

WEST  
VIRGINIA

LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

## Sunrise Report

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# Licensing Of Athletic Trainers

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**Licensing Athletic Trainers as  
Proposed Would Impose More Cost to  
Society Than Benefits**



December 2007  
PE 07-14-419

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# Executive Summary

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The West Virginia Athletic Trainers' Association (WVATA) submitted its second application in three years to the Joint Committee on Government Organization requesting licensure of the profession within the state. The WVATA identified two reasons for granting licensure. First the Applicant contends that state licensure is needed to protect the public from harm. However, the National Athletic Trainers Association Board of Certification (NATABOC) certifies athletic trainers. According to NATABOC over the last five years there have been no cases of complaints, misrepresentation, or revocation. In addition, the West Virginia Department of Education (WVDE) which certifies and employs athletic trainers in West Virginia also has had no cases of complaints, misrepresentation or revocation in West Virginia. The lack of complaints or revocations, and no cases of misrepresentation by both NATABOC and the WVDE indicates a low incidence of danger to public safety from nationally certified and state WVDE state-certified athletic trainers. The second reason for licensure was that with the current status of unregulated practice in this state there are no established standards of practice for athletic trainers. **Both NATABOC and the WVDE have general rules, policies, governing principles and the means to revoke an athletic trainer's license based on substandard conduct.**

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*It is also the Legislative Auditor's opinion that state licensure as proposed would affect the supply of athletic trainers and would duplicate what already exists at the national and state level.*

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**Under the proposed application, it is the Legislative Auditor's opinion that the cost of licensure of athletic trainers would exceed the benefits to the state.** The benefits appear to be relatively small given that the incidence rate of harm to the public from the profession is low. It is also the Legislative Auditor's opinion that state licensure as proposed would affect the supply of athletic trainers and would duplicate what already exists at the national and state level. Currently, 126 athletic trainers with degrees who work high school football games for the WVDE are not certified by NATABOC. Under the current application, these individuals would not be able to perform these services unless they become certified by NATABOC and then licensed by the state. The fact that the WVDE has had to employ non-NATABOC certified athletic trainers to fill the majority of athletic training positions indicates that a potential shortage of ATCs would occur if these individuals were required to be certified by NATABOC and then the proposed board. Requiring licensure would negatively affect the WVDE and other occupations that require athletic trainers.

It is the Legislative Auditor's opinion that should the Legislature license athletic trainers it would be more cost effective to do this through an existing board or state agency. In addition, the regulation of athletic trainers can be performed by other means than that proposed within the application. If the Legislature believes some form of regulation is

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warranted, it should consider licensure under an existing board that does not duplicate NATABOC certification, or certification, registration or exemption under an existing board as an alternative.

## **Recommendations**

1. *The Legislative Auditor does not recommend establishing licensure of athletic trainers as proposed by the Applicant.*
2. *Should the Legislature consider some form of regulation, the Legislative Auditor recommends licensure under an existing board or state agency that does not duplicate NATABOC certification similar to the state of Texas, or Registration or Certification under an existing agency such as the Board of Physical Therapy or the Board of Chiropractic.*

# Finding 1

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## Licensing Athletic Trainers as Proposed Would Impose More Cost to Society Than Benefits.

### Introduction

*Athletic training is the application of principles and procedures in the management of injuries received during physical activity.*

*Athletic trainers can work in a variety of settings such as athletic departments, sports medicine clinics, secondary schools, professional sporting events, health clubs, and industrial health care programs.*

The West Virginia Athletic Trainers' Association (WVATA) submitted its second application in three years to the Joint Committee on Government Organization requesting licensure of the profession within the state. During CY 2004, the Performance Evaluation and Research Division completed a sunrise review on the proposal of licensure for athletic trainers. The recommendation of that review was to not license athletic trainers. The rationale was that data nationally and on the state level indicated that there was a low risk of harm to the public and the cost of the new board would outweigh any added benefits provided. **The Legislative Auditor has reviewed the 2007 sunrise application and again concludes that the cost of a new board would outweigh any added benefits provided and there is a low incidence rate of harm to the public.** To some extent, this profession is regulated. The Legislative Auditor provides alternative ways of enhancing the regulation of this profession if the Legislature determines a need for enhanced regulation.

Athletic training is the application of principles and procedures in the management of injuries received during physical activity. The term "Athletic Trainer Certified (ATC)" refers only to those individuals who have completed the necessary requirements to take the National Athletic Trainers' Association Board of Certification (NATABOC) exam and passed. The certified athletic trainer works under the supervision of a licensed physician or other regulated health care professionals to provide medical services to individuals who have suffered injuries. The athletic trainer is typically responsible for initial injury assessment. Following an injury, the athletic trainer and physician can provide therapeutic care to provide an individual's safe return to activity. Athletic trainers can work in a variety of settings such as athletic departments, sports medicine clinics, secondary schools, professional sporting events, health clubs, and industrial health care programs.

