

APA-1
Revised 4/2018

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 140 Department or Agency Alabama Board of Athletic Trainers
Rule No. 140-X-8
Rule Title: Physician Supervision of Athletic Trainers
X New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer *Deed Taylor*

Date December 17, 2021

(DATE FILED)
(STAMP)

ALABAMA BOARD OF ATHLETIC TRAINERS

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Athletic Trainers

RULE NO. & TITLE: 140-X-8 – Physician Supervision of Athletic Trainers

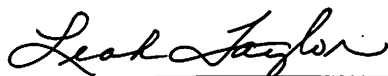
INTENDED ACTION: Adopt new chapter and rule.

SUBSTANCE OF PROPOSED ACTION: The proposed new rule 140-X-8 Physician Supervision of Athletic Trainers will establish criteria for qualifying, registering, and maintaining a supervisory relationship with a licensed athletic trainer in the State of Alabama.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing at the address listed below. Those wishing to present views in person should contact the Board of Athletic Trainers at 334/264-1929 Monday through Friday between the hours of 8:30 a.m. and 4:00 p.m.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Thursday, February 3, 2022.

CONTACT PERSON AT AGENCY: Leah Taylor
Executive Secretary
Board of Athletic Trainers
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Leah Taylor
Executive Secretary

**ALABAMA BOARD OF ATHLETIC TRAINERS
ADMINISTRATIVE CODE**

CHAPTER 140-X-8

PHYSICIAN SUPERVISION OF ATHLETIC TRAINERS

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140-X-8-.01 Definitions. The following definitions will apply to these rules:

(1) Advisory Council. The Advisory Council of the State Board of Medical Examiners and the Alabama Board of Athletic Trainers, established pursuant to Code of Alabama 1975, as amended, § 34-40-3.2.

(2) Athletic Trainer. A person who is licensed by the State Board of Athletic Trainers as an athletic trainer in Alabama.

(3) Board of Athletic Trainers. The Alabama Board of Athletic Trainers established pursuant to Code of Alabama 1975, as amended, § 34-40-3.

(4) Board of Medical Examiners. The State Board of Medical Examiners established pursuant to Code of Alabama 1975, as amended, § 34-24-53.

(5) Emergency Action Plan. A written document which provides guidelines, defines personnel roles, and offers templates for the treatment of a catastrophic injury in a given setting.

(6) Physician Supervision. A formal relationship between an athletic trainer and a licensed physician under which the athletic trainer is authorized to practice as evidenced by a written protocol approved by the State Board of Medical Examiners. Physician supervision requires that there shall at all times be a continuing and close supervisory relationship between the athletic trainer and the physician to whom that athletic trainer is registered. The term does not require direct on-site supervision of the athletic trainer; however, supervision does include the professional oversight and direction required by these rules and by the written guidelines established by the Board of Athletic Trainers and the Board of Medical Examiners.

(7) Protocol. A document approved by the Board of Athletic Trainers and the Board of Medical Examiners establishing the permissible functions and activities that an athletic trainer may perform under the supervision of a physician.

(8) Supervising Physician. A physician licensed by the Medical Licensure Commission of Alabama to whom an athletic trainer is registered and who agrees in writing to supervise one or more athletic trainers pursuant to the rules, regulations, and protocols established by the Board of Medical Examiners and Board of Athletic Trainers.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.02 Advisory Council.

(1) The Advisory Council's primary purpose is to provide a forum for the exchange of information between the Board of Medical Examiners and the Board of Athletic Trainers and for the formulation of recommendations on matters relating to the supervision of athletic trainers by physicians.

(2) The Advisory Council shall consist of the following:

(a) Three (3) physicians appointed by the Board of Medical Examiners. For the initial term, one member shall be appointed to a term concluding on June 30, 2022, one member shall be appointed to a term concluding on June 30, 2023, and one member shall be appointed to a term concluding on June 30, 2024. Thereafter, each appointee shall serve a term of three (3) years.

