

- [36-29-27](#) Injunction against violation--Alternate to criminal prosecution.
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36-29-1. Definitions. Terms used in this chapter, unless the context otherwise requires, mean:

- (1) "Athletic trainer," a person with specific qualifications as set forth in § 36-29-3, whose responsibility is the prevention, evaluation, emergency care, treatment, and reconditioning of athletic injuries under the direction of the team or treating physician. The athletic trainer may use cryotherapy, which includes cold packs, ice packs, cold water immersion, and spray coolants; thermotherapy, which includes topical analgesics, moist hot packs, heating pads, infrared lamp, and paraffin bath; hydrotherapy, which includes whirlpool; and therapeutic exercise common to athletic training which includes stretching and those exercises needed to maintain condition; in accordance with a physician's written protocol. Any rehabilitative procedures recommended by a physician for the rehabilitation of athletic injuries which have been referred and all other physical modalities may be administered only following the prescription of the team or referring physician;
- (2) "Board," the Board of Medical and Osteopathic Examiners as created by chapter 36-4.

36-29-2. Unlicensed practice as misdemeanor--Exemptions. It is a Class 2 misdemeanor for any person to practice or attempt to practice any of the activities of an athletic trainer without first obtaining a license pursuant to this chapter. Nothing in this chapter may be construed to prevent any person from serving as a student trainer, teacher-trainer, coach, or similar position, if that service is not primarily for compensation.

36-29-3. Qualifications for license--Issuance. The Board of Medical and Osteopathic Examiners shall issue an athletic trainer license to an applicant who:

- (1) Has a baccalaureate degree and has met the athletic training course requirements of a college or university approved by the board; and
- (2) Has served a board approved internship as an athletic trainer under the direct supervision of a licensed athletic trainer; and
- (3) Has passed a written and oral examination approved by the board; and
- (4) Has demonstrated competency in each of the therapeutic modalities listed in § 36-29-1 to a board approved examiner or has shown proof of successful completion of a course in therapeutic modalities.

36-29-3.1. Temporary permit--Requirements--Restrictions. The board may grant a temporary permit to any applicant who has completed the education requirements of this chapter. Any applicant granted a temporary permit shall practice as an athletic trainer only under the supervision or oversight of a licensed physician, a licensed physical therapist, or a licensed athletic trainer. The temporary permit is valid for one hundred eighty days.

Source: SL 1998, ch 238, § 1

36-29-4. Practice of medicine not authorized--Licensees exempt. Nothing in this chapter may be construed to authorize the practice of medicine by any person. The provisions of this chapter do not apply to any person licensed pursuant to chapters 36-4 to 36-10, inclusive, while practicing pursuant to that license.

36-29-5. Exemptions from examination. An applicant is exempt from the examination required by this chapter if:

- (1) He satisfies the Board of Medical and Osteopathic Examiners that he is licensed or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as those imposed by this chapter; and
- (2) Pursuant to the laws of that state or territory, he has taken and passed an examination similar to that for which exemption is sought; and
- (3) He has been certified by any national athletic trainer's organization to which the board has extended reciprocity.

36-29-6. Fees for determination of applicant's fitness. The Board of Medical and Osteopathic Examiners shall, pursuant to chapter 1-26, set the fees to be paid by an applicant to determine his fitness to receive a license to practice athletic training. The fees may not exceed one hundred dollars.

36-29-7. Physical examination of applicant--Grounds for requiring--Cost--Denial of license. If a majority of the board members have reason to suspect that the physical or mental health of any applicant will jeopardize or endanger those who seek assistance from him, the Board of Medical and Osteopathic Examiners shall require the applicant to have a physical examination by a medical examiner selected by the board. The board shall pay the cost of the examination. If the medical examiner confirms that the person's physical or mental health will jeopardize or endanger those who seek relief from the applicant, the board may deny the application for a license until the applicant furnishes satisfactory proof of being physically and mentally competent to practice athletic training.