### The West Virginia Athletic Trainer's Association Seeks State Regulation by Licensure

The WVATA submitted an application to the Joint Committee on Government Organization for licensure of the profession. The WVATA identified the need for state licensure to protect the public from cases of

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misrepresentation:

*When licensure is in place the public will be more completely protected when dealing with an athletic trainer. At this time anyone can call himself or herself an athletic trainer and the public is not made aware of the difference.*

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*According to the application, it would be considered unlawful for an individual to practice as a certified athletic trainer in this state unless he or she is NATABOC certified.*

The Applicant also argued that with established standards, legal action can be brought against an athletic trainer:

*Should a person seek to bring legal action against an athletic trainer, the problem will be proving that the conduct of the athletic trainer was substandard because there are no established standards. The athletic training licensing board will establish these standards.*

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*Currently, there are 46 states with some form of regulation.*

According to the application, it would be considered unlawful for an individual to practice as a certified athletic trainer in this state unless he or she is NATABOC certified. The WVATA reported that the proposal of licensure was ideal because a lesser form of regulation such as registration was "...essentially just maintaining a list of practitioners" and therefore not sufficient to protect the public from unqualified trainers. The WVATA did not consider certification adequate as a means of regulation because "...there is no follow up." Licensure according to the Applicant "...directly oversees the activities of the licensees ensuring professional conduct, adhering to a code of ethics, enforcing standards of practice, and in general, accountability for the actions of the practitioners."

## Current Regulation Among Other States

Currently, there are 46 states with some form of regulation (see Appendix B). Table 1 documents 36 states have licensure, 5 states have certification, 2 states have registration and 3 utilize exemption as a form of regulation. Alaska, California, Maryland and West Virginia are unregulated. California, which has the largest number of NATABOC certified athletic trainers, does not yet license the profession. Twelve states of the 36 states that have licensure, have a stand alone athletic trainer board, the remaining 24 states license this profession through a state agency or another board (see Appendix B).

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*Since the year 2000, twelve states (Arizona, Arkansas, Connecticut, Michigan, Montana, Nevada, New Hampshire, Tennessee, Utah, Virginia, Washington and Wisconsin) have instituted licensure.*

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**Table 1**  
**Current Regulation of Athletic Trainers in the United States**

	Licensure	Certification	Registration	Exemption
Number of States with regulation	36	5	2	3

*Source: NATABOC*

Since the year 2000, twelve states (Arizona, Arkansas, Connecticut, Michigan, Montana, Nevada, New Hampshire, Tennessee, Utah, Virginia, Washington and Wisconsin) have instituted licensure.

## National Certification Through NATABOC

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*The National Athletic Trainers Association Board of Certification (NATABOC) certifies athletic trainers. NATABOC has been responsible for the certification of athletic trainers since 1969.*

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The National Athletic Trainers' Association (NATA) is the professional membership association for certified athletic trainers and others who support the athletic training program. The National Athletic Trainers Association Board of Certification (NATABOC) certifies athletic trainers. NATABOC has been responsible for the certification of athletic trainers since 1969. NATABOC is the only accredited certification program for athletic trainers in the United States. According to NATABOC, there are over 30,000 certified athletic trainers in the country. In order to attain certification as an athletic trainer, a candidate must graduate from an entry-level accredited athletic training curriculum and then pass the 4 hour computerized national certification exam.

The term "Athletic Trainer Certified (ATC)" refers only to those individuals who have passed the NATABOC exam. In order to sit for the exam the individual must first have completed an Athletic Training Education Program (ATEP) which is accredited by the Commission on Accreditation of Athletic Training Education (CAATE) or another similar agency that accredits ATEPs. There are currently 358 CAATE accredited schools in the United States. Six of those schools are in West Virginia. The test is a four hour computerized written exam. Once the student has both graduated from an athletic training program and successfully passed the NATABOC exam, he or she is considered to be an ATC. The duties

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of the ATC, according to the Sunrise application, are as follows:

**Athletic training is recognized by the American Medical Association (AMA) as an allied healthcare profession.**

*Certified athletic trainers (ATCs) are allied health care professionals whose main focus is to prevent, recognize, manage and rehabilitate injuries that result from physical activity.*

Athletic training is recognized by the American Medical Association (AMA) as an allied healthcare profession. According to NATABOC, the ATC has demonstrated knowledge and skill in six practice areas or domains:

- *Prevention*
- *Clinical Evaluation*
- *Immediate Care*
- *Treatment, Rehabilitation and Reconditioning*
- *Organization and Administration*
- *Professional Responsibility*

