

H. B. 4413

(By Delegates Ashley, Westfall, Morgan, Skaff,
Iaquinta, Stephens, Campbell, Eldridge,
McCuskey and Young)

[Introduced February 5, 2014; referred to the
Committee on Government Organization then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §30-20A-1, §30-20A-2, §30-20A-3,
§30-20A-4, §30-20A-5, §30-20A-6 and §30-20A-7 of the Code of
West Virginia, 1931, as amended, all relating to requiring
that athletic trainers be licensed, instead of registered, by
West Virginia Board of Physical Therapy.

Be it enacted by the Legislature of West Virginia:

That §30-20A-1, §30-20A-2, §30-20A-3, §30-20A-4, §30-20A-5,
§30-20A-6 and §30-20A-7 of the Code of West Virginia, 1931, as
amended, be amended and reenacted, all to read as follows:

ARTICLE 20A. ATHLETIC TRAINERS.

§30-20A-1. Definitions.

As used in this article:

~~(1)~~ "Applicant" means any person making application for an
original or renewal ~~registration~~ license to act as an athletic
trainer under the provisions of this article.

~~(2)~~ "Board" means the West Virginia Board of Physical Therapy

1 established under article twenty of this chapter.

2 ~~(4) "Registration"~~ "License" means a ~~registration~~ license
3 issued by the board to practice athletic training.

4 ~~(3) "Registrant"~~ "Licensee" means a person ~~registered~~ licensed
5 as an athletic trainer under the provisions of this article.

6 "Practice of athletic training" means services performed for
7 physically active patients under the direction of a physician and
8 as prescribed by the board, for which the athletic trainer has
9 received appropriate education and training. The practice of
10 athletic training does not include the practice of physical
11 therapy, the practice of medicine, the practice of osteopathic
12 medicine and surgery, the practice of chiropractic or medical
13 diagnosis or treatment.

14 **§30-20A-2. Title protection.**

15 (a) A person may not advertise or represent himself or herself
16 as an athletic trainer in this state and may not use the initials
17 "AT", the words "registered athletic trainer" or "athletic
18 trainer", or any other words, abbreviations, titles or insignia
19 that indicates, implies or represents that he or she is an athletic
20 trainer, unless he or she is ~~registered~~ licensed by the board.

21 (b) ~~Nothing contained in This article shall be construed as~~
22 preventing does not prevent any person, firm, partnership or
23 corporation from practicing athletic training, in any manner
24 desired.

1 ~~(c) Nothing in this article may be construed to prohibit or~~
2 ~~otherwise limit the use of the term "athletic trainer" in secondary~~
3 ~~school settings by persons who were practicing athletic training~~
4 ~~under a West Virginia Board of Education Athletic Certification,~~
5 ~~provided the practice is in accordance with Board of Education~~
6 ~~policy in effect prior to July 1, 2011.~~

7 **§30-20A-3. Powers and duties of the board.**

8 The board has the following powers and duties:

9 (1) Establish procedures for submitting, approving and denying
10 applications for ~~registration~~ licensure;

11 (2) Investigate alleged violations of the provisions of this
12 article;

13 (3) Establish a fee schedule;

14 (4) Issue, renew, deny, suspend, revoke or reinstate a
15 ~~registration~~ license;

16 (5) Determine disciplinary action and issue orders;

17 (6) Institute appropriate legal action for the enforcement of
18 the provisions of this article; and

19 (7) Maintain an accurate registry of the names and addresses
20 of ~~registrants~~ licensees.

21 **§30-20A-4. Rule-making authority.**

22 The board shall propose rules for legislative approval, in
23 accordance with the provisions of article three, chapter
24 twenty-nine-a of this code, to implement the provisions of this

1 article, including:

2 (1) Procedures for the issuance and renewal of a ~~registration~~
3 license;

4 (2) A fee schedule;

5 (3) Procedures for denying, suspending, revoking, reinstating
6 or limiting the ~~registration of a registrant~~ licensing of a
7 license; and

8 (4) Any other rules necessary to effectuate the provisions of
9 this article.

