

**REPORT OF RECOMMENDATIONS AND FINDINGS ON THE  
PROPOSAL TO EXPAND THE SCOPE OF PRACTICE OF  
ATHLETIC TRAINERS**

By the Nebraska State Board of Health

To the Director of the Division of Public Health of the Department of  
Health and Human Services and the Members of the Health and  
Human Services Committee of the Legislature

November 16, 2020

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## **Part One: Preliminary Information**

### **Introduction**

The Credentialing Review Program is a review process advisory to the Legislature which is designed to assess the need for state regulation of health professionals. The credentialing review statute requires that review bodies assess the need for credentialing proposals by examining whether such proposals are in the public interest.

The law directs those health occupations and professions seeking credentialing or a change in scope of practice to submit an application for review to the Department of Health and Human Services, Division of Public Health. The Director of this Division will then appoint an appropriate technical review committee to review the application and make recommendations regarding whether or not the application in question should be approved. These recommendations are made in accordance with statutory criteria contained in Section 71-6221 of the Nebraska Revised Statutes. These criteria focus the attention of committee members on the public health, safety, and welfare.

The recommendations of technical review committees take the form of written reports that are submitted to the State Board of Health and the Director of the Division along with any other materials requested by these review bodies. These two review bodies formulate their own independent reports on credentialing proposals. All reports that are generated by the program are submitted to the Legislature to assist state senators in their review of proposed legislation pertinent to the credentialing of health care professions.

## **LIST OF MEMBERS OF THE NEBRASKA STATE BOARD OF HEALTH**

Kevin Borchert, PharmD, RP

Shane Fleming, BSN, MSN, RN

Michael Hansen, (Hospital Administrator)

Diane Jackson, APRN

John Kuehn, DVM

Kevin Low, DDS

Joel Bessmer, MD

Debra Parsow (Public Member)

Daniel Rosenthal, PE

Wayne Stuberger, PhD, PT (Vice Chair)

Timothy Tesmer, MD

Joshua Vest, DPM

Douglas Vander Broek, DC

Jeromy Warner, PsyD, LP

The Board's Credentialing Review Committee met in the morning of November 16, 2020 to formulate its' recommendations on the Athletic Trainer's proposal.

The members of the full Board of Health met in the afternoon of November 16, 2020 to formulate their recommendations on the Athletic Trainer's proposal.

## **Part Two: Summary of Board of Health Recommendations**

The Board Committee members recommended approval of the Athletic Trainer proposal.

The members of the full Board recommended approval of the Athletic Trainer proposal.

## **Part Three (A): Summary of the Applicants' Original Proposal**

The NSATA would like to request revisions to specific statutes in the Nebraska Athletic Training Scope of Practice. Athletic trainers continue to hold a unique role in health care, and their skills, education, and populations served have continued to evolve. This ongoing change has now surpassed the boundaries of the current scope of practice. To ensure Nebraskans have access to the level of care they deserve and to protect their safety, it is necessary to adapt the current scope of practice to reflect this change including future advancement of the skills and education of athletic trainers. Appendix A shows the complete State of Nebraska Statutes relating to the Practice of Athletic Training (2017). The proposed changes to the practice act are as follows:

| <b>38-403 Athletic Injuries, defined.</b>   |   |
|---|---|
| <b>Current Statute</b>  | <b>Proposed Language</b>  |
| Athletic injuries mean the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation. | 38-403 Injuries and illnesses, defined.<br>Means conditions and common illnesses 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. |

| <b>38-404 Athletic Trainer, defined.</b>   |  |
|--|--|
| <b>Current Statute</b>   | <b>Proposed Language</b>   |
| 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. | 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 or an outpatient-based medical facility, 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. |

**38-405 Athletic training, defined.**

| Current Statute  | Proposed Language  |
|--|--|
| <p>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.</p> | <p>Athletic training or practice of athletic training means providing the following regarding injuries and illnesses;</p> <ul style="list-style-type: none"> <li>• Prevention and wellness promotion;</li> <li>• Examination, assessment and impression; <ul style="list-style-type: none"> <li>○ Impression defined: The estimated identification of the disease underlying a patient's complaints based on the signs, symptoms, medical history and physical examination of the patient rather than on laboratory examination or medical imaging.</li> </ul> </li> <li>• Immediate and emergency care including the administration of emergency drugs. Drugs include those as defined in 38-2819 except for controlled substances;</li> <li>• Therapeutic intervention/rehabilitation of injury and illness in the manner, means, and methods deemed necessary to affect care, rehabilitation, or function;</li> <li>• Therapeutic modalities including but not be limited to, physical modalities, mechanical modalities, water, heat, light, sound, cold, and electricity;</li> <li>• Health care administration, risk management and professional responsibility;</li> <li>• 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.</li> </ul> |