NATABOC ATCs are medical professionals who are proficient in injury prevention, assessment, treatment and rehabilitation. NATABOC identifies employers of athletic training services as the following:

- *Professional and Collegiate Sports*
- *Secondary and Intermediate Schools*
- *Sports Medicine Clinics*
- *Hospital ER and Rehabilitation Clinics*
- *Occupational Settings*
- *Fitness Centers*
- *Physicians Offices*

Before sporting events, ATCs complete several preventive measures such as bandaging, wrapping, or taping the athletes. During activities the trainer may evaluate injuries and determine immediate care at the site of the activity. ATCs must maintain certification in cardiopulmonary resuscitation (CPR), airway obstruction, 2<sup>nd</sup> rescuer CPR, automated external defibrillator (AED), and the use of barrier devices. Within clinics or other settings ATCs may develop strength and conditioning programs to rehabilitate the injured athlete. The ATCs provide injury prevention and risk management to return the active individual's safe return to activity.

Currently there are 252 NATABOC ATC's in West Virginia who have met the education requirements and passed the \$275 four hour

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computerized exam. According to NATABOC, the application fee for the exam is \$35 for NATA members, \$60 for non-members. In order to maintain the certification, the individual must pay a \$40 annual certification fee and submit 75 continuing education hours to the Board every three years. Failure to submit the required education hours can lead to administrative suspension. Failure to uphold NATABOC's Standards of Professional Practice can lead to a disciplinary suspension or eventually revocation.

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*Failure to uphold  
NATABOC's Standards of  
Professional Practice can lead  
to a disciplinary suspension  
or eventually revocation.*

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## **The WVDE Employs Many Individuals as WVDE State-Certified Athletic Trainers**

The Applicant could not state for certain the total number of athletic trainers practicing within the state. Therefore, it is difficult to know how many people would be affected by licensure. The Performance Evaluation and Research Division was able to collect data regarding the employment of athletic trainers from the West Virginia Department of Education (WVDE). The WVDE certifies and employs several athletic trainers across the state. These athletic trainers are only required to be present at senior high school football practices and games. The backgrounds range from a NATABOC ATC to a licensed health care provider who has not completed a degree in athletic training. The WVDE certification program has four different categories of licensees that are considered athletic trainers certified by the WVDE:

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*The WVDE certifies and  
employs several athletic  
trainers across the state.  
These athletic trainers are  
only required to be pres-  
ent at senior high school  
football practices and  
games.*

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1. The Professional Service Certificate Athletic Trainer is awarded to an individual who holds a bachelor's degree from an accredited institution of higher education and has completed a state approved athletic trainer program.
2. The Permit Athletic Trainer is awarded to an individual who holds a minimum of a bachelor's degree and has completed at least 25% of the state approved athletic training program. The individual must commit to completing at least six semester hours annually and complete the program within five years.
3. The Authorized Athletic Trainer is awarded to the individual who has completed the NATABOC certification.
4. The Limited Football Trainer is awarded in the event the county board of education cannot obtain an athletic trainer,

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the county may employ an individual with a medical background not limited to: chiropractor, physical therapist, registered nurse, licensed practical nurse, physician's assistant, paramedic, or emergency medical technician.

According to Table 2, there are 126 individuals holding the Professional Service Certificate, 1 person holding a Permit Certificate, 18 individuals with NATABOC certification and 25 Limited Football Trainers. Those with a Permit Certificate or are Limited Football Trainers must attend a one-day athletic trainer workshop sanctioned by the West Virginia Scholastic Sports Athletic Conference. All permits are to be renewed annually upon application. **None of the athletic trainers employed by the WVDE are full-time employees. These individuals are only employed during practices and games.**

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*The fact that the WVDE has had to employ non-NATABOC certified athletic trainers indicates a potential shortage of ATCs would occur if ATCs were required to be NATABOC certified. Requiring licensure would negatively affect the WVDE.*

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<b>Table 2</b> <b>Composition of Athletic Trainers Certified by the WVDE</b>	
<b>Professional Service Certificate Athletic Trainer-</b> Graduates with a minimum of a bachelors degree from an accredited school in West Virginia.	126
<b>Permit Athletic Trainer-</b> Granted by WVDE to an individual who has completed at lease six semester hours of credit towards an athletic training degree.	1
<b>Authorized Athletic Trainer-</b> A person with NATABOC certification.	18
<b>Limited football trainer-</b> Licensed health care provider.	25
<b>Total WVDE Certified</b>	170

*Sources: WVDE and NATABOC*

As documented by Table 2 the majority of athletic trainers certified by the WVDE do not have NATABOC certification. The fact that the WVDE has had to employ non-NATABOC certified athletic trainers indicates a potential shortage of ATCs would occur if ATCs were required to be NATABOC certified. Requiring licensure would negatively affect the WVDE. The Performance Evaluation and Research Division asked what the Association would push for in regard to those individuals who work for the WVDE and are not NATAB-