10 **§30-20A-5. Requirements for registration license.**

11 (a) To be eligible for ~~registration~~ licensure by the board as
12 an athletic trainer, an applicant shall:

13 (1) Submit an application in the form prescribed by the board;

14 (2) Submit a current certification from the National Athletic
15 Trainers' Association Board of Certification or successor
16 organization; and

17 (3) Pay the required fee.

18 (b) The board shall issue a ~~registration~~ license to an
19 applicant satisfying all the requirements in subsection (a) of this
20 section: *Provided*, That the board may deny an application for
21 ~~registration~~ license if the applicant:

22 (1) Has been convicted of a felony or other crime involving
23 moral turpitude;

24 (2) Is an alcohol or drug abuser as these terms are defined in

1 section eleven, article one-a, chapter twenty-seven of this code:
2 *Provided*, That the board may take into consideration that an
3 applicant in an active recovery process, which may, in the
4 discretion of the board, be evidenced by participation in a
5 twelve-step program or other similar group or process;

6 (3) Has been convicted of fraudulent, false, misleading or
7 deceptive advertising;

8 (4) Has been convicted for wrongfully prescribing medicines or
9 drugs, or practicing any licensed profession without legal
10 authority;

11 (5) Has had a ~~registration~~ license or other authorization
12 revoked, suspended, restricted or other disciplinary action taken
13 by the proper authorities of another jurisdiction;

14 (6) Is incapacitated by a physical or mental disability which
15 is determined by a physician to render further practice by the
16 applicant inconsistent with competency and ethic requirements; or

17 (7) Has been convicted of sexual abuse or sexual misconduct.

18 (c) In determining whether an application should be denied for
19 any of the reasons set forth in subsection (b), the board may
20 consider:

21 (1) How recently the conduct occurred;

22 (2) The nature of the conduct and the context in which it
23 occurred; and

24 (3) Any other relevant conduct of the applicant.

1 (d) A ~~registration~~ license issued by the board is valid for
2 two years from the date it ~~was~~ is issued.

3 **§30-20A-6. Renewal requirements.**

4 (a) A ~~registrant~~ licensee may apply to renew his or her
5 ~~registration~~ license by submitting an application for renewal in
6 the form prescribed by the board and paying the renewal fee. The
7 renewal application must be signed by the applicant.

8 (b) A renewal of ~~registration~~ license issued by the board is
9 valid for two years from the date it ~~was~~ is issued.

10 (c) The board may deny an application for renewal for any
11 reason which would justify the denial of an original application
12 for a ~~registration~~ license.

13 **§30-20A-7. Due process procedures; grounds for disciplinary
14 action.**

15 (a) The board may, after notice and opportunity for hearing,
16 suspend, restrict or revoke a ~~registration~~ license of, impose
17 probationary conditions upon or take disciplinary action against,
18 ~~any registrant~~ licensee if the board determines the ~~registrant~~
19 licensee:

20 (1) Is grossly negligent in the practice of athletic training;

21 (2) Obtained a ~~registration~~ license by fraud,
22 misrepresentation or concealment of material facts; engaged in the
23 practice of athletic training under a false or assumed name; or
24 impersonated another ~~registrant~~ licensee of a like or different

1 name; or

2 (3) Has violated any of the provisions of subsection (b),
3 section five of this article.

4 (b) For purposes of subsection (a) of this section,
5 disciplinary action may include:

6 (1) Reprimand;

7 (2) Probation;

8 (3) Administrative fines;

9 (4) Practicing under supervision or other restriction;

10 (5) Requiring the ~~registrant~~ licensee to report to the board
11 for periodic interviews for a specified period of time; or

12 (6) Other corrective action as determined by the board.

NOTE: The purpose of this bill is to require that athletic trainers be licensed by the West Virginia Board of Physical Therapy instead of registered.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.