

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

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



John Sylvia
Director

November 15, 2015

The Honorable Craig Blair
Room 217W, Bldg. 1,
1900 Kanawha Blvd. E.
Charleston, WV 25305

The Honorable Gary G. Howell
Room 213E, Bldg. 1,
1900 Kanawha Blvd. E.
Charleston, WV 25305

Dear Chairmen:

The West Virginia Athletic Trainers Association (WVATA) submitted its third Sunrise application in 11 years to the Joint Committee on Government Organization requesting state licensure of the profession in November 2014. In addition, the current application is requesting that the Legislature codify the athletic trainers' scope of practice. **After review of the current application, the Legislative Auditor see no justified reason to recommend the Applicant's proposed legislation be implemented.**

PERD's 2007 report on the Applicant's second Sunrise application recommended to the Legislature that if it wanted some form of regulation on the profession of athletic trainers, that it should consider registration. On March 13, 2010, House Bill 3152 was enacted that provided registration for athletic trainers under the oversight of the West Virginia Board of Physical Therapy (Board). The legislation provided title protection for athletic trainers and granted the Board with the power to issue, renew, deny, suspend, revoke or reinstate a registration. According to *West Virginia §30-20A-5*, to be registered by the Board as an athletic trainer, an applicant must submit a current certification from the National Athletic Trainers' Association Board of Certification (NATABOC). There are currently 294 active registered athletic trainers within the state.

The Applicant reported that a defined scope of practice "...*first and foremost recognizes our association, and profession, as health care professionals and defines what role(s) we would have in treating patients, athletes, and the general population as health care providers. This also further defines our role within the overall health care system.*" However, NATABOC has established an athletic trainer scope of practice through its National Athletic Trainers Association (NATA) as well as a standard of professional practice by NATABOC's Board of Certification. Therefore, athletic trainers registered by the Board have a scope of practice. If the Legislature chooses to codify the Applicant's proposed scope of practice, which is similar to NATABOC, it will not enhance public safety.

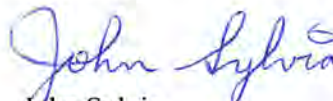
Furthermore, the Applicant provided no evidence that the present registration requirements are inadequate in protecting the public or that state licensure will provide added protection. State licensure, as proposed by the Applicant, would prevent any person from practicing athletic training unless he or she is licensed by the Board. Currently, the West Virginia Department of Education (WVDOE) employs registered athletic trainers for high school football games and practices. However, if a registered athletic trainer is not available for employment by the county board of education, it shall grant a limited football authorization to a licensed health-care worker which may include one of the following: physician, registered nurse, licensed practical nurse, chiropractor, physical therapist, occupational therapist, physician's assistant, paramedic or emergency medical technician. During the 2015 school year, over half of the WVDOE employed football trainers were licensed health-care workers utilizing the title limited football trainer. The Applicant's proposed legislation would likely preclude those individuals employed by the WVDOE as limited football trainers from games and practices, thus potentially causing a shortage of trainers within the state. **Therefore, as with the previous reviews, the Legislative Auditor concludes that there is insufficient justification to license athletic trainers as proposed in the Sunrise application.**

The Legislative Auditor has in the past indicated that NATABOC provides adequate protection to the public at the national level. It has a complaint investigation process and continuing education requirements. Every state that regulates this profession uses the NATABOC credential. Currently, there are 49 states with some form of regulation on athletic trainers. Table 1 documents that 42 states have licensure, 5 states have registration, 2 have certification and 1 state, California, does not regulate the profession. Fourteen (14) states have stand-alone boards. Alaska, who regulates by licensure, became the 49th state to regulate athletic trainers in June 2014. All 49 states require their applicants to pass the NATABOC exam prior to receiving state regulation.

Table 1				
Current Regulation of Athletic Trainers in the United States				
	Licensure	Certification	Registration	No Regulation
Number of States with regulation	42	2	5	1

Source: NATABOC

Sincerely,



John Sylvia

Enclosure



WVATA

WEST VIRGINIA ATHLETIC
TRAINERS' ASSOCIATION

wvata.org

PERFORMANCE EVALUATION

NOV 2 2015

AND RESEARCH DIVISION

November 2, 2015

John Sylvia
West Virginia Legislature
Performance Evaluation and Research Division
State Capitol Complex
Building 1, Room 314W
Charleston, WV 25305

Dear John:

This letter is in response to the Performance Evaluation and Research Division findings regarding the Sunrise application requesting state licensure for athletic trainers. Our responses will be in regards to each of the paragraphs that were mentioned in the report.