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OC certified if licensure is established. The WVATA stated desire is for those individuals:

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***High school football is the only sport required to have athletic trainers certified by WVDE present, but according to the West Virginia Code of State Rules each county board of education is encouraged to employ WVDE athletic trainers at other events.***

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*...to take and pass their NATABOC certification to become licensed in the State of West Virginia. If they are not, they cannot call themselves a “Certified Athletic Trainer”...they can be a “First Responder” or a “First Aider”, but not an Athletic Trainer.*

High school football is the only sport required to have athletic trainers certified by WVDE present, but according to the West Virginia Code of State Rules each county board of education is encouraged to employ WVDE athletic trainers at other events. The West Virginia CSR §126-118-2.2 states:

*Each county board of education is encouraged to employ an athletic trainer for middle and junior high school football practices and games. County superintendents are encouraged to assign an athletic trainer to work with other school athletic programs.*

A recent national report focused on injury incidence and athletic exposure data for student athletes in nine sports. An estimated 1,442,533 injuries occurred among the high school students participating.<sup>1</sup> The report documented that injuries in practice or competition occurred at a rate of 2.4 injuries per 1,000 exposures. Football had the highest injury rate followed by wrestling, girls' soccer and girls' basketball.

## **National and State Data Document a Low Level of Risk to Public Safety from NATABOC or WVDE Athletic Trainers**

The Applicant contends that state licensure is needed to protect the public from harm and unqualified practitioners. During August 2007, the Legislative Auditor's Office contacted NATABOC and the WVDE to obtain data on complaints, cases of misrepresentation, the number of revocations and disciplinary actions taken against certified athletic trainers in West Virginia over the last five years. NATABOC reported that there were no complaints filed against ATCs during the last five years in West Virginia but 118 nationwide. According to NATABOC there were

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<sup>1</sup>Comstock, RD, Gilchrist, J, (2006). *Sports-Related Injuries Among High School Athletes---United States, 2005—06 School Year*. Retrieved October 9, 2007 from <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5538al.htm>

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no cases of misrepresentation in West Virginia but 148 nationwide since CY 2001. NATABOC also reported that there have been no ATCs in West Virginia who have had their certification revoked over the last five years but five have nationwide.

WVDE records do not include disciplinary actions at the county level or lawsuits filed against employees of a county board unless the State Board was named as a defendant. According to the WVDE, a complaint can be made directly to the State Superintendent. The process would then trigger an internal investigation. The West Virginia Department of Education's Office of Professional Preparation indicated that there had been no complaints registered against the athletic trainers certified by the WVDE in the last five years that have reached the State Superintendent. There also has not been any revocation or suspensions in the last five years of athletic trainers certified by the WVDE.

In regard to cases of misrepresentation, the Board's Office of Legal Services suggested:

*WVDE does not maintain information with respect to civil actions initiated by a parent against a county regarding its employees. A county superintendent has the statutory responsibility of reporting conduct of licensed county employees that may serve as a basis for a license revocation action. But if, for example, a trainer or someone claimed to be a licensed trainer, was negligent and the county was sued in a local court, we would not necessarily be informed unless WVDE was needed as a witness to prove the individual was not licensed.*

The WVDE also indicated over the last five years it has never been called as a witness in a lawsuit to prove an individual was not licensed by the WVDE. **The lack of complaints or revocations, and no cases of misrepresentation by both NATABOC and the WVDE indicates a low incidence of danger to public safety from nationally certified and state WVDE state-certified athletic trainers.**

### **A Low Incidence Rate of Harm in West Virginia May Be Attributed to Established Standards of NATABOC and the WVDE**

The second reason for licensure proposed by the Applicant was that with the current status of an unregulated practice in this state there are

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*Both NATABOC and the WVDE have general rules, policies, governing principles and the means to revoke an athletic trainer's license based on substandard conduct.*

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*According to the WVDE, the department has not been contacted within the last five years as a witness in lower level courts concerning athletic trainer negligence or misrepresentation.*

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no established standards of practice therefore contributing to substandard conduct. Both NATABOC and the WVDE have general rules, policies, governing principles and the means to revoke an athletic trainer's license based on substandard conduct. Both NATABOC and the WVDE have a complaint process that if warranted could initiate an internal investigation, which could lead to a revocation. As documented, not all athletic trainers certified by the WVDE have degrees in athletic training and there has not been a NATABOC or athletic trainer certified by the WVDE who has had his or her certification revoked in the last five years.

