



**Oregon Health Licensing Agency  
Board of Athletic Trainers  
Legislation/Rules Committee Meeting**

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Date: December 14, 2010

Members Present: Russ Cagle  
Jeremy Ainsworth  
Dale Isaak, Subject Matter Expert

Members Absent: None

Staff Present: Nancy Sellers, Senior Policy Analyst  
Sinnamon Harris, Board Specialist

Guests Present: None

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Russ Cagle called the Board of Athletic Trainers Legislation & Rules committee meeting to order at 9:08 am, December 14, 2010, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. The purpose of the meeting was to continue to review and discuss Oregon Revised Statutes and Oregon Administrative Rules as directed by the Board of Athletic Trainers at its November 29, 2010, meeting.

Cagle gave a brief overview of the November 29, 2010, board meeting. He stated the board covered a lot of ground and referred some questions to the agency's Department of Justice (DOJ) Assistant Attorney General (AAG) Katharine Lozano. Sellers noted the AT Board had addressed 22 issues.

Cagle stated on the issue of Physical Therapist (PT) it was not the board's intention to attempt to limit the PT practice in any manner but rather to explore where the AT and PT professions may overlap. Sellers stated that OHLA's AAG will coordinate with the AAGs for Physical Therapists and the Emergency Medical Technicians (EMT) regarding overlaps in scope of practice. That advice has not yet been received by OHLA. Sellers noted this coordination will enable our agency to have conversations with the other two professions regarding overlapping scopes of practice and if there are areas that require clarification.

Sinnamon Harris, Board Specialist, provided the committee with a research update concerning those people who are Board of Certification (BOC) Athletic Trainers and those who are registered with OHLA as Athletic Trainers. Harris stated she spoke with Sylvie McMillan, Business and Licensing Manager, about the process and the agency has received detailed information from the BOC that will be worked into a spreadsheet to be presented at the next AT Board meeting. First, the agency will eliminate from the list those with federal exemptions then the agency will go over the list to determine those who the agency believes should be registered. Those names of people who the agency believes should be registered will be given to the agency's Regulatory Operation Division.

## **Questions Moved by AT Board to Legislation/Rules Committee**

Question: Clarify terminology: does an ATR working at a sporting event fall under the definition of "coach" ?

Sellers stated the question arose from the requirement from Max's law that coaches undergo annual concussion training. Sellers stated the question came up at the last Legislation and Rules committee meeting whether or not every AT was appropriately trained in concussion management and recognition. Her understanding was that there was no continuing education requirements for concussion identification. Persons currently going through the athletic trainer program are receiving the training, but what about those already registered? Are they being held to that standard of education and knowledge? Sellers believed the question referenced above is asking whether ATRs should be called "coaches" and get the concussion training, or possibly refer to the Education and Examination Committee a potential requirement for continuing education regarding concussion management and recognition.

Ainsworth stated currently continuing education requirements for ATs are 75 hours every three years. Sellers inquired if any of the hours are specified in a certain area. Sellers stated that the legislation and rules committee could set standards of specific areas of study wherever it perceived a need within the seventy-five hours required. Sellers asked if it is good for public health in Oregon for ATs to receive additional training on concussions? Ainsworth noted that requiring concussion training for ATs holds the AT to a higher standard. Ainsworth asked if the committee felt it was reasonable to require specific concussion training? Isaak and Cagle concurred.

MOTION for full board: The ATB Legislation and Rules Committee proposes a new continuing education requirement of three hours of concussion recognition and management training every three years.

### **Registration Qualification/Reciprocity Questions**

Question: In the future, should non-BOC certified persons be allowed to qualify for registration under OAR 331-110-0005(2), which does not require BOC certification?

Cagle stated that non-BOC certified persons should not be allowed to qualify for registration and Ainsworth concurred.

Question: Should a grandfather clause be adopted with a specific end date allowing those currently qualified under this subsection to become registered?

Ainsworth stated that there are no known persons who are not BOC certified and not registered. He stated no grandfather clause necessary, as of the date of the rule change they could not register without BOC certification. Cagle concurred.

