



NSATA Practice Act Update- LB 436

On the following pages you will find a complete comparison between the current practice act language and the language in LB 436. Below is a synopsis of the changes. For other information relative to the practice act please go to www.nsata.org -> **athletic trainers** -> **GAC Committee Information** where you can access information for members with you NATA member number.

If you have any questions, please contact Rusty McKune at gov@nsata.org.

Goals of the practice act revision:

1. Provide the opportunity for athletic trainers in Nebraska to practice at a level that reflects our education and training while at the same time ensuring mechanisms are in place to ensure patient safety.
2. Identify patient population based on the conditions and illnesses we are educated to treat, not who we may treat, based on the definition of athlete.
3. Update the modalities we are able to perform and include physical modalities.
4. Provide athletic trainers with the ability to administer emergency medications.
5. Collaborate with other professional organizations to enhance relationships and strengthen our position as health care professionals in Nebraska.

Highlights of legislation contained in LB 436

1. 38-404- Athletic trainers are now defined in statute as health care professionals.
2. 38-403- repealed- The term "athlete" has been removed from statute.
3. Section 6- Injuries and Illnesses re-defined to mean *injuries or common illnesses and conditions related to, or which limit participation in, exercise, athletic, recreational, or activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina, and which athletic trainers as a result of their education and training are qualified to provide care and make referrals to the appropriate health care professionals.*
4. 38-404 and 38-408(5)- As defined, "Athletic Trainer" maintains our ability to practice under guidelines established with a licensed physician in the traditional settings of high school, college, professional, youth sports, etc. and clarifies provisions for hospital outpatient departments, or outpatient based medical facilities or clinics.
5. 38-408 (5 a-f) Clarification of processes and procedures (including documentation requirements) when athletic training is performed in the outpatient setting to include who we can receive referrals from when practicing hospital outpatient department, or outpatient based medical facility or clinic (38-408 (5) (a-f)).
6. 38-408 (1d) and 38-408(3)- Added "physical modalities" to the list of therapeutic modalities that may be used (38-408 section 1 (d)). With this addition, dry needling will now be allowed upon the development and adoption of language in rules and regulations (38-408(3)).
7. 38-408 (2)- The bill provides for the ability to administer emergency drugs (will require the development and inclusion of language in rules and regulations) (38-408(2)).
8. 38-411- Updated application requirements to clarify internship (prior to 2004) and accredited AT programs (after January 1, 2004).



Comparison of Current Language and LB 436

38-401. Act, how cited	
Current Statute	LB 436
Sections 38-401 to 38-414 shall be known and may be cited as the Athletic Training Practice Act.	Section 1. Section 38-401, Reissue Revised Statutes of Nebraska, is amended to read: 38-401 Sections 38-401 to 38-414 and sections 4 to 6 of this act shall be known and may be cited as the Athletic Training Practice Act.

38-402. Definitions, where found	
Current Statute	LB 436
For purposes of the Athletic Training Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-403 to 38-407 apply.	38-402 For purposes of the Athletic Training Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-404 and 38-406 and sections 4 to 6 of this act apply.



38-403. Athletic Injuries Defined	
Current Statute	LB 436
<p>Athletic injuries mean the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation.</p>	<p>Sec. 12. The following sections are outright repealed: Sections 38-403, 38-405, and 38-407, Reissue Revised Statutes of Nebraska.</p> <p><i>Athletic Injuries are defined in the following sections of LB 436:</i></p> <p><i>Section 4: Condition means a disease, illness or injury.</i></p> <p><i>Section 6:</i> <i>Injuries and illnesses means injuries or common illnesses and conditions related to, or which limit participation in, exercise, athletic, recreational, or activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina, and which athletic trainers as a result of their education and training are qualified to provide care and make referrals to the appropriate health care professionals.</i></p>