**38-407 Practice Site, defined.**

| Current Statute   | Proposed Language      |
|---|------------------------|
| <p>Practice site means the location where the athletic trainer practices athletic training.</p> | <p>Strike Section.</p> |

**38-408 Athletic trainers; authorized physical modalities**

| Current Statute   | Proposed Language  |
|---|--|
| <p>(1) Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a licensed physician:</p> <ul style="list-style-type: none"><li>(a) Application of electrotherapy;</li><li>(b) Application of ultrasound;</li><li>(c) Use of medical diathermies;</li><li>(d) Application of infrared light; and</li><li>(e) Application of ultraviolet light.</li></ul> <p>(2) The application of heat, cold, air, water, or exercise shall not be restricted by the Athletic Training Practice Act.</p> | <p>Revise and move to section 38-405, under the fifth bullet point reading as: "Therapeutic modalities including but not be limited to, physical modalities, mechanical modalities, water, heat, light, sound, cold, and electricity;"</p> |

**38-409. License required; exceptions.**

| Current Statute  | Proposed Language   |
|--|---|
| <p>No person shall be authorized to perform the physical modalities set out in section 38-408 on any person unless he or she first obtains a license as an athletic trainer or unless such person is licensed as a physician, osteopathic physician, chiropractor, nurse, physical therapist, or podiatrist. No person shall hold himself or herself out to be an athletic trainer unless licensed under the Athletic Training Practice Act.</p> | <p>No person shall hold himself or herself out as an athletic trainer in this state unless such person has been licensed as such under the provisions of sections 38-401 to 38-414.</p> |

**38-410. Licensure requirements; exemptions.**

| Current Statute   | Proposed Language  |
|---|--|
| <p>(1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.</p> <p>(2) An individual who is a graduate student in athletic training and who is practicing under the supervision of a licensed athletic trainer is exempt from the licensure</p> | <p>(1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.</p> <p>(2) An athletic training student who is enrolled in an accredited athletic training education program or in good standing, and who is practicing under the supervision of a licensed athletic trainer is exempt</p> |



requirements of the Athletic Training Practice Act.

from the licensure requirements of the Athletic Training Practice Act.

**38-411 Applicant for licensure; qualifications; examination.**

| <b>Current Statute</b>   | <b>Proposed Language</b>  |
|--|---|
| <p>(1) An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:</p> <ul style="list-style-type: none"><li>• Graduation after successful completion of the athletic training curriculum requirements of an accredited college or university approved by the board; or</li><li>• Graduation with four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as a student athletic trainer under the supervision of an athletic trainer approved by the board.</li></ul> <p>(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the board.</p> | <ul style="list-style-type: none"><li>• An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:<ul style="list-style-type: none"><li>○ Graduation after successful completion of the athletic training curriculum requirements of an accredited college or university approved by the board; or</li><li>○ Graduation with four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as an athletic training student under the supervision of an athletic trainer approved by the board.</li></ul></li><li>• In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the board.</li></ul> |

## **Part Three (B): Summary of Amendments to the Applicants' Original Proposal**

**3) If the profession is currently credentialed in Nebraska, provide the current scope of practice of this occupation as set forth in state statutes. If a change in this scope of practice is being requested, identify that change. This description of the desired scope of practice constitutes the proposal. The application comprises the documentation and other materials that are provided in support of the proposal.**

The NSATA would like to request revisions to specific statutes in the Nebraska Athletic Training Scope of Practice. The proposed amendments are summarized in the tables below with underlined red lettering for any additions, and strikethroughs for any language to be removed. Appendix A of the original application shows the complete State of Nebraska Statutes relating to the Practice of Athletic Training (2017). The proposed amendments to the initial proposal are as follows: **38-403 Athletic Injuries, defined.**

### **Current Statute**

Athletic injuries mean the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation.

