
October 9, 2020

Dear Technical Review Committee and the Nebraska State Athletic Training Association

We have reviewed the comments submitted by the Nebraska State Athletic Trainers’ Association (NSATA) in response to our testimony at the September 8th public hearing. We want to state that we appreciate other professions pursuing the advancement of their professional Practice Act and the NSATA’s willingness to meet with us on a regular basis during this process. Our involvement in this process has been to review the athletic trainers’ proposed revisions to their practice act to ensure it protects the health and safety of Nebraskans.

In our previous discussions with the NSATA and the Technical Review Committee we have voiced our concerns about the words in 38-403 Injuries and illnesses, defined “or activities requiring physical strength, agility, flexibility, range of motion, speed and stamina”. We provided testimony that this language was too broad and did not give the athletic trainers any “guardrails” for their practice. NSATA has described certain situations in which they believe Athletic Trainers (AT) have the expertise and education to effectively render care to other individuals besides just those engaged in exercise, athletic, recreational, or vocational activities. This is their reason for adding the word “or” in the definition outlined in 38-403. We believe there are situations in which an athletic trainer could render effective care to individuals outside of athletic, recreational and vocational activities. Because of this, we no longer are opposing this particular language. However, we do believe that physician supervision, referral responsibilities, scope of practice and documentation of services need to be more defined and clarified to protect the health and well-being of Nebraskans. We will not support any practice act revisions unless these areas are addressed in their proposal.

Currently, the National Athletic Trainers’ Association (NATA) defines an Athletic Trainer as follows:

“Health care professionals who render service or treatment, under the direction of or in collaboration with a physician, in accordance with their education and training and the state’s statutes, rules, and regulations. As a part of the health care team, services provided by athletic trainers include primary care, injury and illness prevention, wellness promotion and education, emergent care, examination and clinical diagnosis, therapeutic intervention, and rehabilitation of injuries and medical conditions.”

NATA wants athletic trainers to be recognized as health care professionals. Being recognized as a health care professional elevates the responsibilities of the profession, and requires the following:

1. State licensure
2. An established formal licensure board
3. A well-defined scope of practice
4. Clarified supervision parameters, if supervised
5. Clearly stated documentation of services provided

Upon reviewing the current proposed practice act revisions, we do not see adequate wording in the area of practice scope, physician supervision, or requirements for documentation of services rendered. We suggest that in order to protect the public, the practice act revisions include further clarification and guidance for supervision, referral, scope of practice and documentation if the athletic trainer wants to have a practice act that allows them to see a diverse population with a very broad expanse of services that they can render.

We offer the following suggestions:

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<th>Current State</th>
<th>Current Proposal</th>
<th>Proposed Amendment</th>
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<td><strong>38-404 Athletic Trainer, defined</strong></td>
<td>Athletic Trainer means a health care professional who is licensed to practice athletic training under the act and who under guidelines established with a licensed physician performs the functions outlined in section 38-405. When athletic training is provided in a hospital outpatient department or clinic, the athletic trainer will perform the functions described in section 38-405 with a referral from a licensed physician, osteopathic physician, podiatrist, advanced practice registered nurse, physician assistant, dentist, or chiropractor.</td>
<td>Athletic Trainer means a health care professional who is licensed to practice athletic training under the act and who under guidelines established with a licensed physician performs the functions outlined in section 38-405 when providing care to an athlete in a sanctioned sport. When athletic training is provided in a hospital outpatient department or clinic, or an outpatient-based medical facility or clinic, the athletic trainer will perform the functions described in section 38-405 with general supervision and frequent communication of a physician along with a referral from a licensed physician, osteopathic physician, podiatrist, advanced practice registered nurse, physician assistant, dentist, or chiropractor. The referral must state the diagnosis and specific instructions or protocol for services to be provided. General supervision defined: athletic training (38-405) is furnished under the physician’s overall direction and control, but the physician’s presence is not required during the performance of this service.</td>
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Athletic trainer means a person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries under guidelines established with a licensed physician and who is licensed to perform the functions set out in section 38-408. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions described in section 38-408 with a referral from a licensed physician for athletic training.
In the past, if an athletic trainer provided care to athletes on a team, the physician provided guidelines (i.e. how to act when an acute injury or illness occurs during practice and competition). These individuals can be considered healthy and fit based on pre-season medical clearance, as is the case with high school student athletes per the Nebraska School Activities Association. We can assume these participants will likely have an expected response to an illness or injury. In a clinic whereby people having multiple chronic conditions are being treated, the “well-defined” response to injury or illness usually does not occur. Therefore, more frequent communication and increased supervision will be needed.

