

HOUSE BILL No. 2737

AN ACT concerning the state board of healing arts; relating to licensure of athletic trainers; amending K.S.A. 65-6901, 65-6902, 65-6903, 65-6904, 65-6905, 65-6906, 65-6907, 65-6909, 65-6910 and 65-6911 and K.S.A. 2003 Supp. 65-2891, 65-2913 and 65-5418 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-6901 is hereby amended to read as follows: 65-6901. K.S.A. 65-6901 through 65-6914 shall be known and may be cited as the athletic trainers ~~registration~~ licensure act.

Sec. 2. K.S.A. 65-6902 is hereby amended to read as follows: 65-6902. As used in this act:

- (a) "Board" means the state board of healing arts.
- (b) "Athletic training" means the practice of injury prevention, physical evaluation, emergency care and referral or physical reconditioning relating to athletic activity.
- (c) "Athletic trainer" means a person ~~registered~~ licensed under this act.

Sec. 3. K.S.A. 65-6903 is hereby amended to read as follows: 65-6903. (a) ~~On and after July 1, 1996,~~ It shall be unlawful for any person who is not ~~registered~~ licensed under this act as an athletic trainer or whose ~~registration license~~ has been suspended or revoked to use, in connection with such person's name or place of business, the words: "Athletic trainer" or "athletic trainer ~~registered~~ licensed" or "~~registered~~ licensed athletic trainer" or the letters "A.T." or "~~A.T.R.~~" "A.T.L." or "~~R.A.T.~~" "L.A.T.", or any other words, letters, abbreviations or insignia indicating or implying that such person is an athletic trainer or who in any way, orally, in writing, in print or by sign, directly or by implication represents oneself as an athletic trainer.

(b) Any violation of this section shall constitute a class B nonperson misdemeanor.

Sec. 4. K.S.A. 65-6904 is hereby amended to read as follows: 65-6904. Nothing in this act shall be construed to authorize the unlicensed practice of the healing arts by any person ~~registered~~ licensed under this act.

Sec. 5. K.S.A. 65-6905 is hereby amended to read as follows: 65-6905. (a) The board, in the manner hereinafter provided, shall administer the provisions of this act.

(b) The board may adopt rules and regulations consistent with the provisions of this act for the administration and enforcement for this act and may prescribe forms which shall be issued in the administration of this act. The rules and regulations shall include standards for approval of an educational course of study and clinical experience, continuing education criteria, practice protocols, criteria for ~~registration~~ licensure procedures for the examination of applicants, and for professional conduct and discipline.

(c) The board shall maintain a registry of names and addresses of all individuals who are currently ~~registered~~ licensed under the athletic trainers ~~registration~~ licensure act.

(d) *An individual holding a valid registration as an athletic trainer under the athletic trainers registration act on June 30, 2004, shall be deemed to be licensed as an athletic trainer under the athletic trainers licensure act, and such individual shall not be required to file an original application for licensure under the athletic trainers licensure act.*

Sec. 6. K.S.A. 65-6906 is hereby amended to read as follows: 65-6906. (a) Applications for ~~registration~~ licensure as an athletic trainer shall be made in writing to the board on a form and in the manner prescribed by the board. Each application shall be accompanied by the required fee, which shall not be refundable. Each application shall contain such information necessary to enable the board to judge the qualifications of the applicant for ~~registration~~ licensure.

(b) The applicant is entitled to ~~registration~~ licensure as an athletic trainer if the applicant possesses the qualifications set forth under K.S.A. 65-6907 and amendments thereto, pays the ~~registration~~ licensure fee established by the board, ~~files a practice protocol~~ and has not committed an act which constitutes ground for denial of ~~registration~~ licensure.

(c) (1) Upon due application and payment of a ~~registration~~ licensure fee as established by the board within one year subsequent to July 1, 1996, the board shall waive the examination requirement under K.S.A.

65-6907 and amendments thereto and grant ~~registration~~ *licensure* to a person who:

(A) Meets the educational requirements set forth in this act and has completed the clinical experience approved by the board on or before July 1, 1996;

(B) meets the educational requirements set forth in this act and on the effective date of this act has been actively engaged as an athletic trainer for at least two years of the four years immediately preceding July 1, 1996; or

(C) is certified by a national certifying organization for athletic trainers, approved by the board on the effective date of this act and on the effective date of this act has been actively engaged as an athletic trainer for at least three years of the five years immediately preceding July 1, 1996.