38-404. Athletic trainer, defined	
Current Statute	LB 436
<p>Athletic trainer means a person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries under guidelines established with a licensed physician and who is licensed to perform the functions set out in section 38-408. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions described in section 38-408 with a referral from a licensed physician for athletic training.</p>	<p>38-404 Athletic trainer means a health care professional who is licensed to practice athletic training under the Athletic Training Practice Act and who, under guidelines established with a licensed physician, performs the functions outlined in section 38-408 except as otherwise provided in subsection (5) of section 38-408.</p>



38-405. Athletic training, defined	
Current Statute	LB 436
Athletic training means the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in section 38-408.	<p>Sec. 12. The following sections are outright repealed: Sections 38-403, 38-405, and 38-407, Reissue Revised Statutes of Nebraska.</p> <p><i>Current 38-405 is integrated into Section 5 and 38-408</i></p>

38-406. Board, defined	
Current Statute	LB 436
Board means the Board of Athletic Training.	There were no changes to 38-406 so no amendments are reflected in this bill.

38-407. Practice Site, defined	
Current Statute	LB 436
Practice site means the location where the athletic trainer practices athletic training.	Sec. 12. The following sections are outright repealed: Sections 38-403, 38-405, and 38-407, Reissue Revised Statutes of Nebraska.



38-408. Athletic trainers; authorized physical modalities

Current Statute	LB 436
<p>(1) Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a licensed physician:</p> <ul style="list-style-type: none"> (a) Application of electrotherapy; (b) Application of ultrasound; (c) Use of medical diathermies; (d) Application of infrared light; and (e) Application of ultraviolet light. <p>(2) The application of heat, cold, air, water, or exercise shall not be restricted by the Athletic Training Practice Act.</p>	<p>Section 5. Impression means a summation of information or an opinion formed, which is the outcome of the examination and assessment process.</p> <p>Sec. 7. Section 38-408, Reissue Revised Statutes of Nebraska, is amended to read:</p> <p>38-408 (1) As set forth in the Athletic Training Practice Act, the practice of athletic training includes providing the following regarding injuries and illnesses:</p> <ul style="list-style-type: none"> (a) Prevention and wellness promotion; (b) Examination, assessment, and impression; (c) Immediate and emergency care, including the administration of emergency drugs as prescribed by a licensed physician and dispensed by a pharmacy for emergency use, subject to subsection (2) of this section; (d) Therapeutic intervention or rehabilitation of injuries and illnesses in the manner, means, and methods deemed necessary to affect care, rehabilitation, or function; (e) Therapeutic modalities, including, but not limited to, physical modalities, mechanical modalities, water, heat, light, sound, cold, and electricity; and (f) Health care administration, risk management, and professional responsibility. <p>(2) The board shall adopt rules and regulations regarding the administration of emergency drugs as authorized in this section, including drugs, medicines, and medicinal substances as defined in section 38-2819 except for controlled substances listed in section 28-405.</p> <p>(3) The board shall adopt rules and regulations regarding the use of dry needling by athletic trainers.</p> <p>(4) The scope of practice of athletic trainers does not include the use of joint manipulation, grade V mobilization/manipulation, thrust joint manipulation, high velocity/low amplitude thrust, nor any other procedure intended to result in joint cavitation. Joint manipulation commences where grades one through four mobilization ends.</p>

- (5) When athletic training is provided in a hospital outpatient department or clinic, or an outpatient-based medical facility or clinic, the athletic trainer shall perform the functions described in this section with a referral from a licensed physician, osteopathic physician, podiatrist, advanced practice registered nurse- nurse practitioner, physician assistant, dentist, or chiropractor. The referral shall state the diagnosis and, if deemed necessary, identify any instructions or protocols by the referring provider. In these instances, for each patient under his or her care, the athletic trainer shall ensure medical documentation is complete, accurate, and timely and shall include the following:
- (a) Provide and document the initial examination, assessment, and impression;
 - (b) Provide periodic reexamination with documentation of the reexamination, assessment, and impression;
 - (c) Establish a plan of care following either the initial examination or reexamination that is in accordance with the diagnosis and any instructions or protocols indicated by the referring provider;
 - (d) Communicate to the referring provider changes in the patient's condition that may require altering instructions and protocols indicated by the referral from the referring provider;
 - (e) Be responsible for accurate documentation of each follow-up visit and billing for athletic training services provided; and
 - (f) Provide documentation upon discharge, including patient response to athletic training intervention at the time of discharge.
- (6) In all other instances, the athletic trainer shall maintain documentation consistent with the guidelines established with a licensed physician and specific to the setting in which the athletic trainer is practicing.
- (7) 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.
- (8) Pursuant to subdivision (18) of section 38-2025, no athletic trainer shall hold himself or herself out to be a physician or surgeon or qualified to prescribe medications.