According to WVC §30-1A-3(c)(1), the Performance Evaluation and Research Division's report shall include the following:

*Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument.*

Negligence can happen at any level but actual documented lawsuits of substandard conduct in athletic trainers resulting in negligence appear to be uncommon at the national level. **The West Virginia Legislative Services division identified 30 published lawsuits filed against athletic trainers since 1971, none of which were filed in West Virginia.** Documentation of the lawsuits occurred in states with and without regulation.<sup>2</sup> This research only contained data about decisions published in courts of record and did not include information about decisions rendered in lower level courts. According to the WVDE, the department has not been contacted within the last five years as a witness in lower level courts concerning athletic trainer negligence or misrepresentation.

The Applicant supplied the auditor with 39 examples of substantiated harm against the public by athletic trainers nationally over a 10 year period. Only one of the cases originated from West Virginia. Nine of the 39 cases involved charges brought against individual athletic trainers. Samples of the examples of harm are as follows:

- Player used ephedra-based dietary supplements, also had pre-existing medical condition that was exacerbated by ephedrine use. Athletic trainer should have been aware of both. The player died of heat stroke during practice.

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<sup>2</sup>*Legislative Services Legal Opinion (2007). Athletic Trainer Malpractice Cases. Retrieved October 2007.*

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- Athletic trainer allowed player to continue to play basketball despite a diagnosis by physician of patellar tendonitis. The player suffered chronic and permanent knee pain. The court allowed suit against the athletic trainer to go forward for negligence.
  - Player collapsed on the football field and taken to training room complaining of nausea and severe stomach cramps. The player was not taken to the clinic for two hours. The player died on route to the hospital.
  - Parent sued Wood County Board of Education, West Virginia, due to an athletic trainer placing a player's contact lens in an eye irrigation solution that caused a left corneal abrasion. The case was filed in the Wood County Circuit Court.

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*Under the proposed application, it is the Legislative Auditor's opinion that the cost of licensure of athletic trainers would exceed the benefits to the state.*

The Applicant has indicated that licensure would allow the board to set competency levels and "...will set a standard that will educate and ultimately protect the citizens of West Virginia." The two entities that are present at this time (NATABOC and WVDE), have established standards of practice. There are no known published legal cases filed against athletic trainers in West Virginia and no cases requiring the WVDE as a witness on the state level.

### **The Cost of State Licensure as Proposed Would Exceed the Benefits to the Public**

Under the proposed application, it is the Legislative Auditor's opinion that the cost of licensure of athletic trainers would exceed the benefits to the state. Table 3 describes the costs and benefits of licensing athletic trainers as proposed by the Applicant. The benefits appear to be relatively small given that the incidence rate of harm to the public from the profession is low. The costs appear to exceed the benefits particularly if no exemption is granted to those who have athletic degrees and work as athletic trainers. If an exemption were granted to these individuals, then the board would be redundant. A detail of the costs are described below.

**Table 3**  
**Cost - Benefit Analysis of Licensure of Athletic Trainers as Proposed**

<b>Cost</b>	<b>Benefits</b>
For those who have Athletic Training degrees and work as an athletic trainer and are not certified by NATABOC, they would have to be certified by NATABOC and be licensed by the proposed Athletic Trainers Board in order to continue functioning as an athletic trainer. The initial costs for NATABOC certification is currently \$335 and an annual fee of \$40. The proposed licensing board would charge an initial \$200 license fee and a \$100 annual license fee. Those who are currently NATABOC certified would have the added expense of paying the proposed state fees.	The presence of a state level regulatory organization would provide greater access to the public to file complaints against athletic trainers.
Without an exemption for those who have athletic training degrees who choose not to be certified by NATABOC, a shortage of athletic training services may occur.	
<i>Source: NATABOC</i>	

- **The additional costs to athletic trainers would be a few hundred each year.** Table 4 documents the fee structure for NATABOC, the WVDE and the proposed board.

**Table 4**  
**National Certification, WVDE Certification and Proposed**  
**Licensure Fees to be Paid by Athletic Trainers in**  
**West Virginia**

Organization	Fee
NATABOC	\$35: Application fee for NATA members/\$60 for non-NATA members  \$275: Exam fee  \$40: Annual Certification fee
WVDE	\$34: Initial Fee  \$15: Annual Fee
Proposed Licensure Board	\$200: Initial licensing fee  \$100: Annual licensing fee after the initial year

Sources: NATABOC, WVDE, West Virginia Athletic Trainers' Association

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*If all individuals who are currently employed by the WVDE would be required to take and pass their NATABOC certification to be licensed within the State of West Virginia an additional cost of \$550 would be required.*

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If all individuals who are currently employed by the WVDE would be required to take and pass their NATABOC certification to be licensed within the State of West Virginia an **additional cost of \$550 would be required**. The costs would be the NATA membership (\$60), NATABOC test (\$275), WVDE annual fee (\$15), and the initial first year's state licensure fee (\$200).

