

**ALABAMA BOARD OF ATHLETIC TRAINERS
ADMINISTRATIVE CODE**

**CHAPTER 140-X-6
COMPLIANCE AND DISCIPLINARY ACTION**

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140-X-6-.01	<u>License Suspension, Revocation Or Failure To Renew.</u>
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(1) Where the Board is made aware by a notarized, written allegation as submitted on the Board-approved complaint form of the possibility of impropriety by a licensee in obtaining or maintaining licensure, or failing to obtain or timely renew licensure, or in the practice of athletic training, or other allegedly improper circumstance regarding athletic training, the Board will give notice and opportunity to be heard to the licensee, registrant, or person alleged to have committed the impropriety or delinquency, pursuant to the Alabama Administrative Procedure Act. In some instances an incorrect practice or deficiency of athletic training, the licensee, registrant, or person may be given notice of the incorrect practice or deficiency and an opportunity to cure the incorrect practice or deficiency will be provided without further action being taken. The licensee, registrant, or person may request a formal or informal hearing before the Board on an impropriety, delinquency, incorrect practice, or deficiency. Without regard to whether the Board has been given notice previously of the impropriety, delinquency, incorrect practice, or deficiency the listed may decline a hearing afforded the licensee or person by the Board. The right to decline a hearing afforded by the Board is a personal right which is to be exercised by the licensee or person and not by his attorney or other representative acting alone, and must be exercised in writing. The party requesting a hearing is responsible for obtaining the services of and payment of the cost of the court reporter's fee, if any. Procedures to be followed by the Board are contained in Appendix B - Procedures and are considered part of this rule.

(2) The improprieties and delinquencies set forth in the Alabama Athletic Trainers Licensure Act are examples of improprieties and delinquencies, for which the Board may suspend, fine, revoke or refuse to grant or renew a license, but are not at all an inclusive or exhaustive list of such improprieties and delinquencies.

(3) The Board will notify the licensee (or other person afforded a hearing after written allegation) of the decision of the Board, listing the reasons for any decision adverse to the licensee or person afforded a hearing.

(4) If, in the opinion of the Board, the misconduct is a continuing civic wrong which is not amendable to action of the Board after a hearing, or harm is imminently likely to occur to the public from continuation of the misconduct, the Board may institute a civil action for an injunction with penalties and costs, and/or may present the misconduct and information to the District Attorney for the county in which the misconduct occurred for prosecution as a criminal case.

Authors: Rodney Brown, ATC; Drew Ferguson, ATC; Brad Montgomery, ATC

Statutory Authority: Code of Ala. 1975, §34-40-3(e).

History: New Rule: Filed December 10, 2008; effective January 14, 2009.

140-X-6-.02 Prohibited Acts.

(1) The following acts shall constitute misconduct in the practice of athletic training for which disciplinary penalties may be imposed after opportunity to be heard pursuant to the procedure in the Alabama Administrative Procedures Act:

(a) Conviction, adjudication, or a finding of guilt in any jurisdiction of a crime, which directly relates to the practice of athletic training or to the ability to practice athletic training. A plea of nolo contendere may be taken into consideration by the Board.

(b) False, deceptive or misleading advertising as pertaining to the use of the title of athletic trainer, athletic training, and/or credentials as listed in the Alabama Athletic Trainers Licensure Act.

(c) Aiding, assisting, or procuring any unlicensed person to practice athletic training contrary to the rules and

regulations of the Board or the Alabama Athletic Trainers Licensure Act.

(d) Making deceptive, untrue, or fraudulent representations in the practice of athletic training.

(e) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform or acting outside of the NATA Code of Ethics or standards of practice.

(f) Delegating professional responsibilities to an apprentice athletic trainer, or unlicensed athletic trainer when the licensee delegating the responsibility knows or has reason to believe that the person is not qualified by training, experience, or licensure to perform those responsibilities. This shall not include acts of an athletic training student enrolled in a CAATE-accredited educational program and is under direct supervision of a licensed athletic trainer. Direct Supervision is supervision of the athletic training student during clinical experience. The ACI and/or CI must be physically present and have the ability to intervene on behalf of the athletic training student and the patient.

(g) Acting, or practicing as an athletic trainer while unlicensed or with a revoked or suspended license.

(h) Refusing to allow the designated Board member(s) or investigator to inspect the athletic training practices, settings, premises, or establishment during regular business hours.

(i) Failing to attend and/or provide evidence of attendance and/or completion of 26 hours of approved continuing education course work in the twelve (12) months preceding the date renewal of licensure is due.

(j) Failing to work under the direction of a physician licensed by the Medical Licensure Commission of Alabama.

(k) Performing any of the acts listed under Alabama Athletic Trainers Licensure Act, Section 34-40-10, Reasons for rejection, revocation or suspension of licensure.

