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CHAPTER 468, PART XIII, FLORIDA STATUTES
ATHLETIC TRAINERS

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468.70 Legislative intent.—It is the intent of the Legislature that athletic trainers practicing in this state meet minimum requirements for safe practice and that an athletic trainer who falls below minimum competency or who otherwise presents a danger to the public be prohibited from practicing in this state. It is the further intent of the Legislature to protect the public by licensing and fully regulating athletic trainers.

History.—s. 320, ch. 94-119; s. 1, ch. 95-388; s. 2, ch. 2000-332; s. 1, ch. 2015-116.

468.701 Definitions.—As used in this part, the term:

- (1) "Athletic trainer" means a person licensed under this part who has met the requirements under this part, including education requirements as set forth by the Commission on Accreditation of Athletic Training Education or its successor and necessary credentials from the Board of Certification. An individual who is licensed as an athletic trainer may not provide, offer to provide, or represent that he or she is qualified to provide any care or services that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing.
- (2) "Athletic training" means service and care provided by an athletic trainer under the direction of a physician as specified in s. 468.713. Such service and care must relate to the prevention, recognition, evaluation, management, disposition, treatment, or rehabilitation of a physically active person who sustained an injury, illness, or other condition involving exercise, sport, recreation, or related physical activity. For the provision of such care and services, an athletic trainer may use physical modalities, including, but not limited to, heat, light, sound, cold, electricity, and mechanical devices.
- (3) "Board" means the Board of Athletic Training.
- (4) "Board of Certification" means the nationally accredited certifying body for athletic trainers or its successor agency.
- (5) "Department" means the Department of Health.

History.—s. 321, ch. 94-119; s. 2, ch. 95-388; s. 99, ch. 98-166; s. 1, ch. 99-349; s. 131, ch. 99-397; s. 16, ch. 2011-95; s. 2, ch. 2015-116.

Note.—Former s. 468.71.

468.703 Board of Athletic Training.—

- (1) The Board of Athletic Training is created within the department and shall consist of nine members appointed by the Governor and confirmed by the Senate.
- (2) Five members of the board must be licensed athletic trainers, certified by the Board of Certification. One member of the board must be a physician licensed under chapter 458 or chapter 459. One member of the board must be a physician licensed under chapter 460. Two members of the board shall be consumer members, each of whom must be a resident of this state who has never worked as an athletic trainer, who has no financial interest in the practice of athletic training, and who has never been a licensed health care practitioner as defined in s. 456.001(4).

(3) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years and such members shall serve until their successors are appointed.

(4) All provisions of chapter 456 relating to activities of the board shall apply.

(5) The board shall maintain its official headquarters in Tallahassee.

History.—s. 3, ch. 95-388; ss. 100, 245, ch. 98-166; s. 2, ch. 99-349; s. 132, ch. 99-397; s. 157, ch. 2000-160; s. 17, ch. 2011-95; s. 3, ch. 2015-116.

468.705 Rulemaking authority.—The board is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this part conferring duties upon it. The provisions of s. 456.011(5) shall apply to the board’s activity. Such rules shall include, but not be limited to, the allowable scope of practice regarding the use of equipment, procedures, and medication; mandatory requirements and guidelines for communication between the athletic trainer and a physician, including the reporting to the physician of new or recurring injuries or conditions; licensure requirements; licensure examination; continuing education requirements; fees; records and reports to be filed by licensees; protocols; and any other requirements necessary to regulate the practice of athletic training.

History.—s. 323, ch. 94-119; s. 4, ch. 95-388; s. 239, ch. 98-166; s. 139, ch. 98-200; s. 3, ch. 99-349; s. 133, ch. 99-397; s. 158, ch. 2000-160; s. 4, ch. 2015-116.

Note.—Former s. 468.73.

468.707 Licensure requirements.—Any person desiring to be licensed as an athletic trainer shall apply to the department on a form approved by the department. An applicant shall also provide records or other evidence, as determined by the board, to prove he or she has met the requirements of this section. The department shall license each applicant who:

(1) Has completed the application form and remitted the required fees.

(2) For a person who applies on or after July 1, 2016, has submitted to background screening pursuant to s. 456.0135. The board may require a background screening for an applicant whose license has expired or who is undergoing disciplinary action.

(3) Has obtained a baccalaureate or higher degree from a college or university professional athletic training degree program accredited by the Commission on Accreditation of Athletic Training Education or its successor recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, approved by the board, or recognized by the Board of Certification, and has passed the national examination to be certified by the Board of Certification.

(4) If graduated before 2004, has a current certification from the Board of Certification.