- **State licensure as proposed would duplicate what exists at the national level.** The Applicant has also indicated that licensure would “*Lastly, allow the public, including employers, to verify an individual's credentials and for the enforcement of penalties for those that may need disciplined.*” The Applicant has also indicated that it would piggy-back NATABOC by requiring all licensees to be certified by NATABOC. The Applicant does not propose any additional standards or continuing education

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*Currently an employer can either check with NATABOC, WVDE or an institution to verify if an individual is certified or at least graduated with a degree in athletic training.*

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*Requiring all graduates of athletic training programs to become licensed in order to practice will affect the supply of athletic training services in various markets, such as fitness centers, sporting events, rehabilitation centers, sports medicine clinics, recreation centers, and hospitals.*

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beyond what is required by NATABOC. Consequently, the proposed licensing board does not provide any significant added value to what already exists, other than a state level licensing board that may improve accessibility to the public. However, since the incidence rate of harm to the public is relatively low, the cost of a state level licensing board is unwarranted. Both NATABOC and the WVDE can suspend or revoke certifications. Currently an employer can either check with NATABOC, WVDE or an institution to verify if an individual is certified or at least graduated with a degree in athletic training. ATCs are already certified by a nationally certified agency with standards that can levy disciplinary actions. Athletic trainers certified by the WVDE also have an established standard in which an internal investigation can take place and when necessary, steps can be taken to revoke a license. Unlicensed practice is a possibility, but as earlier stated, there have been no cases of misrepresentation in West Virginia according to NATABOC, WVDE and the Legislative Services Division over the last five years. **The proposed board would simply use the NATABOC credential and standards. A new board would have no more enforcement authority than NATABOC and it would not strengthen a person's legal recourse if harmed by an athletic trainer.**

- **Licensure as proposed would affect the supply of athletic training services.** According to the application, exemptions for the practice of the profession only apply to those “...who are licensed, certified or registered in WV and who are performing services within their authorized scope of practice.” This exemption is primarily for licensed health care workers who are working within their scope of practice who may utilize athletic training skills to perform a service. Another exemption within the application is for athletic training students, provided the services are not for compensation or are provided under the supervision of a licensed athletic trainer. The application does not have an exemption or grandfather clause for current individuals with degrees in athletic training who are not NATABOC certified. Requiring all graduates of athletic training programs to become licensed in order to practice will affect the supply of athletic training services in various markets,

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*It is the Legislative Auditor's opinion that should the Legislature license athletic trainers it would be more cost effective to do this through an existing board or state agency.*

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such as fitness centers, sporting events, rehabilitation centers, sports medicine clinics, recreation centers, and hospitals. The proposed licensure would particularly have an adverse effect on the supply of athletic trainers provided by the WVDE for high school football games and practices. Currently, 126 athletic trainers with degrees who work football games for the WVDE are not certified by NATABOC. Under the current application, these individuals would not be able to perform these services unless they become certified by NATABOC and then licensed by the state.

## **Other Forms of State Regulation Should Be Considered**

According to WVC §30-1A-4(c)(2), it is the Performance Evaluation and Research Division's responsibility to document the following:

*Whether regulation would result in the creation of a new agency or board or could be implemented more efficiently through an existing agency or board.*

The Applicant's proposal included licensure for a stand alone board. Table 5, documents the proposed annual budget for the new board. The proposed amount paid annually to the secretarial support does not suggest fulltime accessibility to the staff by the public. It is the Legislative Auditor's opinion that should the Legislature license athletic trainers it would be more cost effective to do this through an existing board or state agency. This would reduce the cost of office space, secretarial support, supplies, and potentially lower the cost of the license.

**Table 5  
Proposed Annual Budget**

	First Year	Second Year
Office Lease	\$4,200	\$4,200
Secretarial Support	\$6,000	\$6,000
Office Expenses	\$2,200	\$2,200
Travel	\$300	\$300
Total Budgeted	\$12,700	\$12,700
Fee Structure for Licensure Applicants	\$200 x 225	\$100 x 225
Total Anticipated Revenue	\$45,000	\$22,500
Anticipated Surplus	\$32,300	\$9,800

*Source: West Virginia Athletic Trainers Association Sunrise Application*

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*Certification is utilized by five states. Certification would restrict individuals from using a title, such as Certified Athletic Trainer, unless they meet certain qualifications.*

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The Legislative Auditor asked the West Virginia Board of Chiropractic and the Board of Physical Therapy if each would be willing to accommodate the proposed board using the office staff already in place. By October 2007 both the Board of Chiropractic and the Board of Physical Therapy reported they would be willing to accommodate the proposed board within their offices.