(l) Attempting to obtain or renew a license by fraud or deception.

(m) Using mind altering substances to an extent which affects professional competency. These substances include, but

are not limited to, prescription medications, alcohol, controlled substances, and illegal drugs or mind altering chemicals.

(2) The following acts shall constitute incorrect practice of athletic training for which disciplinary penalties may be imposed after opportunity to be heard in an informal or a formal hearing pursuant to the procedure in the Alabama Administrative Procedures Act, or after notice of deficiency and opportunity to cure the deficiency:

(a) Failing to perform a statutory or legal or rule-based obligation based upon a licensee in the practice of athletic training.

(b) Failing to practice athletic training with reasonable skill and safety to athletes as a result of illness; use of alcohol, drugs, narcotics, chemicals, or other mind-altering substance; mental or physical condition.

(c) Failing to practice athletic training with that level of care, skill and treatment which is recognized by a reasonably prudent athletic trainer as being acceptable under similar circumstances and conditions.

(d) Failing to maintain premises, supplies, and equipment of the athletic training setting in a clean and sanitary condition.

(e) Being guilty of an offense or conduct that has been deemed detrimental to the best interest of the public by a court of law or higher judicial authority.

Authors: Rodney Brown, ATC; Drew Ferguson, ATC; Brad Montgomery, ATC

Statutory Authority: Code of Ala. 1975, §34-40-3(e).

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140-X-6-.03 Discipline And Injunctions.

(1) The Board may receive written complaints regarding licensees, registrants, applicants, entities, or other persons regarding athletic training or violations of the Alabama Athletic Trainers Licensure Act.

(2) The Professional Practice and Discipline Committee will investigate the complaint and present the information to the Board for its consideration.

(3) Notice and opportunity to be heard will be afforded the licensee, registrant, or person alleged to be delinquent or to have committed an impropriety, as stated above. If, after such a hearing, the Board determines adversely to the licensee, registrant, or person, the Board may:

(a) Order the licensee, registrant, or person to correct the delinquency within a stated amount of time;

(b) Order the licensee, registrant, or person to cease and desist the improper acts;

(c) Revoke the license or registration of the licensee, registrant, or person;

(d) Refuse to issue a license, registration, or renewal to the applying licensee, registrant, or person;

(e) Suspend the license or registration of the licensee, registrant, or person pending correction of a delinquency or impropriety;

(f) Institute a civil action for an injunction with penalties and costs;

(g) Present the information and allegation of misconduct to the District Attorney for the county in which the misconduct occurred, for criminal prosecution of the case;

(h) Suspend license for failure to maintain current certification through the Board of Certification of Athletic Training;

(i) Suspend license for failure to maintain current certification in standard first aid and CPR and AED for the Professional Rescuer through the American Red Cross, BLS Healthcare Provider through American Heart Association, or other Board-approved providers so long as the certification process is completed annually.

(4) The Board, after notice and/or hearing, may dispose of a case informally by stipulation, agreed settlement, or consent order in lieu of decision of the Board, with all parties or their authorized representative signing a written stipulation, agreed settlement, or consent order document.

(5) Any one or more of the above penalties may be imposed or sought in a particular case, as the situation warrants; and the Board may impose or seek any other penalty or remedy not stated above but available and authorized by law.

Authors: Rodney Brown, ATC; Drew Ferguson, ATC; Brad Montgomery, ATC

Statutory Authority: Code of Ala. 1975, §34-40-3(e).

History: New Rule: Filed December 10, 2008; effective January 14, 2009.

140-X-6-.04 Advertising Limitations.

(1) A written advertisement by an athletic trainer or an athletic training establishment shall contain the Alabama license number of the athletic trainer.

(2) No person without valid Alabama athletic training licensure shall advertise as an athletic trainer.

Authors: Rodney Brown, ATC; Drew Ferguson, ATC; Brad Montgomery, ATC

Statutory Authority: Code of Ala. 1975, §34-40-3(e).

History: New Rule: Filed December 10, 2008; effective January 14, 2009.

**CHAPTER 140-X-6
APPENDIX B**

Complaint/Investigative/Disciplinary Procedures

Filing a Complaint

- ◇ Complaints are only accepted in writing on the Alabama Board of Athletic Trainers official complaint form.
- ◇ Anonymous or oral complaints are not accepted.
- ◇ Individuals may make an inquiry about filing a complaint to the Executive Secretary via phone, mail, email, or fax.
- ◇ If the individual decides to make a formal complaint, the Executive Secretary will provide the individual an official complaint form.
- ◇ After receiving the complaint form, the individual fills it out, signs and has it notarized, and mails it back to the Executive Secretary.