(5) Has current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator set forth in the continuing education requirements as determined by the board pursuant to s. 468.711.

(6) Has completed any other requirements as determined by the department and approved by the board.

History.—s. 5, ch. 95-388; s. 101, ch. 98-166; s. 4, ch. 99-349; s. 134, ch. 99-397; s. 159, ch. 2000-160; s. 1, ch. 2006-39; s. 18, ch. 2011-95; s. 5, ch. 2015-116.

468.709 Fees.—

(1) The board shall, by rule, establish fees for the following purposes:

(a) An application fee, not to exceed \$100.

(b) An initial licensure fee, not to exceed \$200.

(c) A biennial renewal fee, not to exceed \$200.

(d) An inactive fee, not to exceed \$100.

(e) A delinquent fee, not to exceed \$100.

(f) A reactivation fee, not to exceed \$100.

(g) A voluntary inactive fee, not to exceed \$100.

(2) The board shall establish fees at a level, not to exceed the statutory fee cap, that is adequate to ensure the continued operation of the regulatory program under this part. The board shall neither set nor maintain the fees at a level that will substantially exceed this need.

History.—s. 6, ch. 95-388; s. 5, ch. 99-349; s. 135, ch. 99-397; s. 6, ch. 2015-116.

468.711 Renewal of license; continuing education.—

(1) The department shall renew a license upon receipt of the renewal application and fee, provided the applicant is in compliance with the provisions of this section, chapter 456, and rules promulgated pursuant thereto.

(2) The board may, by rule, prescribe continuing education requirements, not to exceed 24 hours biennially. The criteria for continuing education shall be approved by the board and must include a current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator as set forth in the continuing education requirements as determined by the board.

(3) If initially licensed after January 1, 1998, the licensee must be currently certified by the Board of Certification or its successor agency.

History.—s. 7, ch. 95-388; s. 102, ch. 98-166; s. 6, ch. 99-349; s. 136, ch. 99-397; s. 160, ch. 2000-160; s. 2, ch. 2006-39; s. 19, ch. 2011-95; s. 7, ch. 2015-116.

468.713 Responsibilities of athletic trainers.—An athletic trainer shall practice under the direction of a physician licensed under chapter 458, chapter 459, chapter 460, or otherwise authorized by Florida law to practice medicine. The physician shall communicate his or her direction through oral or written prescriptions or protocols as deemed appropriate by the physician for the provision of services and care by the athletic trainer. An athletic trainer shall provide service or care in the manner dictated by the physician.

History.—s. 8, ch. 95-388; s. 8, ch. 2015-116.

468.715 Sexual misconduct.—The athletic trainer-patient relationship is founded on mutual trust. Sexual misconduct in the practice of athletic training is prohibited under s. 456.063.

History.—s. 9, ch. 95-388; s. 9, ch. 2015-116.

468.717 Violations and penalties.—Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(1) Practicing athletic training, representing oneself as an athletic trainer, or providing athletic trainer services to a patient without being licensed under this part.

(2) Using or attempting to use an athletic trainer license that has been suspended or revoked.

(3) Knowingly employing unlicensed persons in the practice of athletic training.

(4) Obtaining or attempting to obtain an athletic trainer license by misleading statements or knowing misrepresentation.

(5) Using the title “athletic trainer” or “licensed athletic trainer,” the abbreviation “AT” or “LAT,” or a similar title or abbreviation that suggests licensure as an athletic trainer without being licensed under this part.

History.—s. 10, ch. 95-388; s. 10, ch. 2015-116.

468.719 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Committing incompetency or misconduct in the practice of athletic training.

(b) Committing fraud or deceit in the practice of athletic training.

(c) Committing negligence, gross negligence, or repeated negligence in the practice of athletic training.

(d) Being unable to practice athletic training with reasonable skill and safety because of a mental or physical condition or illness, or the use of alcohol, controlled substances, or any other substance that impairs one’s ability to practice.

(e) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

History.—s. 11, ch. 95-388; s. 103, ch. 98-166; s. 7, ch. 99-349; s. 137, ch. 99-397; s. 161, ch. 2000-160; s. 27, ch. 2000-318; s. 42, ch. 2001-277; s. 18, ch. 2005-240; s. 11, ch. 2015-116.

468.723 Exemptions.—This part does not prevent or restrict:

(1) A person licensed in this state under another chapter from engaging in the practice for which he or she is licensed and acting within the scope of such practice.

(2) An athletic training student acting under the direct supervision of a licensed athletic trainer. For purposes of this subsection, “direct supervision” means the physical presence of an athletic trainer so that the athletic trainer is immediately available to the athletic training student and able to intervene on behalf of the athletic training student in accordance with the standards set forth by the Commission on Accreditation of Athletic Training Education or its successor.