(d) For the purpose of subsection (c), a person is actively engaged as an athletic trainer if such person performs the functions and duties of an athletic trainer.

(e) The board may ~~register~~ *license* an applicant as an athletic trainer, without examination, if the applicant is an athletic trainer registered, licensed or certified under the laws of another state if the requirements pertaining to athletic trainers in such state ~~were~~, at the date of such applicant's registration, licensure or certification, ~~were~~ substantially the same as the requirements under ~~the athletic trainers registration~~ *this act*.

(f) *As a condition of performing the functions and duties of an athletic trainer in this state, each licensed athletic trainer shall file a practice protocol with the board. The practice protocol shall be signed by each person licensed by the board to practice the healing arts who will delegate to the athletic trainer acts which constitute athletic training and shall contain such information as required by rules and regulations adopted by the board.*

(g) *The board may issue a temporary permit to an applicant for licensure as an athletic trainer who applies for a temporary permit on a form provided by the board, who meets the requirements for licensure as an athletic trainer as required by K.S.A. 65-6907, and amendments thereto, and who pays to the board the temporary permit fee as required under K.S.A. 65-6910, and amendments thereto. Such temporary permit shall expire six months from the date of issue or on the date that the board approves the application for licensure, whichever occurs first. No more than one such temporary permit shall be granted to any one person.*

Sec. 7. K.S.A. 65-6907 is hereby amended to read as follows: 65-6907. An applicant for ~~registration~~ *licensure* as an athletic trainer shall give proof that the applicant has:

(a) Received a baccalaureate or post-baccalaureate degree with a major course of study in an athletic training curriculum approved by the board;

(b) completed clinical experience of at least 800 hours over a minimum of two years as approved by the board; and

(c) passed an examination in athletic training approved by the board.

Sec. 8. K.S.A. 65-6909 is hereby amended to read as follows: 65-6909. (a) An applicant who meets the requirements for ~~registration~~ *licensure* pursuant to this act, has paid the ~~registration~~ *licensure* fee and has otherwise complied with the provisions of this act shall be ~~registered~~ *licensed* by the board.

(b) ~~Registrations~~ *Licenses* issued pursuant to this act shall expire on the date established by rules and regulations of the board unless revoked prior to that time. A ~~registration~~ *license* shall be renewed in the manner prescribed by the board.

(c) At least 30 days before the expiration of the ~~registration~~ *license* of an athletic trainer, the board shall notify the ~~registrant~~ *licensee* of the expiration by mail, addressed to the ~~registrant's~~ *licensee's* last mailing address, as noted upon the board's records. If the ~~registrant~~ *licensee* fails to pay the *renewal* fee and submit an application by the date of expiration of the ~~registration~~ *license*, the ~~registrant~~ *licensee* shall be given a second notice that the ~~registrant's~~ *registration licensee's* *license* has expired and the ~~registration~~ *license* may be renewed only if the renewal fee and the late renewal fee are received by the board within the 30-day period following the date of expiration and that if both fees are not received within

the 30-day period the ~~registration~~ license shall be canceled for failure to renew and shall be reissued only after the athletic trainer has been reinstated under subsection (d).

(d) Any ~~registrant licensee~~ who allows the ~~registrant's registration licensee's~~ license to be canceled by failing to renew as herein provided may be reinstated upon payment of the renewal fee, the reinstatement fee, filing an updated practice protocol and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations for reinstatement of persons whose ~~registrations licenses~~ have ~~lapsed been canceled~~ for failure to renew. Renewal of ~~lapsed registrations canceled licenses~~ or reinstatement of ~~registrations licenses~~ may include additional testing, training or education as the board deems necessary to establish the person's present ability to perform the functions or duties of an athletic trainer.