PERD report

PERDs 2007 report on the Applicant's second Sunrise application recommended to the Legislature that if it wanted some form of regulation on the professions of athletic trainers, that it should consider registration. On March 13, 2010, House Bill 3152 was enacted that provided registration for athletic trainers under the oversight of the West Virginia Board of Physical Therapy (Board). The legislation provided title protection for athletic trainers and granted the Board with the power to issue, renew, deny, suspend, revoke, or reinstate a registration. According to West Virginia 30-20A-5, to be registered by the Board as an athletic trainer, an applicant must submit a current certification from the National Athletic Trainers' Association Board of Certification (NATABOC). There are currently 294 active registered athletic trainers in the state.

WVATA response

You state there are 294 active registered athletic trainers in the state. According to the 2015 Board of Certification (BOC) records, there are currently **378** athletic trainers' that list a WV address.

PERD report

The Applicant reported that a defined scope of practice "...first and foremost recognizes our association, and profession, as health care professionals and defines what role(s) we would have in treating patients, athletes, and the general population as health care providers. This also further defines our role within the overall health care system." However, NATABOC has established an athletic trainer scope of practice through its National Athletic Trainers' Association (NATA) as well as a standard of professional practice by NATABOC's Board of Certification. Therefore, athletic trainers registered by the Board have a scope of practice. If the Legislature chooses to codify the Applicant's proposed scope of practice, which is similar to NATABOC, it will not enhance public safety.

WVATA response

The National Athletic Trainers' Association (NATA) nor the Board of Certification (BOC) define a scope of practice for any state. The scope of practice resides under the jurisdiction of the respective state and/or the directing physician. The NATA and the BOC provide information regarding each state's regulation policy but do not define the scope of practice.

Below are responses from each organization (NATA & BOC) regarding your comments:

NATA

1. The NATA is the professional membership association for certified athletic trainers and others who support the athletic training profession. Founded in 1950, the NATA has grown to more than 43,000 members worldwide today. The majority of certified athletic trainers choose to be members of the NATA – to support their profession, and to receive a broad array of membership benefits.
2. Much like other health care professional associations, such as the American Medical Association, NATA does not currently nor has it ever, defined the scope of practice for athletic training. Scope of practice for athletic trainers is defined by state law. Currently 49 states and the District of Columbia have some type of licensure or regulation in place for the athletic training profession.
3. The Governmental Affairs department of the NATA provides information, research, and analysis to the NATA membership for advocacy at the state level. This assistance to NATA members helps them keep legislators informed and scope of practice acts current regarding the latest advances of the profession.
4. With the ever increasing variety of practice settings for athletic trainers and other nuances from state to state, it would not be feasible, or practical, for the NATA to construct a single scope of practice to apply in all 50 states.
5. As a professional association, NATA membership is voluntary. Therefore, even if the NATA had the authority to define scope of practice, implementation and enforcement would be impossible.

BOC

The BOC does have the Standards of Professional Practice, which in essence serve the general public and all practicing athletic trainers. These standards are designed to help the general public understand the role of an athletic trainer and for the athletic trainer to evaluate their own patient quality of care. The Standards of Professional Practice should not be interpreted as a scope of practice. Individual states decide on a scope of practice for respective professions, not a national board. Athletic trainers in the state of West Virginia do not have a defined scope of practice.

