers should not perform acupuncture.

Dry needling, however, is a mechanical modality athletic trainers are trained to perform in the same manner and at the same continuing education courses as other health care professionals who currently perform dry needling in Nebraska. States where athletic trainers currently perform dry needling include Wisconsin, Indiana, Ohio, Michigan, North Carolina, Nevada, New Hampshire, Oklahoma, Texas, and South Carolina, among others. Recent reviews comparing athletic training education to dry needling tasks demonstrate athletic training students learn 89% of the skills needed to safely perform dry needling in professional educational programs, while the last 11% can be addressed through upskilling opportunities offered as a part of continuing education (Hortz, Falsone, and Tulimieri, 2019). Guidelines established with a physician and the professional responsibility of the athletic trainer to do so with adequate training and competence are required. To further ensure public protection, all health care professionals, including athletic trainers, are subject to the complaint, investigation, and disciplinary process under the UCA.

**Education and Training**– *paragraph eight in the NCPA testimony*

As stated in the existing regulations governing the practice of athletic training, all licensees must pass an exam approved by the board. Additionally, this exam is defined as the exam administered by the Board of Certification for the Athletic Trainer (BOC). This is laid forth in 17-003.01.5 and can be referenced in Appendix B on pages 50-52 of the application. Currently, the educational entry point for the athletic training profession is a bachelor’s degree in athletic training or a master’s degree in athletic training. Soon, the only point of entry will be a master’s degree in athletic training. Athletic trainers have not entered the profession via internship since 2003. Since then, “on the job training” is not an eligible route to national certification or state licensure.

Reference to the transition of athletic training education to a master’s degree was made on page 22 of the application. In context of that question’s answer, it is explained many of the continuing education opportunities on mechanical modalities are the same courses chiropractors or physical therapists attend. Inter-professional opportunities for continuing education courses occur often in health care. The NSATA does not assert our professional preparation or education process is the same as a chiropractor. The specific reference to the shift to a master’s degree was in the following paragraph where the evolution of athletic training education was outlined to demonstrate the amount of change in the education and preparation of an entry-level athletic trainer that has taken place over the past 22 years

from when the current athletic training statutes were enacted. Athletic Training is undergoing educational reform like other allied health care professions. This is to elevate the entry level degree to reflect the focused training necessary to obtain the knowledge and skills necessary to ensure competence and practice in a manner that is safe for the public.

The discussion on 38-411 and the statute allowing athletic trainers educated with a four-year degree and completion of at least two years under the supervision of an athletic trainer approved by the board is acknowledged. The only change being presented to the existing statute is changing the term 'student athletic trainer' to 'athletic training student'. This change is to reflect current language consistent with terminology used in current athletic training education programs. This provision is necessary to accommodate individuals applying for licensure who were educated in an athletic training education model that no longer exists. It does not create a second pathway to become an athletic trainer or become licensed. These individuals are still required to pass the exam approved by the board, outlined above, and they have maintained continuing education requirements for both the BOC and the state. It can be appreciated the combination of the NCPA's recurring concern about trying to expand our scope to the level of a physician, which we have already addressed, and the NCPA's limited knowledge of this past curriculum model, could present concern for them.

**State-to-State Comparison** –*paragraph 9 in the NCPA testimony*

The NSATA is confused by what is laid forth in the concerns about pages 34-36 of the application. We are not comparing our proposed language to other states. Per the application directions, the examples were provided as reference. Regardless of what other states identify, the NSATA remains focused on ensuring Nebraskans have safe access to athletic training services.

To address the comparison to other states who continue to be limited to working with the athletic population, many of them are facing the same limitations athletic trainers are in Nebraska. The continual changes in education standards prepare athletic trainers to safely work with a variety of populations. It takes time for statute to catch up with the changes in education and training. The initial application includes evidence demonstrating athletic trainers are educated and trained to follow a process of differential assessment and to recognize when an injury or illness requires a referral to a more qualified provider.

**Collaboration** –*paragraph 9 in the NCPA testimony*

It is with great disappointment to hear the NCPA did not feel the NSATA was collaborative during this process. Our efforts included:

- November 2019 – Review of initial draft language at an in-person meeting with NSATA and NCPA representatives.
- April 2, 2020 – NSATA emailed amended version of original proposal. Requested feedback and offered to meet. No response was received by the NCPA.
- April 23, 2020 – NSATA sent follow-up email to see if they were able to review with their lobbyist. No response was received by the NCPA.

The NSATA wishes to collaborate with all interested parties to reach an amicable agreement that is in the best interest of the groups involved as well as ensures public safety and access.

**Referrals from Chiropractors** – *paragraph 10 in the NCPA testimony*

The current statute and earlier drafts, referenced previously, of proposed language, limited those who may refer to athletic trainers to licensed physicians. Prior to submitting the initial application to the department, the proposal was changed to accept referrals from chiropractors, podiatrists, nurse practitioners, dentists, and physician assistants.

**Does not Demonstrate Hardship/Detriment to General Public** – *paragraph 11 in the NCPA testimony*

While it is agreed there is overlap between professions discussed in the application, it is important to consider Criteria One of the credentialing review process. The quality and timeliness of services an

athletic trainer is educated and trained to provide is currently hindered by the limitations placed on the scope of practice of athletic trainers. Essentially the current scope of practice does not allow athletic trainers to practice to the top of their education and training, which adversely affects the ability to provide care at the highest level possible.

Further, an excerpt from *Reforming Scopes of Practice: A White Paper* explains:

"Patients benefit when professions are authorized to practice to the full extent of their training and skills. The benefits include improved access to care, probable financial savings, and no reduction in safety and quality. Indeed, quality and safety may actually improve when, for example, more highly trained professionals are freed up to concentrate on more challenging tasks, or when patients receive more time and counseling from members of a healthcare team." (LeBuhn & Swankin, 2010)

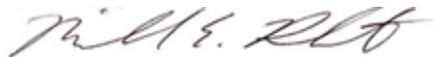
#### **Reference List**

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Sincerely,



Nebraska State Athletic Trainers' Association  
Michael Roberts, MA, ATC  
7325 N 106th Ave  
Omaha, NE 68122  
402-680-1599  
407@nsata.org

CC: Nebraska Chiropractic Physicians Association