- (3) A person from administering standard first aid treatment to another person.
- (4) A person authorized to practice athletic training in another state when such person is employed by or a volunteer for an out-of-state secondary or postsecondary educational institution, or a recreational, competitive, or professional organization that is temporarily present in this state.
- (5) A person providing personal training instruction for exercise, aerobics, or weightlifting, if the person does not represent himself or herself as an athletic trainer or as able to provide "athletic trainer" services and if any recognition or treatment of injuries is limited to the provision of first aid.
- (6) Third-party payors from reimbursing employers of athletic trainers for covered services rendered by a licensed athletic trainer.

History.—s. 325, ch. 94-119; s. 13, ch. 95-388; s. 313, ch. 97-103; s. 1016, ch. 2002-387; s. 3, ch. 2006-39; s. 12, ch. 2015-116.

Note.—Former s. 468.75.

RULE 64B33, FLORIDA ADMINISTRATIVE CODE

64B33-1.001	Probable Cause Determinations
64B33-1.002	Other Board Business for Which Compensation is Allowed
64B33-1.003	Unexcused Absences of Board Members
64B33-1.004	Security and Monitoring Procedures for Examination (Repealed)
64B33-1.005	Exemptions for Spouses of Members of the Armed Forces
64B33-1.006	Public Comment
64B33-2.001	Licensure Requirements
64B33-2.002	Requirement for Instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Repealed)
64B33-2.003	Requirements for Continuing Education
64B33-2.004	Address of Record
64B33-2.005	Requirements for Reactivation of an Inactive License
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64B33-5.002	Mitigating and Aggravating Circumstances
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64B33-1.001 Probable Cause Determinations.

- (1) The determination as to whether probable cause exists that a violation of the provisions of Chapters 456 and 468, Part XIII, F.S., and/or the rules promulgated pursuant thereto, has occurred shall be made by a majority vote of a probable cause panel of the Board.
- (2) There shall be one probable cause panel of the board, composed of two members, one of whom may be a past board member who is not currently appointed to the board.
- (3) The probable cause panel members shall be selected by the Chair of the Board, one (1) of whom shall be designated by the Chair of the Board as the presiding officer of the panel.
- (4) The probable cause panel shall meet at such times as called by the presiding officer of the panel or by two members of the panel. Any meeting of a probable cause panel must include a present board member.

Rulemaking Authority 456.073 FS. Law Implemented 456.073(4) FS. History—New 8-22-00, Amended 7-29-09.

64B33-1.002 Other Board Business for Which Compensation is Allowed.

The following is defined to be other business involving the Board pursuant to Section 456.011(4), F.S.:

- (1) All Board or Committee meetings required by statutes, Board rule, or Board action.
- (2) Meetings of Board members with Department staff or contractors of the Department at the Department's or the Board's request.
- (3) Any meeting a Board member attends at the request of the State Surgeon General or by the Board or Board Chair.
- (4) Probable Cause Panel Meetings.
- (5) All participation in Board authorized meetings with professional associations of which the Board is a member or invitee. This would include all meetings of national associations of registration Boards of which the Board is a member as well as Board authorized participation in meetings of national or professional associations or organizations involved in educating, regulating, or reviewing the profession over which the Board has statutory authority.
- (6) All attendance at continuing education courses for the purpose of monitoring said courses.
- (7) All travel to and from Board meetings or other Board business that involves the use of all or any part of a day prior to or subsequent to completion of the Board meeting or other Board business.

Rulemaking Authority 456.011(4), 468.705 FS. Law Implemented 456.011(4) FS. History—New 8-22-00.

64B33-1.003 Unexcused Absences of Board Members.

- (1) A Board member’s absence from a Board meeting shall be considered unexcused if the Board member had not received approval of the Chair or the Chair’s designee prior to missing the meeting.
- (2) Arriving late for a Board meeting or leaving early from a Board meeting without prior approval of the Chair or the Chair’s designee shall be considered an unexcused absence.

Rulemaking Authority 456.011(3) FS. Law Implemented 456.011(3) FS. History–New 8-22-00.

64B33-1.004 Security and Monitoring Procedures for Examination.

Rulemaking Authority 456.017(1)(d), 468.705 FS. Law Implemented 456.017(1)(d) FS. History–New 8-22-00, Repealed 11-17-15.

64B33-1.005 Exemptions for Spouses of Members of the Armed Forces.