### **Initial Proposal**

38-403 Injuries and illnesses, defined.

Means conditions and common illnesses 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.

### **Proposed Amendments**

38-403 Injuries and illnesses, defined.

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.

· Vocational Defined: Of, relating to, or concerned with the work in which a person is employed

· Condition Defined: A disease, illness, or injury

### **Comments**

The NSATA accepted the recommendation from the APTA-NE to use “*vocational*” and intends to define the term. The NSATA is proposing to add “*exercise, athletic, recreational, vocational, or activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina*”. The proposed language captures the types of injuries or common illnesses and conditions athletic trainers can treat as a result of their education and training. The amended language is consistent other state practice acts including Georgia, Missouri, Ohio, and Vermont. None of the states with similar language have seen an increase in the number of discipline cases since the implementation of their respective language. The NSATA contends that these proposed amendments continue to ensure public safety. For the public to access athletic training services, they must first obtain a referral from a licensed health care provider listed

in 38-404 when working in an outpatient setting. These services must be within the athletic trainer's scope of practice as well as their level of education and training. Additionally, the athletic trainer must maintain professional responsibility and recognize when any medical conditions associated with the patient are beyond their scope or education and training.

### State Examples with Similar Language

#### 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. ◦ Link: [https://sos.ga.gov/plb/acrobat/Laws/17\\_Athletic\\_Trainer\\_43-5.pdf](https://sos.ga.gov/plb/acrobat/Laws/17_Athletic_Trainer_43-5.pdf) (Page 1)
- Implementation: 2008
- No increase in discipline cases in last five years

#### Missouri

- "Athlete", any person who engages in exercise, recreation, sport, or other activity requiring physical strength, agility, flexibility, range of motion, speed, or stamina; ◦ Link: <file:///C:/Users/michael.roberts/AppData/Local/Microsoft/Windows/INetCache/IE/J2BIFE7J/4438H.06S.pdf> (Page 155)
- Implementation: 2020
- No data available related to the number of discipline cases tied to the new statutes at this time

#### 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. ◦ Link: <https://www.otptat.ohio.gov/Portals/0/laws/AT%20Laws%20and%20Rules%2005-31-2019.pdf?ver=2019-05-31-150441-090> (Page 6)
- Implementation: 2018

- o No increase in the number of discipline cases since implementation

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. o Link: <https://legislature.vermont.gov/statutes/fullchapter/26/083>
- o Implementation: 1999
- o No increase in the number of discipline cases in last five years

**38-404 Athletic Trainer, defined.**

**Current Statute**

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.

**Initial Proposal**

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, or an outpatient-based medical facility, 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.

**Proposed Amendments**

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, or an outpatient-based medical facility 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.

**Comments**

Inserted or clinic based on concerns from NCPA wanting to ensure that language would not create a scenario that allows for direct access. The NSATA's intent of the language is not to create direct access for athletic trainers in outpatient settings.

### 38-405 Athletic training, defined.

#### Current Statute

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.

#### Initial Proposal

Athletic training or practice of athletic training means providing the following regarding injuries and illnesses;

- Prevention and wellness promotion;
- Examination, assessment and impression;
- Impression defined: The estimated identification of the disease underlying a patient's complaints based on the signs, symptoms, medical history and physical examination of the patient rather than on laboratory examination or medical imaging.
- 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 of injury and illness 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.
- Health care administration, risk management and professional responsibility;
- Pursuant to 38-2025 (18) the Practice of Medicine and Surgery, no athletic trainer shall hold themselves

#### Proposed Amendments

Athletic training or practice of athletic training means providing the following regarding injuries or common and 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. ~~The estimated identification of the disease underlying a patient's complaints based on the signs, symptoms, medical history and physical examination of the patient rather than on laboratory examination or medical imaging.~~
- 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 of injuries and 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.