38-409. License required; exceptions	
Current Statute	LB 436
<p>No person shall be authorized to perform the physical modalities set out in section 38-408 on any person unless he or she first obtains a license as an athletic trainer or unless such person is licensed as a physician, osteopathic physician, chiropractor, nurse, physical therapist, or podiatrist. No person shall hold himself or herself out to be an athletic trainer unless licensed under the Athletic Training Practice Act.</p>	<p>Sec. 8. Section 38-409, Reissue Revised Statutes of Nebraska, is amended to read:</p> <p>No person shall hold himself or herself out as to be an athletic trainer in this state unless such person is licensed under the Athletic Training Practice Act.</p>

38-410. Licensure requirements; exemptions.	
Current Statute	LB 436
<p>(1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.</p> <p>(2) An individual who is a graduate student in athletic training and who is practicing under the supervision of a licensed athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.</p>	<p>Sec. 9. Section 38-410, Reissue Revised Statutes of Nebraska, is amended to read:</p> <p>38-410 (1) An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.</p> <p>(2) An athletic training student who is enrolled in an accredited athletic training education program or in good standing and who is practicing under the supervision of a licensed athletic trainer is exempt from the licensure requirements of the Athletic Training Practice Act.</p>



38-411. Applicant for licensure; qualifications; examination.

Current Statute	LB 436
<p>(1) An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:</p> <ul style="list-style-type: none"> a) Graduation after successful completion of the athletic training curriculum requirements of an accredited college or university approved by the board; or b) Graduation with four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as a student athletic trainer under the supervision of an athletic trainer approved by the board. <p>(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the board.</p>	<p>Sec. 10. Section 38-411, Reissue Revised Statutes of Nebraska, is amended to read:</p> <p>38-411 (1) An applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that the applicant meets one or more of the following qualifications:</p> <ul style="list-style-type: none"> (a) For any person who graduated prior to January 1, 2004: <ul style="list-style-type: none"> (i) Graduation after successful completion of the curriculum requirements of an accredited athletic training education program at an accredited college or university approved by the board; or (ii) Graduation with a four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as an athletic training student under the supervision of an athletic trainer approved by the board; and (b) For any person who graduated after January 1, 2004, graduation after successful completion of the curriculum requirements of an accredited athletic training education program at an accredited college or university approved by the board. <p>(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the board.</p>



38-412. Continuing competency requirements.	
Current Statute	LB 436
An applicant for licensure as an athletic trainer who has met the education and examination requirements in section 38-411, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.	There were no changes to 38-412 so no amendments are reflected in this bill.

38-413. Reciprocity; continuing competency requirements; military spouse; temporary license	
Current Statute	LB 436
(1) An applicant for licensure as an athletic trainer who has met the standards set by the board pursuant to section 38-126 for a license based on licensure in another jurisdiction but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145. (2) An applicant who is a military spouse may apply for a temporary license as provided in section 38-129.01.4	There were no changes to 38-413 so no amendments are reflected in this bill.

38-414. Fees.	
Current Statute	LB 436
The department shall establish and collect fees for initial licensure and renewal under the Athletic Training Practice Act as provided in sections 38-151 to 38-157.	There were no changes to 38-414 so no amendments are reflected in this bill.