A licensee who is a spouse of a member of the Armed Forces of the United States is exempt from licensure renewal provisions for any period of time that the licensee is absent from the State of Florida due to the spouse’s duties with the Armed Forces. The licensee must document the absence and the spouse’s military status to the Board.

Rulemaking Authority 456.024(2), 468.705 FS. Law Implemented 456.024(2) FS. History–New 9-19-02.

64B33-1.006 Public Comment.

The Board of Athletic Training invites and encourages all members of the public to provide comment on matters or propositions before the Board or a committee of the Board. The opportunity to provide comment shall be subject to the following:

- (1) Members of the public will be given an opportunity to provide comment on subject matters before the Board after an agenda item is introduced at a properly noticed board meeting.
- (2) Members of the public shall be limited to five (5) minutes to provide comment. This time shall not include time spent by the presenter responding to questions posed by Board members, staff or board counsel. The chair of the Board may extend the time to provide comment if time permits.
- (3) Members of the public shall notify board staff in writing of his or her interest to be heard on a proposition or matter before the Board. The notification shall identify the person or entity, indicate its support, opposition, or neutrality, and identify who will speak on behalf of a group or faction of persons consisting of three (3) or more persons. Any person or entity appearing before the Board may use a pseudonym if he or she does not wish to be identified.

Rulemaking Authority 286.0114 FS. Law Implemented 286.0114 FS. History–New 12-15-15.

64B33-2.001 Licensure Requirements.

All candidates for licensure shall pay the application fee and shall submit to the Department a completed DOH form DOH-AT-001 entitled “Board of Athletic Training State of Florida Application for Licensure” (Revised 07/16) incorporated herein by reference. The application can be obtained by writing the Department of Health, Board of Athletic Training, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258 or at <http://www.flrules.org/Gateway/reference.asp?No=Ref-07232>. The application is also available from the website address as follows: <http://www.floridasathletictraining.gov/licensing/>.

- (1) Each applicant for licensure shall meet the following requirements:

- (a) The applicant shall submit proof of successful completion of an accredited professional athletic training degree program.

- (b) The applicant shall submit proof of passing the national examination to be certified by the Board of Certification.

- (c) The applicant shall submit proof of current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator at the professional rescue level from the American Heart Association, the American Red Cross, American Safety and Health Institute, the National Safety Council, or an entity approved by the Board as equivalent.

- (d) Beginning July 1, 2016, all applicants must submit to a background screening pursuant to Section 456.0135, F.S.

(2) All applicants for renewal of initial license shall submit to the Board proof of completion of a two (2) hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for license renewal. The course must be approved by the Board and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. The address of the Board of Athletic Training is 4052 Bald Cypress Way, BIN #C08, Tallahassee, FL 32399-3258.

Rulemaking Authority 456.013(7), 468.705, 468.707, 468.709 FS. Law Implemented 456.013(7), 456.0135, 456.0635, 468.707, 468.709 FS. History–New 5-29-96, Formerly 61-25.002, 64B30-25.002, Amended 8-22-00, 5-9-02, 3-6-07, 8-12-08, 5-27-09, 5-27-10, 12-25-12, 1-5-16, 8-28-16.

64B33-2.002 Requirement for Instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome.

Rulemaking Authority 456.034, 468.705, 468.711 FS. Law Implemented 456.013(7), 456.034, 468.707(2), 468.711(2), (3) FS. History–New 5-29-96, Formerly 61-25.003, 64B30-25.003, Amended 8-22-00, Amended 7-29-09, Repealed 8-23-12.

64B33-2.003 Requirements for Continuing Education.

(1) In the 24 months preceding each biennial renewal period, every athletic trainer licensed pursuant to Chapter 468, Part XIII, F.S., shall be required to complete 24 hours of continuing education in courses approved by the Board. However, athletic trainers who receive an initial license during the second half of the biennium shall be required to complete only 12 hours of continuing education in courses approved by the Board prior to renewal. The hours of continuing education required for renewal must include a minimum of a two-hour course in prevention of medical errors required by Section 456.013(7), F.S. The continuing education requirement includes current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator at the professional rescue level from the American Red Cross, the American Heart Association, American Safety and Health Institute, the National Safety Council, or an entity approved by the Board as equivalent. Athletic trainers who receive an initial license during the 90 days preceding a renewal period shall not be required to complete any continuing education for that renewal period.

(2) For purposes of this rule, one continuing education hour is the equivalent to fifty clock minutes.

(3) Acceptable continuing education must focus on the domains of athletic training, including Injury/Illness Prevention and Wellness Protection, Clinical Evaluation and Diagnosis, Immediate and Emergency Care, Treatment and Rehabilitation, and Organizational and Professional Health and Well-being.