(b) Three (3) athletic trainers appointed by the Board of Athletic Trainers. For the initial term, one member shall be appointed to a term concluding on June 30, 2022, one member shall be appointed to a term concluding on June 30, 2023, and one member shall be appointed to a term concluding on June 30, 2024. Thereafter, each appointee shall serve a term of three (3) years.

(3) Members of the Advisory Council shall be eligible for reappointment. Should a vacancy occur on the Advisory Council, a successor shall be appointed by the original appointing authority to serve the unexpired term.

(4) The Advisory Council shall select one of its members to serve as chairperson for a term of one year. The office of chair shall alternate between a physician member and an athletic trainer member of the council. The chairperson shall preside over all meetings of the Advisory Council.

(5) Meetings of the Advisory Council shall be considered official functions of the Board of Athletic Trainers and Board of Medical Examiners. Any member of the Board of Athletic Trainers or Board Medical Examiners

attending or participating in a meeting of the Advisory Council shall be entitled to their regular compensation as board members, pursuant to Ala. Code §§ 34-40-3 and 34-24-54, respectively. Any member of the Advisory Council who is not a member of the Board of Athletic Trainers or Board of Medical Examiners shall receive per diem at a rate of one hundred dollars (\$100) per day or any portion thereof that the Advisory Council member is attending an official meeting or function of the Advisory Council. All members of the Advisory Council shall receive reimbursement for subsistence and travel in accordance with state law as provided for state employees. Compensation of the members of the Advisory Council shall be paid by the appointing authority.

(6) The Advisory Council may exercise the following functions and responsibilities:

(a) Recommend model practice protocols to be used by athletic trainers;

(b) Review and/or recommend additions, deletions, or amendments to existing model practice protocols;

(c) Recommend rules establishing the ratio of physicians to athletic trainers;

(d) Review and/or recommend changes to the current rules and regulations governing the physician-athletic trainer relationship; and

(e) Serve in an advisory role regarding issues related to required education, registration, and other matters concerning the physician-athletic trainer relationship.

(7) Notwithstanding any other provision of this Chapter, the Advisory Council shall serve in an advisory capacity only and any recommendation made by the Council shall be subject to approval by both the Board of Athletic Trainers and the Board of Medical Examiners.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.03 Protocols.

(1) There shall be a standard general practice protocol, approved by both the Board of Athletic Trainers and the Board of Medical Examiners, which shall set forth the baseline scope of practice, privileges, and permissible skills of all athletic trainers licensed to practice in this state.

(2) There may be a standard specialty practice protocol for each of the following areas of practice for athletic trainers:

- (a) Clinic and Hospital Protocol;
- (b) Secondary Schools Protocol;
- (c) Collegiate/Professional League Protocol; and
- (d) Occupational Setting Protocol.

(3) In developing and evaluating the standard general and specialty practice protocols, the Advisory Council shall consider the level of education, training, and experience required of an athletic trainer or physician to safely perform the duties/procedures, the risks associated with the duties/procedures, the effectiveness and necessity of the duties/procedures, and the likelihood of positive patient outcomes.

(4) A physician and an athletic trainer may submit to the Advisory Council requests to deviate from their approved standard practice protocol(s). The Advisory Council may review and evaluate these requests and make a recommendation to the Board of Athletic Trainers and Board of Medical Examiners. The Advisory Council may not grant

deviations from protocols, but may only make a non-binding recommendation to the Board of Athletic Trainers and Board of Medical Examiners. Both the Board of Athletic Trainers and the Board of Medical Examiners must approve any request to deviate from the model practice protocol.