(e) *There is hereby created the designation of an inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the application fee established pursuant to K.S.A. 65-6910, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license as an athletic trainer and who does not perform the functions and duties of an athletic trainer in this state. An inactive license shall not entitle the holder to engage in active practice as an athletic trainer in this state. The provisions of subsections (b), (c) and (d) of K.S.A. 65-6909, and amendments thereto, relating to expiration, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by filing a practice protocol required by subsection (f) of K.S.A. 65-6906, and amendments thereto.*

Sec. 9. K.S.A. 65-6910 is hereby amended to read as follows: 65-6910. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than	\$100
Temporary registration fee, not more than	\$50
Registration renewal fee, not more than	\$50
Registration late renewal fee, not more than	\$50
Registration reinstatement fee, not more than	\$50
Certified copy of registration, not more than	\$40
Written verification of registration, not more than	\$25
Application and license fee based upon certificate of prior examination, not more than	\$80
Annual renewal fee, not more than	\$70
Late renewal fee, not more than	\$75
Reinstatement fee, not more than	\$80
Certified copy of license, not more than	\$15
Temporary permit	\$25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the athletic trainers ~~registration licensure~~ act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination and its administration. If the examination is not administered by the board, the board may require that fees paid for any examination under the athletic trainers ~~registration licensure~~ act be paid directly to the examination service by the person taking the examination.

(c) The board shall remit all moneys received from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person designated by the president of the board.

Sec. 10. K.S.A. 65-6911 is hereby amended to read as follows: 65-6911. (a) The board may deny, suspend, limit, refuse to renew, place on probation, reprimand or revoke any ~~registration~~ license granted under the

athletic trainers ~~registration licensure~~ act or take other disciplinary action as the board may deem proper for any of the following reasons:

- (1) Use of drugs or alcohol, or both, to an extent that impairs the individual's ability to engage in athletic training;
- (2) the individual has been convicted of a felony and, after investigation, the board finds that the individual has not been sufficiently rehabilitated to merit the public trust;
- (3) use of fraud, deception, misrepresentation or bribery in securing any ~~registration license~~ issued pursuant to the provisions of the athletic trainers ~~registration licensure~~ act or in obtaining permission to take any examination given or required pursuant to the provisions of the athletic trainers ~~registration licensure~~ act;
- (4) obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;
- (5) incompetence, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of an athletic trainer;
- (6) violation of, or assisting or enabling any individual to violate, any provision of this act or any rule and regulation adopted under such act;
- (7) impersonation of any individual holding a ~~registration license~~ under the athletic trainers ~~registration licensure~~ act;
- (8) negligent or intentional violation of the provisions of this act or the rules and regulations adopted under this act;
- (9) violation of any professional trust or confidence; and
- (10) the individual has committed unprofessional conduct as defined by rules and regulations adopted by the board.

(b) Any action authorized by this section shall be taken in accordance with the Kansas administrative procedure act.

Sec. 11. K.S.A. 2003 Supp. 65-2891 is hereby amended to read as follows: 65-2891. (a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any health care provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such health care provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any health care provider may in good faith render emergency care or assistance during an emergency which occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by the patient's family or by guardian assumes responsibility for such patient's professional care. The health care provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

(d) Any provision herein contained notwithstanding, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section the term "health care provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, licensed podiatrist, licensed pharmacist, licensed physical therapist, and any physician assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physicians' assistants of the American board of medical examiners, any ~~registered licensed~~ athletic trainer, any licensed occupational therapist, any licensed respiratory therapist, any person who holds a valid attendant's certificate under K.S.A. 65-6129, and amendments thereto, any person who holds a valid certificate for the successful completion of a course in first aid offered or approved by the American red cross, by the American heart association, by the mining

enforcement and safety administration of the bureau of mines of the department of interior, by the national safety council or by any instructor-coordinator, as defined in K.S.A. 65-6112, and amendments thereto, and any person engaged in a postgraduate training program approved by the state board of healing arts.

Sec. 12. K.S.A. 2003 Supp. 65-2913 is hereby amended to read as follows: 65-2913. (a) It shall be unlawful for any person who is not licensed under this act as a physical therapist or whose license has been suspended or revoked in any manner to represent oneself as a physical therapist or to use in connection with such person's name the words physical therapist, physiotherapist or licensed physical therapist or use the abbreviations P.T., Ph. T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist. A violation of this subsection shall constitute a class B nonperson misdemeanor.

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to the provisions of this act, shall be guilty of a class B nonperson misdemeanor.