In addition, the regulation of athletic trainers can be performed by other means than that proposed within the application. Certification is another regulatory method. This would reduce the cost of regulation and it is a less restrictive way of title protection. Certification is utilized by five states. Certification would restrict individuals from using a title, such as Certified Athletic Trainer, unless they meet certain qualifications. A non-certified individual may still perform the tasks but may not use the title. Registration, which is a process by which the state maintains an official roster of names of the practitioners, is utilized by two states. Exemption status, utilized by three states, allows qualified individuals to provide a specific service as outlined within the statute. If the Legislature believes some form of regulation is warranted within the state it should consider certification, registration or exemption as an alternative.

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*Licensure without the requirement of a NATABOC certification should also be considered. The state of Texas utilizes licensure under the Department of Health Services for athletic trainers but does not require NATABOC certification.*

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Licensure without the requirement of a NATABOC certification should also be considered. The state of Texas utilizes licensure under the Department of Health Services for athletic trainers but does not require NATABOC certification. There is a written and practical exam, both with over an 80% pass rate. The recertification fee paid every two years is \$250, the written exam is \$75 and the practical exam costs \$125. Texas has established standards, a complaint process and also requires each state licensed athletic trainer to obtain 20 continuing education hours to be completed every two years. The most recent statistics of the written NATABOC exam indicate first time testers are at a 48.5% pass rate. If the other forms of regulation are considered, licensure under an existing agency without the requirement of NATABOC certification, similar to the state of Texas, should also be considered. This method would be non-duplicative, possibly less expensive, and it would encourage licensure more than if licensure required NATABOC certification.

## Conclusion

The West Virginia Athletic Trainers' Association submitted its second application to the Joint Committee on Government Organization requesting licensure of the profession within the state. The Applicant proposed licensure in order to protect the public and establish standards

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of conduct. However, there appears to be adequate evidence that the unregulated practice of athletic trainers contributes to a low incidence of harm to the public. Furthermore, this profession is not completely unregulated in West Virginia. In addition, the impact of ATCs and WVDE personnel through added costs and dual registration is unwarranted. Should some form of regulation be desired the Legislature could easily require licensure without NATABOC certification, registration or certification through an existing board or agency.

### **Recommendations:**

1. *The Legislative Auditor does not recommend establishing licensure of athletic trainers as proposed by the Applicant.*
2. *Should the Legislature consider some form of regulation, the Legislative Auditor recommends licensure under an existing board or state agency that does not duplicate NATABOC certification similar to the state of Texas, or Registration or Certification under an existing agency such as the Board of Physical Therapy or the Board of Chiropractic.*

## **Appendix A: Transmittal Letter**

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### **WEST VIRGINIA LEGISLATURE** *Performance Evaluation and Research Division*

Building 14, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610  
(304) 347-4890  
(304) 347-4939 FAX



John Sylvia  
Director

November 19, 2007

Robert J. Cable, MS, ATC  
President, West Virginia Athletic Trainers' Association  
4 Meade St.  
Buckhannon, WV 26201

Dear Mr. Cable:

This is to transmit a draft copy of the Senate Report concerning licensure of Athletic Trainers in the State of West Virginia. This report may be scheduled to be presented during the December 9-11, 2007 interim session in Charleston, WV. We will inform you of the exact time and location if it will be presented. If presented, it is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

We would like to schedule an exit conference to discuss any concerns you may have with the report, on either November 26<sup>th</sup> or November 27<sup>th</sup>, 2007. We would appreciate your written response by November 28, 2007 in order for it to be included in the final report. If you intend to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by December 6, 2007 to make arrangements. Thank you for your cooperation.

Sincerely,  
A handwritten signature in cursive script that reads "John Sylvia".  
John Sylvia

JS/bh



## Appendix B: Regulation of Athletic Trainers By State

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<b>Regulation of Athletic Trainers By State</b>					
<b>State</b>	<b>Year Effective</b>	<b>Type of State Regulation</b>	<b>NATABOC Certified</b>	<b>State Agency</b>	<b>License Application Fee</b>
Alabama	1995	Licensure	566	Board of Athletic Trainers	\$175
Alaska		Unregulated	43		
Arizona	2000	Licensure	619	Board of Athletic Trainers	\$250
Arkansas	2001	Licensure	211	Board of Athletic Trainers	\$75
California		Unregulated	2198		
Colorado	1992	Exemption	605	Board of Medical Examiners	Unknown
Connecticut	2006	Licensure	541	Department of Public Health	\$150
Delaware	1991	Licensure	172	Examining Board of Physical Therapists and Athletic Trainers	\$81
Florida	1995	Licensure	1,714	Department of Health	\$230
Georgia	1978	Licensure	855	Board of Athletic Trainers	\$100
Hawaii	1986	Exemption	181	Board of Physical Therapy	Unknown