Question: Should any who are grandfathered in already under 331-110-0005(2) who let their licenses lapse be allowed to be re-registered without BOC certification?

Sellers explained if there are any registered ATs who had become registered without BOC certification and let their license lapse or the license was revoked for any reason they would not be allowed to register again without obtaining BOC certification. Ainsworth and Cagle agreed that was correct and they would have to obtain BOC certification. Ainsworth asked if the agency was able to confirm if this

was the situation for anyone currently registered with OHLA. Sellers stated the agency should have this information. They are already registered but not on the BOC list. Ainsworth mentioned that the registrant has three years before the license is lapsed.

Question: For reciprocity: does the Board want to require both BOC certification and licensure in another state?

Ainsworth stated that he believed that BOC certification should be required but not licensure, as there are some states that still do not issue licenses. Sellers confirmed that the recommendation of this committee is that the only pathway to license is BOC certification.

Question: Can someone be BOC certified and get reciprocity in Oregon without having been licensed in another state?

The committee decided that this was not reciprocity. What about from other countries? Cagle mentioned Canada. The consensus was that if the person coming from Canada was recognized by BOC then they would qualify in Oregon.

Question: Should those persons who graduated from CAATE programs but who are not BOC certified be eligible for Oregon registration?

Issak stated the BOC certification examination is the ultimate standard. CAATE programs teach the competencies that they have to meet to pass the examination, so if a person cannot pass the BOC certification examination they don't have the competency. The committee reiterated that ATs must be BOC certified to be eligible for Oregon registration.

Question: What if you have an ATC student (who is not yet registered in Oregon) who is supervising student assistants? Should there be an exemption only while application for registration is in progress?

Lisa Murphy, Qualification Specialist, answered questions the committee had about length of time between initial application and registration. Murphy stated the timeline is very short. If applicants present their CPR card and BOC certification, they are qualified and can obtain their registration the same day. Sellers stated we do not need a grace period between practice and registration and Ainsworth concurred.

Question: Do you want rules to require ATRs to directly supervise their student assistants? Do you want to define "direct supervision" and "indirect supervision" of students?

Issak stated if the person is a student in college in the CAATE program he or she is already required to directly supervise through accreditation. Issak offered some history in stating that one reason direct supervision is required is to protect the athlete and to protect the student assistants themselves from being asked to perform an activity that was not appropriate. Cagle stated any student acting within the scope of an AT must be supervised. Sellers asked if a student assistant is working under an AT and that AT is taken ill and has to leave the student unsupervised, what can the student assistant do and not do? The committee may have to figure out the intent. Ainsworth mentioned the student assistant acting as a first aider. Sellers stated there are no absolutes right now in rule as to what a student assistant may or may not do.

Sellers asked if there are there student assistants out there without direct supervision doing things they should not be doing? Issak responded in the last 10 years since accreditation he has not seen unsupervised student assistants. There may be a problem with schools without certified ATs, but they

would not be defined as student assistants. Consensus of the committee was to table the two questions from lack of need, as the standards are sufficient to protect the public.

### **Issue Statement Referral**

On July 22, 2010, OHLA Policy Analyst Samie Patnode received an e-mail from Dustin Girard, ATC/R of Profound Strength, Personal Training and Athletic Injury Management. Patnode responded on October 4, 2010, framing the questions with the proper references to Oregon Revised Statutes and Administrative Rules. Patnode also invited Mr. Girard to further refine the questions with additional detail and information to assist the board. On November 29, 2010, the board heard the issue statement and moved the issue to the AT Legislation/Rules Committee.

Question one: Does section OAR 331-120-0030 and more specifically the word "collaboration" limit athletic trainers in their ability to operate independent of a physician?