Procedures after Receipt of the Complaint

- ◇ The Executive Secretary shall date-stamp the complaint form upon receipt.
- ◇ The Executive Secretary shall ascertain whether or not the individual named in the complaint is currently licensed by the Board.
- ◇ The Executive Secretary shall inform the complainant in writing if the individual is not licensed, thus falling outside the Board's jurisdiction.
- ◇ The Executive Secretary shall assign a number to the complaint if verified to be a valid licensee. The number shall begin with the year the complaint is filed.
- ◇ The Executive Secretary will forward the complaint form to the Board Vice-Chairman, who serves as the Chairman of the Professional Practice and Disciplinary Committee (PP&D).
- ◇ The Chairman of the PP&D Committee shall activate and instruct the PP&D Committee to commence investigation of the complaint.
- ◇ The PP&D Committee shall review the initial complaint to determine whether a licensee violated a statutory rule or administrative regulation.
- ◇ If a complaint falls within the Board's jurisdiction, notice will be sent to the complainant that the PP&D Committee has been activated.
- ◇ If the initial complaint states a cause of action, the PP&D Committee shall then notify the licensee that an initial

complaint has been filed against him / her. This shall be done by sending the licensee a copy of the initial complaint and a certified letter describing the disciplinary process, including dates by which the licensee must respond.

- ◇ After the licensee has responded, the PP&D Committee reviews the licensee's response and makes a formal recommendation to the Board.

Recommendation to the Board / Action by the Board

- ◇ The PP&D Committee makes a formal recommendation to the Board by giving a brief description of their findings without revealing the identity of the accused licensee.
- ◇ The recommendation concludes by stating one of the following:
 1. The PP&D Committee recommends the Board take no disciplinary action.
 2. The PP&D Committee recommends the Board take disciplinary action which may include paying a fine, license suspension, or license revocation.
 3. The PP&D Committee recommends the Board settle the matter by having the licensee make a required corrective action.
- ◇ After the recommendation concludes, the Board may then hold discussion and vote on whether it will accept, reject, or modify the PP&D Committee's recommendation.
- ◇ If the Board votes to take no action, the initial complaint file is closed and a letter is sent to the licensee and the complainant stating that the initial complaint file has been closed.
- ◇ If the Board decides to take disciplinary action, the Board initiates formal disciplinary procedures by filing an administrative complaint.

Administrative Complaint Procedure

- ◇ The Board shall draft an administrative complaint stating specific findings and citing specific rules or regulations that were violated by the licensee.
- ◇ The administrative complaint is filed by the Executive Secretary with an administrative law judge.
- ◇ The administrative law judge administers the complaint until a final hearing is held.
- ◇ At the hearing, an administrative law judge administers the hearing, and any Board members that did not review the initial complaint hear evidence and decide if disciplinary action is warranted.

Reasons for Rejection, Revocation, or Suspension of License

1. The reasons for rejection, revocation, or suspension of license as set forth in the Alabama Athletic Trainers Licensure Act, Code of Alabama Section 34-40-10, are examples of prohibited acts for which the Board may reject, revoke, or suspend a license, but are not an all inclusive or exhaustive list of such prohibited acts.
2. The Board may refuse to issue a license certificate to any person and, after notice and hearing pursuant to its regulation and rules, may suspend or revoke the license certificate of any person who has committed any of the following prohibited acts:
 - A. Practicing athletic training other than under the direction or referral, or both, of a physician licensed in the State of Alabama to practice medicine or surgery.
 - B. Practicing athletic training without a current and valid license, including a revoked or suspended license.
 - C. Obtaining or attempting to obtain a license by fraud or deception.
 - D. Renewing or attempting to renew a license by fraud or deception.
 - E. Using mind altering substances to an extent which affects professional competency. These substances include prescription medications, alcohol, illegal drugs, and any other mind-altering chemicals.
 - F. Being adjudged mentally incompetent by a court of competent jurisdiction.
 - G. Being grossly negligent in the practice of athletic training and failing to practice athletic training with a level of skill which is recognized by a reasonably prudent athletic trainer as being acceptable under similar circumstances and conditions.
 - H. Being guilty of conduct detrimental to the best interest of the public, including violation of any state or federal controlled substance law.

I. Practicing athletic training outside of the scope of practice as defined in the Alabama Athletic Trainers Licensure Act, Code of Alabama Section 34-40-2 (5), including treating or undertaking to treat human ailments otherwise than by athletic training and according to standards established by the Board.

J. Advertising unethically according to standards set by the Board.

K. Failing or refusing to obey any lawful order or regulation of the Board.

L. Unlawful invasion of the field of practice of any other profession.

Authors: Rodney Brown, ATC; Drew Ferguson, ATC; Brad Montgomery, ATC

Statutory Authority: Code of Ala. 1975, §34-40-3(e).

History: New Rule: Filed December 10, 2008; effective January 14, 2009.