(5) Protocols deviating from the standard protocols shall be submitted to the Advisory Council for review and recommendation for approval or denial. When evaluating whether to recommend the approval or denial of a non-standard protocol, the Advisory Council shall consider certain factors, including, but not limited to:

(a) The supervising physician's and athletic trainer(s)'s education, training, experience, and specialty;

(b) The supervising physician's and athletic trainer(s)'s disciplinary history and any licensure restrictions;

(c) Whether a proposed protocol is within the current standard of care for treatment of the disease or condition specified in the protocol, including usages known as "off-label," and whether the use is supported by evidence-based research;

(d) Whether the proposed protocol creates an undue risk of harm to patients; and

(e) The routine scope of practice and services provided by the collaborating physician and the athletic trainer(s).

After consideration of the factors listed herein, the Advisory Council may make a non-binding recommendation of approval or denial of a non-standard protocol in whole or in part.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.04 Registration. Each athletic trainer shall be licensed by the Board of Athletic Trainers and be registered with a supervising physician prior to engaging in athletic training practice as defined by Ala. Code § 34-40-2(4). Registration of an athletic trainer with a supervising physician for the practice of athletic training shall be accomplished in the following manner:

(1) A completed application for registration shall be submitted to the Board of Athletic Trainers; and

(2) A detailed protocol(s) which sets forth the anticipated functions and activities of the athletic trainer and is signed by the supervising physician and the athletic trainer shall accompany the application.

(3) The athletic trainer and the supervising physician may be personally interviewed at the discretion of the Board of Athletic Trainers, Board of Medical Examiners, or the Advisory Council.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.05 Limitations on the Physician Supervision of Athletic Trainers.

(1) A licensed physician may supervise up to fifteen (15) athletic trainers.

(2) Requests to supervise more than fifteen (15) athletic trainers must be submitted to the Advisory Council and approved in writing by the Board of Athletic Trainers and Board of Medical Examiners. When evaluating whether to recommend the approval or denial of a physician's request to supervise more than fifteen (15) athletic trainers, the Advisory Council shall consider certain factors, including, but not limited to:

(a) The supervising physician's availability;

(b) The parties' disciplinary history and any licensure restrictions;

(c) The parties' practice settings;

(d) The parties' educational preparation, experience, and specialty;

(e) Whether the proposed protocol creates an undue risk of harm to patients; and

(f) The complexity and risk of procedures to be performed.

After consideration of the factors listed herein, the Advisory Council may make a non-binding recommendation of approval or denial of a physician's request to supervise more than fifteen (15) athletic trainers.

(3) A supervising physician shall maintain independent medical judgment related to the practice of medicine at all times, irrespective of employment structure or business model.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.06 Qualifications of the Supervising Physician - Athletic Trainers. The physician to whom an athletic trainer is registered shall:

(1) Possess a current, unrestricted license to practice medicine in the State of Alabama;

(2) Be willing to accept responsibility for the athletic trainer's practice; and

(3) On the date of the application, have satisfied one of the following experience requirements:

(a) Have practiced medicine for at least three years, excluding any practice in an internship, residency, fellowship, or other supervised training program;

(b) Have practiced medicine for at least one year, excluding any practice in an internship, residency, fellowship, or other supervised training program, and certified by one or more of the specialty boards recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) Have completed a fellowship accredited by the Accreditation Council for Graduate Medical Education (ACGME) in Sports Medicine.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.07 Requirements for Supervised Practice - Athletic Trainers.

(1) Physician supervision requires, at all times, a continuing and close supervisory relationship between an athletic trainer and the supervising physician.

(2) There shall be no independent, unsupervised, or unregistered practice by an athletic trainer.

(3) The supervising physician shall be readily available for communication either direct or by telephone or telecommunication.

(4) The supervising physician shall be available for consultation or referrals of patients from the athletic trainer.

(5) An athletic trainer and their supervising physician shall meet at least once each calendar year to review emergency action plan(s).

(6) In the event of an unanticipated, permanent absence of a supervising physician, another licensed physician who satisfies the requirements set forth in this Chapter may be designated as an athletic trainer's interim supervising physician for a period of up to ninety (90) days. During the ninety (90) day time period, a new registration designating a new supervising physician should be submitted for approval.