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<th>Current State 38-405 Athletic Training, Defined</th>
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| Athletic training means the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in section 38-408. | Athletic training or practice of athletic training means providing the following regarding injuries or common illnesses and conditions;  
- Prevention and wellness promotion;  
- Examination, assessment and impression;  
  - Impression defined: A summation of information and/or an opinion formed, which is the outcome of the examination and assessment process.  
- Immediate and emergency care including the administration of emergency drugs. Drugs include those as defined in 38-2819 except for controlled substances;  
- Therapeutic intervention/rehabilitation s, common illnesses and conditions in the manner, means, and methods deemed necessary to affect care, rehabilitation, or function;  
- Therapeutic modalities including but not be limited to, physical modalities, mechanical modalities, water, heat, light, sound, cold, and electricity. | Athletic training or practice of athletic training means providing the following regarding injuries or common illnesses and conditions;  
- Prevention and wellness promotion;  
- Examination, assessment and impression;  
  - Impression defined: A summation of information and/or an opinion formed, which is the outcome of the examination and assessment process that is documented, and a plan of care established, reviewed by physician and signed.  
  For each patient under his or her care, the athletic trainer shall ensure medical documentation is complete, accurate, timely, legible, and consistent with the NATA Best Practice Guidelines for Athletic Training Documentation. These shall also include:  
  a) Provide and document legibly the initial examination, assessment, and impression.  
  b) Provide periodic re-examination with legible documentation of the re-examination, assessment, and impression.  
  c) Establish a plan of care following either the initial examination or re-examination with short- and long-term goals that is... |
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<th>Health care administration, risk management and professional responsibility;</th>
<th>Pursuant to 38-2025 (18) the Practice of Medicine and Surgery, no athletic trainer shall hold themselves out to be a physician, surgeon, or qualified to prescribe medications.</th>
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<td>grades one through four mobilization ends.</td>
<td>reviewed and signed by referring physician or supervising physician.</td>
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<td>d) Be responsible for accurate and legible documentation of each follow up visit and billing for athletic training services provided.</td>
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<td>e) Provide legible documentation upon discharge, including patient response to athletic training intervention at the time of discharge.</td>
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<td>· Immediate and emergency care including the administration of emergency drugs. Drugs include those as defined in 38-2819 except for controlled substances;</td>
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The scope of practice of athletic trainers does not include the use of joint manipulation, grade V mobilization/manipulation, thrust joint manipulation, high velocity/low amplitude thrust, nor any other procedure intended to result in joint cavitation. Joint manipulation commences where grades one through four mobilization ends.

| · Health care administration, risk management and professional responsibility; |
|----|----|
Be responsible for all aspects of athletic training services provided to the patient and assume liability.

Pursuant to 38-2025 (18) the Practice of Medicine and Surgery, no athletic trainer shall hold themselves out to be a physician, surgeon, or qualified to prescribe medications.

Discussion: When providing care in a health care setting, it is essential that those services are documented accurately and at every visit to monitor effectiveness, establish medical necessity, and determine a need for plan of care changes. In addition to this, providing care under the general supervision of a physician requires that responsibilities of the supervisor be clearly defined.

We have not addressed the scope of practice for the athletic trainer. This will need to be defined more than simply listing interventions they provide in section 38-405. The NATA defines the “Contemporary Expertise” of the athletic trainer as:¹

“Knowledge and training of current concepts and best practices in routine areas of athletic training, which can include prevention and wellness, urgent and emergent care, primary care, orthopedics, rehabilitation, behavioral health, pediatrics, and performance enhancement. Contemporary expertise is achieved through mechanisms such as advanced education, clinical practice experiences, clinical research, other forms of scholarship, and continuing education. It may include specialization in one or more of the identified areas of athletic training practice. An individual’s role within the athletic training program should be directly related to the person’s contemporary expertise”

The above is a long list of practice areas, however, not all areas potentially encountered in a health care setting are adequately addressed in the current practice act revisions submitted by NSATA. These include oncology, geriatrics, and cardiovascular and pulmonary care. We believe this is an area that needs to be more defined. In his public testimony, Nathan Jacobson, MD story talked about using the athletic trainer as a “physician extender.” He states:⁴

“...athletic trainers performing an initial intake of a new patient in the clinical setting can provide a much more in-depth musculoskeletal history of present illness as they know the musculoskeletal system better than a medical assistant or nurse (RN or LPN). This allows them to focus in on the pathology much quicker and provide me more directed information upon entering the exam room. Utilizing their musculoskeletal knowledge and standing orders for ordering appropriate x-rays for their supervising physician should be one of the many privileges extended to athletic trainers in Nebraska.”

We have not addressed the responsibilities of a physician when an exam, assessment, and impression is provided by an athletic trainer prior to the physician examining the patient. Additionally, at no time in the current proposal has any attention been directed to ordering images as stated by Dr. Jacobson. What has been mentioned by Dr. Jacobson in his testimony is: ⁴

“There is no question that having someone with an athletic trainer’s education level would increase my productivity in the office as well as facilitate improved patient care.”
These comments blatantly contradict the following reasons outlined in the 2019 Uniform Credentialing Act 71-6221 (3a and 3b)\(^5\) for changing a regulated health profession scope of practice. These state:

- 71-6221 (3a)-The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.
- 71-6221 (3b)-Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.

This testimony demonstrates an inadequacy in education programs, not inadequate public health, safety, and welfare. Dr. Jacobson’s comment “Musculoskeletal training is a known weakness of medical education programs in training in the United States, and athletic trainers could play a support role in bolstering this skill set” seemingly validates this. Finally, Dr. Jacobson points to financial incentive as a benefit versus the benefit of public health, welfare, and safety.

Regarding emergency drugs, if an athletic trainer will be managing patients outside of the athletic setting with defined guidelines of the supervising physician, is the administering of drugs adequately defined for guidance when writing new rules and regulations?

There is a desire to expand the list of “areas” that the athletic trainer can practice. Yet, does the current revisions adequately address the potential areas that an athletic trainer can practice in order to protect the citizens of Nebraska? The Nebraska Chapter of the APTA does not believe it does.

The above are suggestions/recommendations. The Nebraska Chapter of the APTA would be happy to assist the athletic trainers in formulating additional revisions that would adequately address physician supervision, referral responsibilities, scope of practice, and documentation of such services.

We look forward to continued discussion.

Sincerely yours,

Grace Knott PT
Nebraska Chapter-APTA President
402-981-0086

5. State of Nebraska Statutes Relating to Uniform Credentialing Act and Health Care Quality Improvement Act, Nebraska Regulation of Health Professions Act, and Verification of Lawful Presence. (2019)