PERD report

Furthermore, the Applicant provided no evidence that the present registration requirements are inadequate in protecting the public or that state licensure will provide added protection. State licensure, as proposed by the Applicant, would prevent any person from practicing athletic training unless he or she is licensed by the Board. Currently the West Virginia Department of Education (WVDE) employs registered athletic trainers for high school football games and practices. However, if a

registered athletic trainer is not available for employment by the County Board of Education, then it may grant a limited football authorization to a licensed health-care worker such as a physician, nurse or emergency medical technician. During the 2015 school year, over half of the WVDE employed football trainers were licensed health care workers utilizing the title of limited football trainer. The Applicant's proposed legislation would likely preclude those individuals employed by the WVDE as limited football trainers from games and practices, thus potentially causing a shortage of trainers within the state. **Therefore, as with previous reviews, the Legislative Auditor concludes that there is insufficient justification to license athletic trainers as proposed in the Sunrise application.**

WVATA response

The current registration requirement for athletic trainers in West Virginia does not provide the level of care that the general public deserves. Registration is title protection only and doesn't allow for a defined scope of practice. Licensure would bring additional protection to the public by raising the level of care provided by the most qualified individual, a certified athletic trainer (ATC), to deal with athletic related injuries.

Currently in West Virginia there are 124 high schools of which 117 participate in football. Listed below are those schools and by whom athletic training services are provided:

- 55 have a certified athletic trainer (ATC)
- 18 have a WVDE football trainer along with one (1) middle school
- 40 have "others" providing coverage
 - (11 RN, 22 EMS (paramedic or EMT), 3 PT, 1 PTA, 2 LPN, 1 DC)
- 4 unknown

Per WVDE policy, 100% of all high school football practices are to be covered; however, in reality that number is closer to 80%.

It is safe to say that of the 40 schools that have "others" providing coverage, very few, if any of these individuals have the education, training, or background to deal sufficiently with athletic related injuries. Even though they are "licensed," do they have the qualifications to recognize a concussion, manage a heat related illness, diagnose a significant orthopedic injury, or immobilize and spine board an athlete with significant cervical trauma? All of the aforementioned health professionals are licensed, why shouldn't athletic trainers be afforded the same level of credentialing? The first responder that deals with athletic injuries, the athletic trainer, should have the same level of scrutiny comparable to other health professionals.

The argument that a shortage of athletic trainers within the state would occur doesn't hold substance in terms of quality of care and numbers. A WVDE football trainer doesn't have the qualifications, education, expertise, and clinical experience compared to a certified athletic trainer (ATC). The WVDE football trainer (18) comprises only 15% of those providing coverage within the state; therefore, licensure poses no threat to a potential shortage of WVDE football trainers in the state as those possessing that permit are so few. Additionally, the WVDE certification route hasn't existed in the state since 2002.

The current WV concussion law (SB 336) states: *A requirement that an interscholastic athlete who is suspected by a licensed health care professional or by his or her head coach or athletic trainer of having sustained a concussion or head injury in a practice or game shall be removed from competition at that time; A requirement that an interscholastic athlete who has been removed from play or practice may not return to play or practice until the athlete is evaluated by a licensed health care professional trained*

in the evaluation and management of concussions and receives written clearance to return to play and practice from the licensed health care professional; A list of the respective categories of licensed health care professionals who, if properly trained in the evaluation and management of concussions, are authorized to provide written clearance for the interscholastic athlete to return to play.

Athletic trainers are the most qualified and trained to make return to play decisions for an athlete regarding a concussion, but yet are unable to because we are not considered as a "licensed healthcare professional" even as our state's own concussion law is written.

The following paragraph from the 2014 NATA's Position Statement on Concussion Management reinforces the argument for licensed athletic trainers in the schools:

"As licensed medical professionals, athletic trainers receive comprehensive didactic and clinical training in concussion management. They are typically the first providers to identify and evaluate injured persons and are integral in the post-injury management and return-to-play (RTP) decision-making process. Without exception, ATs should be present at all organized sporting events at all levels of play and should work closely with a physician or designate who has specific training and experience in concussion management to develop and implement a concussion-management plan based on the recommendations outlined here."

PERD report

The Legislative Auditor has in the past indicated that NATABOC provides adequate protection to the public at the national level. It has a complaint investigation process and continuing education requirements. Every state that regulates this profession uses the NATABOC credential. Currently, there are 49 states with some form of regulation on athletic trainers. Table 1 documents that 42 states have licensure, 5 states have registration, 2 have certification, and 1 state, California, does not regulate the profession. Fourteen (14) states have stand-alone boards. Alaska, who regulates by licensure, became the 49th state to regulate athletic trainers in June 2014. All 49 states require their applicants to pass the NATABOC exam prior to receiving state regulation.