Ainsworth referred to the definition in OAR 331-120-0030 (1) "Collaboration" as used in this section means consultation, correspondence, or referral between an athletic trainer and a physician. Collaboration may be initiated by the athletic trainer or physician, and consists of oral or written communication between the parties or an appropriate representative of the physician. "Collaboration" as used in OAR 331-120-0020 and this section, does not mean providing care on behalf of, jointly, or in concert with one another." and stated he did not see where the definition could be any clearer. Cagle concurred and quoted OAR 331-120-0030 (6): " Nothing in this section or these rules shall be construed to prevent a physician from employing, directing, supervising, establishing protocols for, or otherwise assisting a registered athletic trainer in the practice of athletic training consistent with the scope of practice and professional standards of each practitioner." Sellers asked if the answer to the question would be "no" if the athletic trainer is operating within their scope of practice and professional standards? Both Ainsworth and Cagle concurred.

Sub-question: If there are specific parameters that the state wishes to define when athletic trainers are to collaborate with a physician, what are they?

Sellers stated the committee needed to reference current OARs in this instance and the committee concurred to reference OAR 331-120-0030 (4)(a-i) for this question.

Sub-question: How does collaboration need to occur? For example, could collaboration be a phone call to or from the physician, a prescription, or a letter from the athletic trainer to the physician?

Ainsworth noted the answer to the above sub-question is in OAR 331-120-0030 (1).

Sub-question: How should Athletic Trainers document this collaboration?

Ainsworth noted in OAR 331-120-0030 (5)" The athletic trainer must appropriately record collaboration with a physician regarding an athlete or athletic injury in an acceptable manner, such as notation on injury reports, medical records, and/or progress reports."

Question: Is it within Oregon Revised Statutes and Oregon Administrative Rules for athletic trainers to operate a business independently of a physician as long as they adhere to the Scope of Practice, Standards of Practice, and Collaboration Between Athletic Trainers and Physicians defined in OAR 331-120-0010 and OAR 331-120-0030?

Sellers advised to committee to refer the answer to this question by stating there is nothing in OAR 331 to restricts anyone from operating a business and refer to the Secretary of State Corporation Division for more information about business licensing and regulations in Oregon.

Sellers stated she would draft the response to Mr. Girard and send it to the board members and the agency for final review before sending the response to Mr. Girard.

### **Moved into Rulemaking**

**Remove student registration exemption:** Students who are BOC certified will be required to be registered with OHLA if they are performing the duties of an Athletic Trainer.

Ainsworth pointed out the exemption is only in statute not in rule. Ainsworth stated it may be just a matter to educate and enforce the statute. Sellers stated she will have the DOJ AAG clarify and also consult with licensing and regulatory staff to work out how to implement enforcing the statute. Sellers agreed that it appears the exemption is not in rule and so no rule writing on this issue will be required.

**Collaboration with/Supervision by Physicians:** Remove language in OAR 331-120-0030(4) relating to specific conditions that require AT to consult or refer: "Specific conditions requiring referral to a physician should include; (a) - (i)."

Sellers stated this would be just a matter of striking out the language from (a) - (i) when the committee goes into actual rule writing. The rule would then read: "An Athletic Trainer must consult with or refer an athletic to a physician when the athletic injury is beyond the Athletic Trainer's scope of practice or expertise, or injury is not responding to treatment." Sellers had a conversation with the Legislation and Rules Committee about rulemaking models. Sellers stated the committee needs to set timelines to draft rule changes. Sellers explained about temporary rules that are necessary for immediate public safety and the legislative rule-writing process. Sellers stated she will work on the issues already moved into rulemaking. She mentioned that Shelly Jones, President of Organization of Athletic Training Students (OATS), had sent some proposed changes that Sellers had forwarded out to the Legislation and Rules Committee members. The changes were all statutory and some beyond the scope of what the committee had been discussing. Sellers proposed the committee move forward with those issues that for which they have authority and take more direction from the full board at the next board meeting.

Sellers noted the full board meetings for 2011 are: February 28, May 16, and November 14. Proposed AT Legislation and Rules Committee meetings are: February 10, March 16, April 27, and May 4, 2011. Sellers mentioned the committee may not need the last May 4 meeting or it could be a telephone conference. Subject Matter Experts to be contacted to attend the meetings are: Dave Sheridan, Shelly Jones, and Dale Isaak.

The meeting adjourned at approximately 11:47 am.

Prepared by: Sinnamon Harris, Board Specialist