(4) The following continuing education is approved by the Board:

(a) Courses, professional development activities, live events, webinars, and publication activities approved by the Board of Certification (BOC);

(b) Post-certification courses in athletic training sponsored by a college or university approved by the United States Department of Education which provides a curriculum for athletic trainers. In order to be eligible, a course must be assigned credit hours and be listed on an official transcript. In order for practicum courses, clinical and internship experiences to be eligible, credit hours must be earned and listed as such on an official transcript. Teaching a college course is not acceptable for CE credit. Non-credit college courses are not acceptable for CE credit.

(c) Home study courses approved by the BOC will be acceptable for no more than 10 of the required continuing education hours. The remaining 14 hours require actual attendance and participation. For those licensees who are initially licensed during the second year of the biennial period, only 5 of the required continuing education hours may consist of home study courses. The remaining 7 hours require actual attendance and participation.

(d) A webinar is considered a live event if the provider can track the participant's session activity. If the provider does not have the ability to track the participant's activity, the course is considered a home study.

(5) Each athletic trainer shall maintain proof of completion of the required continuing education hours for a period of 4 years, and shall provide such proof to the department upon request.

Rulemaking Authority 456.013, 468.705, 468.711 FS. Law Implemented 456.013(7), 468.711(2) FS. History–New 8-4-98, Formerly 64B30-25.0031, Amended 8-22-00, 3-6-07, 8-12-08, 7-29-09, 1-16-12, 10-2-12, 1-5-16.

64B33-2.004 Address of Record.

- (1) Each licensee shall provide either written or electronic notification to the department of the licensee's current mailing address and place of practice. The term "place of practice" means the address of the physical location where the licensee practices.
- (2) Each licensee shall provide either written or electronic notification to the department of a change of address within thirty (30) days of the address change.
- (3) If electronic notification is used, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department.

Rulemaking Authority 456.035(1), 468.705 FS. Law Implemented 456.035 FS. History–New 7-14-03.

64B33-2.005 Requirements for Reactivation of an Inactive License.

An inactive license shall be reactivated upon demonstration that the licensee has paid the reactivation fee set forth in Rule 64B33-3.001, F.A.C., and has complied with the following requirements:

- (1) As a condition to the reactivation of an inactive license, an athletic trainer must submit proof of successful completion of approved continuing education for each year of inactive status, if initially licensed after January 1, 1998, submit proof of current certification by the Board of Certification and must disclose any criminal convictions or pending disciplinary or criminal charges. In addition, the athletic trainer must submit a written statement which accounts for all employment activity during the period of inactive licensure.
- (2) Any athletic trainer whose license has been inactive for more than two consecutive biennial licensure cycles (more than 4 years) shall be required to appear before the Board and establish the ability to practice with the care and skill sufficient to protect the health, safety, and welfare of the public.
- (3) Effective July 1, 2016, all applicants will submit to background screening pursuant to Section 456.0135, F.S. The board may require a background screening for an applicant whose license has expired or who is undergoing disciplinary action.

Rulemaking Authority 456.036, 468.705 FS. Law Implemented 456.0135, 456.036, 468.707, 468.711 FS. History–New 8-10-09, Amended 12-3-09, 1-16-12, 1-5-16.

64B33-3.001 Fees.

The following fees are prescribed for athletic trainers:

- (1) The application fee shall be \$100.00.
- (2) The initial licensure fee for those initially licensed in the first year of the biennium shall be \$100.00. For those initially licensed in the second year of the biennium, the initial licensure fee shall be \$100.00.
- (3) The biennial renewal fee shall be \$100.00.
- (4) The inactive fee shall be \$50.00.
- (5) The delinquent fee shall be \$75.00.
- (6) The reactivation fee shall be \$25.00.
- (7) At any time other than renewal, the change of status fee shall be \$25.00.
- (8) The duplicate license fee shall be \$25.00.
- (9) The retired status fee shall be \$50.00.

Rulemaking Authority 456.025, 456.036(3), (7), (10), (11), (16), 468.705, 468.709 FS. Law Implemented 456.025, 456.036, 468.709 FS. History–New 7-12-95, Amended 5-29-96, Formerly 61-25.001, 64B30-25.001, Amended 8-22-00, 9-19-05, 8-12-08, 7-29-09, 1-16-18.

64B33-4.001 Protocols; Scope of Practice.