#### Comments

Inserted "injuries or common illnesses and conditions" to ensure continuity with 38-403. Inserted definition of medical impression based on NCPA's concern with using clinical diagnosis to define impression. Inserted language excluding athletic trainers from performing grade V manipulations based on concerns from NCPA. Updated exclusionary language to better delineate where grade I-IV mobilizations end and grade 5 manipulations commence. Dry Needling- Based on 2016 AG opinion dry needling is considered a mechanical modality. The NSATA plans to address education and training requirements to be able to perform dry needling in rules and regulations.

out to be a physician, surgeon, or qualified to prescribe medications.

omobilization/ manipulation, athletic joint manipulation, high velocity/low amplitude thrust, or any other procedure intended to result in joint cavitation. Joint manipulation/low amplitude thrust, or any other procedure intended to result in joint cavitation, mobilization and joint health care administration, risk management and professional responsibility, mobilization ends.

- ~~Practice as a 2025 (18) the Practice of Medicine and Surgery, no athletic trainer shall hold themselves out to be a 38-2026 (1) Surgeon, or qualified to prescribe medications.~~

no athletic trainer shall hold themselves out to be a physician, surgeon, or qualified to prescribe medications.

**38-407 Practice Site, defined.**

**Current Statute**

Practice site means the location where the athletic trainer practices athletic training.

**Initial Proposal**

Strike Section.

**Proposed Amendments**

Strike Section.

**Comments**

No amendments made. No comments or concerns from Technical Committee, NMA, NCPA, APTA-NE, NOTA.

**38-408 Athletic trainers; authorized physical modalities**

**Current Statute**

(1) Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a licensed physician:  
(a) Application of electrotherapy;  
(b) Application of ultrasound;  
(c) Use of medical diathermies;  
(d) Application of infrared light; and

**Initial Proposal**

Revise and move to section 38-405, under the fifth bullet point reading as: "Therapeutic modalities including but not be limited to, physical modalities, mechanical modalities, water, heat, light, sound, cold, and electricity;"

**Proposed Amendments**

Revise and move to section 38-405, under the fifth bullet point reading as: "Therapeutic modalities including but not be limited to, physical modalities, mechanical modalities, water, heat, light, sound, cold, and electricity;"

**Comments**

No amendments made. No comments or concerns from Technical Committee, NMA, NCPA, APTA-NE, NOTA.

(e) Application of ultraviolet light.  
(2) The application of heat, cold, air, water, or exercise shall not be restricted by the Athletic Training Practice Act.

**38-409. License required; exceptions.**

**Current Statute**

No person shall be authorized to perform the physical modalities set out in section 38-408 on any person unless he or she first obtains a license as an athletic trainer or unless such person is licensed as a physician, osteopathic physician, chiropractor, nurse, physical therapist, or podiatrist. No person shall hold himself or herself out to be an athletic trainer unless licensed under the Athletic Training Practice Act.

**Initial Proposal**

No person shall hold himself or herself out as an athletic trainer in this state unless such person has been licensed as such under the provisions of sections 38-401 to 38-414.

**Proposed Amendments**

No person shall hold himself or herself out as an athletic trainer in this state unless such person has been licensed as such under the provisions of sections 38-401 to 38-414.

**Comments**

No amendments made. No comments or concerns from Technical Committee, NMA, NCPA, APTA-NE, NOTA.

**38-410. Licensure requirements; exemptions.**

**Current Statute**

(1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.  
(2) An individual who is a graduate student in athletic training and who is practicing under the supervision of a licensed athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.

**Initial Proposal**

(1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.  
(2) An athletic training student who is enrolled in an accredited athletic training education program or in good standing, and who is practicing under the supervision of a licensed athletic trainer is exempt

**Proposed Amendments**

(1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.  
(2) An athletic training student who is enrolled in an accredited athletic training education program or in good standing, and who is practicing under the supervision of a licensed athletic trainer is exempt

**Comments**

No amendments made. No comments or concerns from Technical Committee, NMA, NCPA, APTA-NE, NOTA.

from the licensure requirements of the Athletic Training Practice Act.

from the licensure requirements of the Athletic Training Practice Act.

**38-411 Applicant for licensure; qualifications; examination.**

**Current Statute**

(1) An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:

(a) Graduation after successful completion of the athletic training curriculum requirements of an accredited college or university approved by the board; or

(b) Graduation with four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as a student athletic trainer under the supervision of an athletic trainer approved by the board.

(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the board.

**Initial Proposal**

(1) An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:

a. Graduation after successful completion of the athletic training curriculum requirements of an accredited college or university approved by the board; or

b. Graduation with four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as an athletic training student under the supervision of an athletic trainer approved by the board.