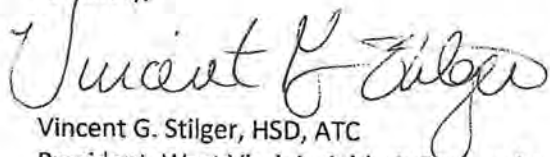
WVATA response

The BOC has limited investigative authority so reliance on their discipline process in place of statutory authority as the only means of public protection could be problematic.

Forty-nine states do have some form of governmental regulation. All states surrounding WV (OH, PA, MD, VA, KY) have licensure for athletic trainers. Recently the District of Columbia passed licensure for athletic trainers.

Thank you for the opportunity to respond to this the report and we look forward to addressing the joint committees on Government Operation and Government Organization during the November 15-16, 2015 interim sessions. Should you have questions or concerns, please feel free to contact me at vincent.stilger@mail.wvu.edu or (304)293-0872.

Sincerely,



Vincent G. Stilger, HSD, ATC

President, West Virginia Athletic Trainers' Association (WVATA)

PERD's Evaluation of the Applicant's Written Response

PERD received the Applicant's written response on November 2, 2015. The West Virginia Athletic Trainers Association (WVATA) disagrees with four elements within the report. The WVATA reported that there are 378 National Athletic Trainers Association Board of Certification (NATABOC) athletic trainers with a West Virginia address. Although the Board is correct that there are 378 NATABOC certified athletic trainers with a West Virginia address, the report is indicating that there are 294 registered athletic trainers by the Board. The remaining 84 may have a West Virginia address but are licensed by another state or are inactive.

The WVATA disagrees with the statement on page one which reports that "*NATABOC has established an athletic trainer scope of practice through its National Athletic Trainers' Association (NATA) as well as a standard of professional practice by NATABOC's Board of Certification.*" According to the WVATA response, neither NATA nor the BOC define a scope of practice for any state. However, within the Sunrise Application, the Applicant reported, "*The Athletic Training Scope of Practice is defined within two professional publications: the Athletic Training Educational Competencies (Competencies) published by National Athletic Trainers' Association (NATA) and the Role Delineation Study (RDS) conducted and published by the Board of Certification, Inc. (BOC).*" While PERD did not cite the correct BOC publication, it still stands that the national organization has established a scope of practice that governs NATABOC certified athletic trainers, and the Applicant indicated that in its application. Therefore, due to the State's requirement that every board-registered athletic trainer be NATABOC certified, every West Virginia registered athletic trainer is also governed by a national scope of practice.

The WVATA disagrees with the evidence provided within the report that licensure would likely preclude those individuals employed by the West Virginia Department of Education (WVDOE) from working as limited football trainers, thus potentially causing a shortage of trainers within the state. The Applicant's data indicate 40 health-care professionals provide coverage at football practices and games to be health care professionals (limited football trainers) such as a paramedic, physical therapist, licensed practical nurse or physician. However, according to the WVDOE in 2015, there were 48 health-care professionals (limited football trainers) who provided athletic training services in addition to the 42 NATABOC certified athletic trainers who were providing athletic training services at high school practices and games. The Applicant reports that a shortage would not exist because there are only 18 WVDOE certified football trainers that comprises only 15% of those providing services within the state. The Applicant does not factor in the 48 health-care professionals who would be affected by the Applicant's proposed legislation which states that no person advertise, represent or practice athletic training unless he or she is licensed by the Board. Therefore, the total number of individuals that would be affected by the Applicant's proposed legislation would be 66 or more than half the WVDOE certified athletic trainers, thus causing a shortage of WVDOE certified trainers within the state.

Finally, the WVATA disagrees with the PERD statement that NATABOC provides adequate protection to the public at the national level. The Applicant reports that the BOC has limited investigative authority so reliance on their discipline process in place of statutory authority as the only means of public protection could be problematic. This argument is irrelevant because PERD is recommending continued regulation by the Board of Physical Therapy. Therefore, the profession will still have a regulating authority to review complaints made on the state level.