- (1) A licensed athletic trainer, shall apply the following principles, methods and procedures within the scope of the athletic trainer's practice.
 - (a) Injury Prevention;
 - (b) Injury Recognition and Evaluation;

- (c) First Aid;
 - (d) Emergency Care;
 - (e) Injury Management/Treatment and Disposition;
 - (f) Rehabilitation through the use of safe and appropriate physical rehabilitation practices, including those techniques and procedures following injury and recovery that restore and maintain normal function status;
 - (g) Conditioning;
 - (h) Performance of tests and measurements to prevent, evaluate and monitor acute and chronic injuries;
 - (i) Selection of preventive and supportive devices, temporary splinting and bracing, protective equipment, strapping, and other immobilization devices and techniques to protect an injured structure, facilitate ambulation and restore normal functioning;
 - (j) Organization and administration of facilities within the scope of the profession;
 - (k) Education and counseling to the public regarding the care and prevention of injury within the scope of the profession.
- (2) For treatment and rehabilitation of muscle skeletal injuries the athletic trainer may administer the following:
- (a) Therapeutic Exercise;
 - (b) Massage;
 - (c) Mechanical Devices;
 - (d) Cryotherapy (e.g., ice, cold packs, cold water immersion, spray coolants);
 - (e) Thermotherapy (e.g., topical analgesics, moist/dry hot packs, heating pads, paraffin bath);
 - (f) Other therapeutic agents with the properties of water (e.g., whirlpool); electricity (e.g., electrical stimulation, diathermy); light (e.g., infrared, ultraviolet); or sound (e.g., ultrasound).
- (3) The athletic trainer may apply topical prescription medications (e.g., steroid preparation for phonophoresis) only at the direction of a physician.

Rulemaking Authority 468.705 FS. Law Implemented 468.705, 468.713 FS. History—New 11-17-96, Formerly 61-25.004, 64B30-25.004, Amended 10-4-16

64B33-5.001 Disciplinary Guidelines.

(1) The Board provides within this rule disciplinary guidelines which shall be imposed upon applicants or licensees whom it regulates under Chapter 468, Part XIII, F.S. The purpose of this rule is to notify applicants and licensees of the ranges of penalties which will routinely be imposed unless the Board finds it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; multiple counts of the violated provisions or a combination of the violations may result in a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and 120.57(2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

(3) When the Board finds an applicant or licensee whom it regulates under Chapter 468, Part XIII, F.S., has committed any of the acts set forth in Section 468.719, F.S., it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

VIOLATIONS	RECOMMENDED PENALTIES		
	First Offense	Second Offense	Third Offense
(a) Committing incompetency or misconduct in the practice	From reprimand to probation of the license, and an administrative fine	From probation to suspension of the license, and an administrative fine ranging	From suspension to revocation of the license, and an administrative fine

of athletic training.	ranging from \$500.00 to \$750.00, from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.	From \$750.00 to \$1,000.00, or refusal to certify an application for licensure.	From \$1,000.00 to \$1,500.00, or refusal to certify an application for licensure.
(b) Committing fraud or deceit in the practice of athletic training.	From reprimand to probation of the license, and if fraud is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	From probation to suspension of the license, and if fraud is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	From suspension to revocation of the license, and if fraud is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.
(c) Committing negligence, gross negligence, or repeated negligence in the practice of athletic training.	From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$2,500.00, or refusal to certify an application for licensure.	From probation to revocation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.	From suspension to revocation of the license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.
(d) While practicing athletic training, being unable to practice athletic training with reasonable skill and safety to athletes by reason of illness or use of alcohol or drugs or as a result of any mental or physical condition.	From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$2,500.00, or refusal to certify an application for licensure.	From probation to revocation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.	From suspension to revocation of the license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.

(4) When the Board finds an applicant or licensee whom it regulates under Chapter 468, Part XIII, F.S., has violated Section 456.072, F.S., by violating any of the following provisions, it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

VIOLATIONS	RECOMMENDED PENALTIES		
	First Offense	Second Offense	Third Offense
(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of athletic training. (Section 456.072(1)(a), F.S.)	From reprimand to suspension of the license, and if fraudulent representations are proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	From probation to revocation of the license, and if fraudulent representations are proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	From suspension to revocation of license, and if fraudulent representations are proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.
(b) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee. (Section 456.072(1)(g), F.S.)	From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$2,500.00, or refusal to certify an application for licensure.	From probation to revocation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.	From suspension to revocation of the license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.

(c) Aiding, assisting, or procuring, employing, or advising any unlicensed person or entity to practice athletic training contrary to Chapters 468, Part XIII and 456, F.S., or the rules of the department or the board. From reprimand to suspension of the license, and an administrative fine ranging from \$500.00 to \$1,000.00, or refusal to certify an application for licensure. From probation to revocation of the license, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or refusal to certify an application for licensure. From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.