(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the board.

**Proposed Amendments**

(1) An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:

a. Individuals graduating prior to January 1, 2004 must provide proof of:

i. Graduation after successful completion of the curriculum requirements of an accredited athletic training education program at ~~athletic training curriculum requirements~~ of an accredited college or university approved by the board; or

ii. Graduation with four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as an athletic training student under the supervision of an athletic trainer approved by the board

b. Individuals graduating after January 1, 2004, must provide proof of graduation after successful completion of the curriculum requirements of an accredited

**Comments**

Per the recommendation from the NCPA, inserted grandfather language for athletic trainers who became certified via internship route and graduated prior to January 1, 2004.

No additional comments or concerns expressed after NMA, NCPA, APTA-NE, and NOTA reviewed amended language for this statute.



athletic training education program at an accredited college or university approved by the board.

(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the board.

**The full text of the most current version of the applicants' proposal can be found under the Athletic Trainers in the credentialing review program link at <http://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>**

## **Part Four: Discussion and Recommendations of the Members of the Credentialing Review Committee of the Board of Health on the Athletic Trainer Proposal**

Board member Diane Jackson, APRN, chairperson of the Athletic Trainers Technical Review Committee, informed the Board committee members about the review process conducted by her committee. Ms. Jackson stated that the applicants seek to expand their scope of practice so as to provide athletic trainer services to non-athletes. Ms. Jackson went on to state that throughout the review process of her committee the applicants worked closely with other interested parties such as NOTA and NPTA to address the concerns raised about their proposal by the leaders of these interested parties. Ms. Jackson informed the Board members that the members of her committee recommended approval of an amended version of the athletic trainer proposal.

Board member John Kuehn, DVM, asked Ms. Jackson to discuss the concerns raised by NOTA and NPTA. Ms. Jackson responded that concerns were expressed about how oversight would work under the terms of the proposal. Dr. Kuehn asked if the applicants were successful in addressing the concerns of these interested parties. Ms. Jackson responded by stating that the applicants have made great progress towards resolving the concerns of these interested parties and that they and these interested parties are now very close to a resolution of their outstanding differences.

Board member Douglas Vander Broek, DC, asked Ms. Jackson if concerns about athletic trainers performing dry needling have been addressed. Ms. Jackson responded by stating that to her knowledge this concern has not as yet been addressed. Dr. Vander Broek then asked Ms. Jackson whether providers other than physicians would be included among those allowed to make referrals to athletic trainers such as chiropractors and osteopaths, for example. Ms. Jackson responded by stating that these matters are still outstanding and that her committee members indicated that these kinds of matters should be left for future negotiations between the applicants and these particular interested parties to resolve.

Rusty McKune, A.T., presented comments to the Board members summarizing the applicants' proposal. Mr. McKune stated that the last time the athletic trainer practice act was updated was twenty-two years ago, and that much has changed vis-à-vis athletic trainer education and training since that time. Athletic trainers are now well-prepared to treat non-athletes under guidelines established for them by physicians. Mr. McKune went on to state that the applicant group is determined to address the concerns of other interested parties via on-going negotiations, for example, including concerns about dry-needling, oversight of athletic trainer services, and matters pertinent to which professionals could make referrals to athletic trainers for patient services, for example.

Grace Knott, PT, commented that her profession has outstanding concerns about the provisions in the applicant's proposal pertinent to supervision, provisions that, as yet, are not precisely defined or clarified to the satisfaction of NPTA.

Kody Moffat, MD, commented that members of his profession have assisted in the development of practice guidelines for athletic trainers and that these guidelines should be sufficient to protect the public vis-à-vis the expanded scope being proposed for athletic trainers.

**The Board of Health Credentialing Review Committee members continued their review of the athletic trainer proposal by discussing the six statutory criteria pertinent to scope of practice reviews, as follows:**

**Criterion One:** The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

Board member Kuehn stated that he sees no need for this proposal.  
Board member Vest stated that the proposal satisfies criterion one.  
Board member Warner stated that the proposal satisfies criterion one.  
There were no other comments on criterion one.

**Criterion Two:** Enactment of the proposed change in scope of practice would benefit the health, safety, and welfare of the public.