(7) A supervising physician shall maintain independent medical judgment related to the practice of medicine at all times, irrespective of employment structure or business model.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.08 Grounds for Denial of Registration - Athletic Trainer and Supervising Physician.

(1) The commission of any act by an athletic trainer which would constitute a violation of Ala. Code § 34-40-10 or any rule of the Board of Athletic Trainers.

(2) The commission of any act by a supervising physician which would constitute a violation of Ala. Code § 34-24-360 or any rule of the Board of Medical Examiners or the Medical Licensure Commission of Alabama.

(3) The physician to whom the athletic trainer is registered has permitted or required the athletic trainer to perform or to attempt to perform tasks which are beyond the athletic trainer's competence or which are not authorized in the protocol(s) approved by the Board of Athletic Trainers and the Board of Medical Examiners.

(4) Refusal by the athletic trainer or the supervising physician to appear before the Board of Athletic Trainers, the Board of Medical Examiners, or the

Advisory Council, after having been formally requested to do so in writing.

(5) The supervising physician's license to practice medicine has been revoked, suspended, restricted, or disciplined in any manner.

(6) The athletic trainer's license has been revoked, suspended, restricted, or disciplined in any manner.

(7) Failure of a supervising physician to maintain or produce for inspection upon request by the Board of Medical Examiners any documentation required to be maintained by the supervising physician.

(8) Failure of an athletic trainer to maintain or produce for inspection upon request by the Board of Athletic Trainers any documentation required to be maintained by the athletic trainer.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.09 **Denial of Registration - Hearing.** An athletic trainer who has a registration denied by either the Board of Athletic Trainers, the Board of Medical Examiners, or both may petition the denying board(s) for reconsideration of the registration. Any petition must be filed within thirty (30) days of denial of the registration. Upon receipt of the petition, the denying board(s) shall approve the registration or set a hearing thereon. All hearings under this rule shall be conducted in accordance with the Ala. Code §§ 41-22-1, et. seq.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.10 Termination of Registration - Voluntary.

(1) The athletic trainer shall immediately inform the Board of Athletic Trainers in writing of the effective date of the termination of any physician supervision.

(2) Failure to timely notify the Board of Athletic Trainers of termination may be considered a violation of these rules and regulations for the purpose of approval of future applications for registration.

(3) A supervising physician may terminate his or her supervision of an athletic trainer by notifying the Board of Athletic Trainers.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.11 Termination of Registration - Involuntary.

The commission by an athletic trainer or a supervising physician of any act, offense, or condition set forth in Rule 540-X-28-.08 shall be grounds, within the discretion of the Board of Athletic Trainers or the Board of Medical Examiners, to terminate the registration of an athletic trainer to engage in athletic training practice under the supervision of a physician.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.12 Temporary Approval - Athletic Trainer Registration with Supervising Physician. An athletic trainer may obtain temporary approval of a registration with a supervising physician after confirmed receipt by the Board of Athletic Trainers of a registration application

and may continue in temporary practice until such time as the pending application for registration is approved or denied, provided the supervising physician meets the qualifications established in these rules. Under a temporarily approved registration, an athletic trainer shall only be permitted to practice pursuant to a standard general protocol.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.13 **Report to the Board of Medical Examiners.**

The Board of Athletic Trainers shall, not less than quarterly, prepare and submit a report to the Board of Medical Examiners detailing any applications for registration, protocols, amendments thereto, or terminations received under this Chapter, along with a report of any actions taken by the Board of Athletic Trainers on these items.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021

140-X-8-.14 **Implementation.** All athletic trainers and supervising physicians shall be in full compliance with the provisions of this Chapter no later than January 1, 2023.

Author: Advisory Council of AL Board of Medical Examiners and AL Board of Athletic Trainers

Statutory Authority: Code of Ala. 1975, §34-40-3(e), §34-10-3.2

History: New Rule: Published December 30, 2021