(Section 456.072(1)(j), F.S.)

(d) Failure to perform any statutory or legal obligation placed upon a licensee. From letter of concern to probation of the license, and an administrative fine ranging from \$500.00 to \$1,000.00, or refusal to certify an application for licensure. From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$10,000.00, or refusal to certify an application for licensure. From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.

(e) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. From reprimand to suspension of the license, and if fraudulent representation(s) is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure. From probation to suspension of the license, without the ability to reapply, and if fraudulent representation(s) is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure. From suspension to revocation of license, without the ability to reapply, and if fraudulent representation(s) is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.

(Section 456.072(1)(m), F.S.)

(f) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform. From reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$1,000.00, or refusal to certify an application for licensure. From probation to revocation of the license, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or refusal to certify an application for licensure. From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.

(Section 456.072(1)(o), F.S.)

(g) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegates or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them. From reprimand to suspension of the license, and an administrative fine ranging from \$500.00 to \$2,500.00, or refusal to certify an application for licensure. From probation to revocation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure. From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.

(Section 456.072(1)(p), F.S.)

(h) Improperly interfering with probation of the license, and an investigation or inspection authorized by statute, or with any disciplinary proceeding. (Section 456.072(1)(r), F.S.)

(i) Engaging or attempting to engage a patient or client in verbal or physical sexual activity. For the purposes of this section, a patient or client shall be presumed to be incapable of giving free, full, and informed consent to verbal or physical sexual activity. (Section 456.072(1)(v), F.S.)

(j) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. (Section 456.072(1)(w), F.S.)

(k) Being convicted of, or entering a plea of guilty or nolo contendere to, a misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s.1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program. (Section 456.072(1)(ii), F.S.)

(l) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement. (Section 456.072(1)(jj), F.S.)

(m) Being terminated from cause from the Medicaid program or other state program, or the

Medicare program. federal program, the
 (Section 456.072(1)(kk), termination occurred at least
 F.S.) 20 years prior to the date of the
 application. From suspension license to fiveRevocation.
 From reprimand to suspensionyears and an administrative fine
 (n) Being convicted of, orof license up to five years andof \$10,000, or refusal to certify
 entering into a plea of guilty an administrative fine ofan application for licensure.
 or nolo contendere to, any\$10,000, or refusal to certify an
 misdemeanor or felony,application for licensure.
 regardless of adjudication,
 which relates to health care
 fraud.
 (Section 456.072(1)(ll), F.S.)

*Rulemaking Authority 456.079, 468.705, 468.719 FS. Law Implemented 456.072, 456.079, 468.719 FS.
 History–New 10-22-02, Amended 1-16-07, 6-30-10, 12-19-12, 1-6-16, 10-4-16.*

64B33-5.002 Mitigating and Aggravating Circumstances.

Based upon consideration of aggravating or mitigating factors, present in an individual case, the Board may deviate from the penalties recommended in subsections (3) through (5) of Rule 64B33-5.001, F.A.C. If mitigating factors are present, the administrative fine may be reduced and a less severe action, such as a reprimand or probation, taken against the licensee from the range of actions given in the disciplinary guidelines. If aggravating factors are present, the maximum administrative fine may be imposed and more severe action, such as suspension or revocation, taken against the licensee from the range of actions given in the disciplinary guidelines. The Board shall consider as aggravating or mitigating factors the following:

- (1) The danger to the public;
- (2) The length of time since the violation;
- (3) The number of times the licensee has been previously disciplined by the Board;
- (4) The length of time licensee has practiced;
- (5) The actual damage, physical or otherwise, caused by the violation;
- (6) The deterrent effect of the penalty imposed;
- (7) The effect of the penalty upon the licensee’s livelihood;
- (8) Any effort of rehabilitation by the licensee;
- (9) The actual knowledge of the licensee pertaining to the violation;
- (10) Attempts by licensee to correct or stop violation or refusal by licensee to correct or stop violation;
- (11) Related violations against licensee in another state including findings of guilt or innocence, penalties imposed and penalties served;
- (12) Actual negligence of the licensee pertaining to any violation;
- (13) Penalties imposed for related offenses under subsections (3) through (5) above;
- (14) Any other relevant mitigating or aggravating factor under the circumstances.

*Rulemaking Authority 456.072, 456.079, 468.705, 468.719 FS. Law Implemented 456.072, 456.079, 468.719 FS.
 History–New 5-9-02.*

64B33-5.003 Citations.