Regulation of Athletic Trainers By State					
State	Year Effective	Type of State Regulation	NATABOC Certified	State Agency	License Application Fee
Idaho	1989	Licensure	196	Board of Medicine	\$120
Illinois	1986	Licensure	1635	Department of Professional Regulation	\$300
Indiana	1993	Licensure	976	Professional Licensing Agency	\$55
Iowa	1994	Licensure	567	Board of Athletic Trainers	\$120
Kansas	1996	Licensure	378	Board of Healing Arts	\$80
Kentucky	1979	Certification	373	Board of Medical Licensure	\$100
Louisiana	1985	Certification	294	Board of Medical Examiners	\$125
Maine	1995	Licensure	199	Board of Athletic Trainers	\$200
Maryland		Unregulated	492		
Mass.	1997	Licensure	833	Board of Allied Health Professionals	\$147
Michigan	2006	Licensure	1164	Board of Athletic Trainers	\$75

Regulation of Athletic Trainers By State					
State	Year Effective	Type of State Regulation	NATABOC Certified	State Agency	License Application Fee
Minnesota	1993	Registration	709	Board of Medical Practice	\$50
Miss.	1991	Licensure	267	Department of Health	\$100
Missouri	1983	Licensure	642	Board of Healing Arts	\$100
Montana	2007	Licensure	154	Board of Athletic Trainers	Unknown
Nebraska	1987	Licensure	358	Department of Health and Human Services	\$50
Nevada	2004	Licensure	192	State Board of Athletic Trainers	\$300
New Hampshire	2005	Licensure	237	Office of Allied Professionals	\$50
New Jersey	1984	Licensure	890	Board of Medical Examiners	\$70
New Mexico	1984	Licensure	168	Occupational and Professional Licensing	\$125
New York	1997	Certification	1452	State Department of Education	\$150

Regulation of Athletic Trainers By State					
State	Year Effective	Type of State Regulation	NATABOC Certified	State Agency	License Application Fee
North Carolina	1997	Licensure	1,025	North Carolina Board of Athletic Trainers	\$100
North Dakota	1983	Licensure	155	Board of Athletic Trainers	\$100
Ohio	1990	Licensure	1,749	Occupational Therapy, Physical Therapy and Athletic Trainers Board	\$100
Oklahoma	1981	Licensure	314	Board of Medical Licensure and Supervision	\$125
Oregon	1999	Registration	345	Health Licensing Agency	\$100
Pennsylvania	1984	Certification	2105	Board of Medicine	\$20
Rhode Island	1984	Licensure	118	Department of Health	\$62.50
South Carolina	1984	Certification	526	Department of Health and Environmental Control	\$50
South Dakota	1984	Licensure	176	Board of Osteopathic Medicine	\$100

Regulation of Athletic Trainers By State					
State	Year Effective	Type of State Regulation	NATABOC Certified	State Agency	License Application Fee
Tennessee	2006	Licensure	638	Board of Athletic Trainers	\$160
Texas	1999	Licensure	1277	Department of Health Services	\$69
Utah	2006	Licensure	320	Occupational and Professional Licensing	\$79
Vermont	1999	Licensure	126	Office of Professions and Occupations	\$100
Virginia	2001	Licensure	1,049	Board of Medicine	\$150
Washington	2008	Licensure	575	Department of Health	Unknown
West Virginia		Unregulated	252		
Wisconsin	2001	Licensure	846	Department of Regulation and Licensing	\$53
Wyoming	2003	Exemption	60	Board of Physical Therapy	Unknown

*Source: NATABOC and state regulatory agencies.*



## Appendix C: Agency Response

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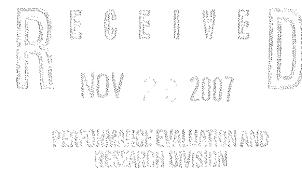
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November 29, 2007

John Sylvia  
Director  
West Virginia Legislature  
Performance Evaluation and Research Division  
Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610



Dear Mr. Sylvia,

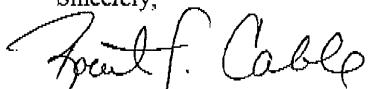
On behalf of the West Virginia Athletic Trainers Association, and as President of the Association, I would like to thank you and your staff for the hard work, diligents, and professionalism exhibited by the PERD staff during the review of the Sunrise Application that was presented by the WVATA in an attempt to gain licensure for the Certified Athletic Trainers in the State of West Virginia.

Although, the report was not a positive one we, as a group, feel that the issue of licensing for Athletic Training is still and will remain an important topic and we will continue to work toward that goal.

We are in the process of approaching the boards for the Physical Therapist, the Doctor's of Chiropractic Medicine and Family Medicine Physicians in hopes that they may be interested in allowing us to join their licensure board.

Once again, thank you so much for you time and effort in this matter.

Sincerely,



Robert J. Cable MS, ATC, NREMT-B  
President, West Virginia Athletic Trainers Association