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and practicing their profession. The provisions of article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto shall not apply to the following individuals so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b) of this section:

- (1) Persons rendering assistance in the case of an emergency;
- (2) members of any church practicing their religious tenets;
- (3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;
- (4) health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;
- (5) licensees under the healing arts act, and practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensee under subsection (g) of K.S.A. 65-2872 and amendments thereto;
- (6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;
- (7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under subsection (m) of K.S.A. 65-1124 and amendments thereto;
- (8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both;
- (9) students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor;
- (10) self-care by a patient or gratuitous care by a friend or family member;
- (11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;
- (12) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;
- (13) occupational therapists practicing their profession when licensed and practicing in accordance with the occupational therapy practice act and occupational therapy assistants practicing their profession when licensed and practicing in accordance with the occupational therapy practice act;

(14) respiratory therapists practicing their profession when licensed and practicing in accordance with the respiratory therapy practice act;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) persons practicing corrective therapy in accordance with their training in corrective therapy;

(17) athletic trainers practicing their profession when ~~registered licensed~~ and practicing in accordance with the athletic trainers ~~registration licensure~~ act;

(18) persons who massage for the purpose of relaxation, muscle conditioning or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers;

(19) barbers practicing their profession when licensed and practicing in accordance with the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(20) cosmetologists practicing their profession when licensed and practicing in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(21) attendants practicing their profession when certified and practicing in accordance with the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(22) naturopathic doctors practicing their profession when registered and practicing in accordance with the naturopathic doctor registration act.

(d) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed physical therapy must be performed by or pursuant to the delegation of a licensed physical therapist or other health care provider.

(e) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon physical therapists to engage in any activity not conferred by this act.

Sec. 13. K.S.A. 2003 Supp. 65-5418 is hereby amended to read as follows: 65-5418. (a) Nothing in the occupational therapy practice act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and licensed, registered, credentialed or certified by appropriate agencies of the state of Kansas.

(b) The practice of occupational therapy shall not be construed to include the following:

(1) Persons rendering assistance in the case of an emergency;

(2) members of any church practicing their religious tenets;

(3) persons whose services are performed pursuant to the delegation of and under the supervision of an occupational therapist who is licensed under this act;

(4) any person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency thereof, if such person practices occupational therapy solely under the direction or control of the organization by which such person is employed;

(5) licensees under the healing arts act when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to a delegation authorized under subsection (g) of K.S.A. 65-2872 and amendments thereto;

(6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;

(7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under subsection (m) of K.S.A. 65-1124 and amendments thereto;

(8) health care providers who have been formally trained and are practicing in accordance with the training or have received specific training in one or more functions included in the occupational therapy practice act pursuant to established educational protocols, or both;

(9) any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if the person is designated by the title which clearly indicates such person's status as a student or trainee;

(10) any person fulfilling the supervised fieldwork experience

requirements as part of the experience necessary to meet the requirement of the occupational therapy practice act;

(11) self-care by a patient or gratuitous care by a friend or family member who does not represent or hold oneself out to the public to be an occupational therapist or an occupational therapy assistant;

(12) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(13) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(14) physical therapists practicing their profession when licensed and practicing in accordance with K.S.A. 65-2901 *et seq.* and amendments thereto;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) athletic trainers practicing their profession when ~~registered licensed~~ and practicing in accordance with the athletic trainers ~~registration licensure~~ act;

(17) manufacturers of prosthetic devices;

(18) any person performing occupational therapy services, if these services are performed for no more than 45 days in a calendar year in association with an occupational therapist licensed under the occupational therapy practice act so long as (A) the person is registered or licensed under the laws of another state which has licensure requirements at least as stringent as the licensure requirements of this act, or (B) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA) established by the national board for certification in occupational therapy (NBCOT).

(c) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed occupational therapy must be performed by or pursuant to the delegation of a licensed occupational therapist or other health care provider.

(d) Education related therapy services provided by an occupational therapist to school systems or consultation regarding prevention, ergonomics and wellness within the occupational therapy scope of practice shall not require a referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist. However, when in the course of providing such services an occupational therapist reasonably believes that an individual may have an underlying injury, illness, disease, disorder or impairment, the occupational therapist shall refer the individual to a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist, as appropriate.

(e) Nothing in the occupational therapy practice act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon occupational therapists to engage in any activity not conferred by the occupational therapy practice act.

(f) This section shall be part of and supplemental to the occupational therapy practice act.

~~(g) The provisions of this section shall take effect on and after April 1, 2003.~~

Sec. 14. K.S.A. 65-6901, 65-6902, 65-6903, 65-6904, 65-6905, 65-6906, 65-6907, 65-6909, 65-6910 and 65-6911 and K.S.A. 2003 Supp. 65-2891, 65-2913 and 65-5418 are hereby repealed.

Sec. 15. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.