- (1) Definition. As used in this rule:
 - (a) “Citation” means an instrument which meets the requirements set forth in Section 456.077, F.S., and which is served upon a subject for the purpose of assessing a penalty in an amount established by this rule;
 - (b) “Subject” means the licensee alleged to have committed a violation designated in this rule.
- (2) In lieu of the disciplinary procedures contained in Section 456.073, F.S., the Department is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint which is the basis for the citation.
- (3) The Board hereby designates the following as citation violations, which shall result in the indicated

penalty:

- (a) Failing to complete the continuing education requirements prescribed in Section 468.711(2), F.S., and the rules promulgated thereto: \$25.00 fine per continuing education hour plus proof of completing the continuing education within three months;
 - (b) Failure to notify the Department of a change in the licensee's current mailing address as required by Section 456.035, F.S.: \$50.00 fine, plus proof of compliance within 30 days, and costs;
 - (c) Practice on an inactive license for less than four months: \$100.00 fine for each month or fraction thereof, plus proof of compliance within 30 days, and costs;
 - (d) Failure to timely pay required fees and fines: \$100.00 fine, plus proof of compliance within 30 days, and costs;
 - (e) First time issuance of a bad check to the Department for the payment of a fee or fine if not satisfied within 45 days: \$100.00 fine, plus proof of compliance, and costs;
 - (f) First time failure to notify the Board in writing within 60 days of action taken against one's license in another jurisdiction or of a criminal felony conviction within 30 days: \$250.00 fine, plus proof of compliance, and costs;
 - (g) First time falsely certifying completion of required continuing education: \$100.00 fine, plus proof of completing the continuing education within three months, and costs;
 - (h) Failure to sign, file or render any report required by statute as part of a licensee's responsibility: \$50.00 fine, plus proof of compliance, and costs;
 - (i) Failure to report to the Department any person whom the licensee knows is in violation of the laws and rules of the Department: \$50.00 fine, and costs; and
 - (j) Improper use of practice title or credentials: \$50.00 fine, plus proof of compliance, and costs.
- (4) If the subject does not dispute the matter in the citation in writing within 30 days after the citation is served by personal service or within 30 days after receipt by certified mail, the citation shall become a public final order of the Board of Athletic Training and does not constitute discipline for a first offense, but does constitute discipline for a second subsequent offense. The subject has 30 days from the date the citation becomes a final order to pay the fine and costs. All fines and costs are to be made payable to "Board of Athletic Training – Citation."
- (5) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S., unless otherwise exempt from the provisions of Chapter 119, F.S.

Rulemaking Authority 456.077, 468.705, 468.719 FS. Law Implemented 456.077, 468.719 FS. History–New 5-9-02, Amended 8-15-05, 1-6-16.

64B33-5.004 Reasonable Time to Pay Fines, Costs and Assessments.

Pursuant to Section 456.072(4), F.S., a reasonable time within which to pay any fines, costs and assessments imposed by the Board shall be thirty (30) days unless a longer time period is set forth in the disciplinary order imposing the fines, costs or assessments.

Rulemaking Authority 456.072(4), 468.705 FS. Law Implemented 468.705, 456.072(2), (4) FS. History–New 5-9-02.

64B33-5.005 Mediation.

(1) "Mediation" means a process whereby a mediator appointed by the Department acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and non-adversarial process with the objective of assisting the parties to reach a mutually acceptable agreement.

(2) For the purpose of Section 456.078, F.S., the Board designates as being appropriate for mediation first time violations of the following provision of Section 468.719(1), F.S.: except as provided in Section 465.016, F.S., failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.

(3) Such violations are appropriate for mediation only if:

- (a) The economic harm caused by an act or omission is not due to intentional misconduct;
- (b) There is no allegation of physical harm or injury to a patient related to such violation; and,
- (c) The violation does not result in an adverse incident as defined in Section 456.078(2), F.S.

Rulemaking Authority 456.078 FS. Law Implemented 456.072(1)(i), 456.078 FS. History–New 8-15-05, Amended 10-

64B33-5.006 Minor Violations.

(1) Subject to the limitations imposed by this rule, the following violations are designated as minor for the purposes of Section 456.073(3), F.S.

(a) Violations of Section 456.072(1)(r), F.S., improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding;

(b) Violations of Section 456.072(1)(u), F.S., failing to comply with the requirements of Sections 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a patient complaint.

(2) This designation of violations as minor for the purposes of Section 456.073(3), F.S., is limited to initial violations.

(3) A monthly report of notices of noncompliance issued by the Department shall be reviewed by the Board to monitor the use and success of this procedure.

Rulemaking Authority 120.695, 456.073(3) FS. Law Implemented 120.695, 456.073(3) FS. History—New 1-2-17.