Board member Warner stated that the proposal satisfies criterion two, adding that more access to quality care is always a good thing.  
Board member Vest stated that the proposal satisfies criterion two.  
Board member Fleming stated that the proposal satisfies criterion two.  
Board member Kuehn stated that the proposal satisfies criterion two, and agreeing with Dr. Warner that improved access is a good thing.

**Criterion Three:** The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.

Board member Warner stated that the proposal satisfies criterion three.  
Board member Vest stated that the proposal satisfies criterion three.  
Board member Fleming stated that the proposal satisfies criterion three.  
Board member Kuehn stated that the proposal satisfies criterion three.

**Criterion Four:** The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

Board member Warner stated that the proposal satisfies criterion four.  
Board member Vest stated that the proposal satisfies criterion four.  
Board member Fleming stated that the proposal satisfies criterion four.  
Board member Kuehn stated that the proposal does not satisfy criterion four.

**Criterion Five:** There are appropriate post-professional programs and competency assessment measures available to assure that the practitioner is competent to perform the new skill or service in a safe manner.

Board member Warner stated that the proposal satisfies criterion five.  
Board member Vest stated that the proposal satisfies criterion five.  
Board member Fleming stated that the proposal satisfies criterion five.  
Board member Kuehn stated that the proposal does not satisfy criterion five.

**Criterion Six:** There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

Board member Warner stated that the proposal satisfies criterion six.

Board member Vest stated that the proposal satisfies criterion six.

Board member Fleming stated that the proposal satisfies criterion six.

Board member Kuehn stated that the proposal does not satisfy criterion six.

## **Credentialing Review Committee Recommendations on the Athletic Trainer Proposal**

The Board's Credentialing Review Committee members made their recommendation on the athletic trainer proposal via a Yes / No vote, as follows:

***Voting "yes" to recommend approval of this proposal were:***

Warner, Fleming, Vest, and Jackson

***Voting "no" to recommend against approval of this proposal was:*** Kuehn

By this vote the Board's Credentialing Review Committee members recommended approval of the athletic trainer proposal.

## **Part Five: The Recommendations of the Members of the Full Board of Health on the Athletic Trainer Proposal**

### **Discussion on the proposal**

Board member Diane Jackson, APRN, chairperson of the Athletic Trainer Technical Review Committee, briefly summarized the issues her committee reviewed since the inception of the review early in June of 2020. Ms. Jackson informed the Board members that most of the concerns expressed about the proposal came from two professions, specifically, NOTA and NPTA. Ms. Jackson informed the Board members that most of their concerns focused around questions about oversight of athletic trainers who would be practicing outside the context of educational institutions or sports organizations whereby they would be treating the athletic injuries of non-athletes. Ms. Jackson went on to state that by the time her committee had completed its work NOTA had ceased its opposition to the proposal and NPTA was close to resolving its differences with the applicant group on these oversight concerns. Ms. Jackson went on to say that there are still some outstanding differences among the parties over questions about who should be able to refer patients to athletic trainers. However, she informed the Board members that the technical committee members decided to leave these concerns for the contending parties to work out on their own via negotiations rather than involve themselves in this matter.

Board member Timothy Tesmer, MD, asked the applicants where—or in what kind of health care context—athletic trainers would provide services to non-athletes, if the proposal were to pass. Rusty McKune, AT, responded to this question by stating that these athletic trainers would be practicing in physicians' offices, rehabilitation centers, and industrial settings, for example.

Board member Wayne Stuberg, PhD, PT, expressed concern that details regarding how oversight of athletic trainer services would be provided to non-athletes have not been clarified. Rusty McKune responded by stating that his group would continue to network with NPTA representatives on these and other outstanding issues raised during the review of their proposal.

### **The recommendations of the members of the full Board of Health**

The Board of Health members made their recommendation on the athletic trainer proposal via a Yes / No vote on the recommendation of their Credentialing Review Committee, as follows:

***Voting “yes” to recommend approval of this committee’s recommendation which was to recommend approval of the applicants’ proposal were:***

Warner, Fleming, Vest, Bessmer, Borchert, Hansen, Jackson, Low, Tesmer, Vander Broek.

***Voting “no” to recommend against approval of this committee’s recommendation were:*** Kuehn and Stuberg

By this vote the members of the full Board of Health recommended approval of the athletic trainer proposal.