36-29-8. Athletic training committee created--Duties--Appointment, qualifications, and terms of members--Vacancies. There is created an athletic training committee, which shall be comprised of three residents of this state who are licensed to practice athletic training in the state, one of which shall be a registered physical therapist. This committee shall assist the Board of Medical and Osteopathic Examiners in conducting exams and shall assist the board in all matters pertaining to the licensure, practice and discipline of those licensed to practice athletic training in this state and the establishment of rules and regulations pertaining to athletic training. The South Dakota Athletic Trainers' Association shall nominate two people for each vacancy at least six months prior to the vacancy. Each person appointed to the committee after the initial members shall serve for a period of three years. The board shall fill the vacancy from a list of nominees presented by the South Dakota Athletic Trainers' Association. In the event a vacancy arises due to death, retirement or removal from the state, such vacancy shall be filled in the same manner as original appointments. The member shall serve the remainder of the unexpired term.

36-29-9. Frequency of examinations--Place. The Board of Medical and Osteopathic Examiners shall hold at least one examination each year and may hold additional examinations from time to time at places designated by the board.

36-29-10. Reexaminations. Any applicant failing to pass the examination provided by this chapter may, within one year, be reexamined upon payment of an additional fee to be set by the Board of Medical and Osteopathic Examiners. Two reexaminations shall exhaust the privilege under the original application.

36-29-11. Expiration of license--Renewal--Fee. Any license issued by the Board of Medical and Osteopathic Examiners shall expire on the first day of July of the first year following its issuance. A license may be renewed every year upon the payment of a fee to be fixed by the board pursuant to chapter 1-26. The fee may not exceed fifty dollars.

36-29-12. Display of license. Each athletic trainer licensee shall be conspicuously displayed at the place of practice of the licensee within thirty days after issuance of the license.

36-29-13. Publication of list of licensees. The Board of Medical and Osteopathic Examiners shall annually publish a list of names and addresses of all licensed athletic trainers.

36-29-14. Continuing education requirements--Waiver. Continuity education shall be prescribed pursuant to chapter 1-26 by the Board of Medical and Osteopathic Examiners as a further requirement for renewal of any license. In no instance may the board require a greater number of hours of annual continuing education study than are available within the state and are approved by the board. The board may waive the continuing education requirement in case of certified illness or undue hardship.

36-29-15. Forfeiture of license by failure to renew--Restoration. Failure of a licensee to renew his license on or before the first day of July of the year of expiration shall constitute a forfeiture of the license. Any person who has forfeited his license under this chapter may have it restored to him by making written application and by payment of the renewal fee for the current term.

36-29-16. Failure to renew license for two years--Examination. Any licensee who does not renew his license for two consecutive years shall take the examination as prescribed for an applicant to become a licensee and comply with all the provisions of this chapter.

36-29-17. Rules and regulations--Practice standards. The Board of Medical and Osteopathic Examiners may adopt rules and regulations that set standards for professional practice for licensed athletic trainers and other rules and regulations as may be reasonably necessary for the administration of this chapter and to carry out its purpose. All rules and regulations made by the board pursuant to this chapter shall be adopted and amended in accordance with the provisions of chapter 1-26.

36-29-18. Grounds for revocation, suspension, or cancellation of license. The license of an athletic trainer may be revoked, suspended, or canceled upon any one of these grounds:

- (1) The licensee is guilty of fraud in the practice of athletic training or fraud or deceit in his admission to the practice of athletic training; or
- (2) The licensee has been convicted of a felony during the past five years. The conviction of a felony is the conviction of any offense, which if committed within the State of South Dakota would

constitute a felony under its laws; or

- (3) The licensee is engaged in the practice of athletic training under a false or assumed name and has not registered that name pursuant to chapter 37-11, or is impersonating another practitioner of a like or different name; or
- (4) The licensee is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to the extent as to incapacitate him from the performance of his professional duties; or
- (5) The physical or mental condition of the licensee is determined by a medical examiner to be such as to jeopardize or endanger those who seek relief from the licensee. A majority of the Board of Medical and Osteopathic Examiners may demand an examination of the licensee by a competent medical examiner selected by the board at the board's expense. If the licensee fails to submit to the examination, this shall constitute immediate grounds for suspension of the licensee's license; or
- (6) Obtaining or attempting to obtain a license, certificate, or renewal thereof by bribery or fraudulent representation; or
- (7) Direct or indirect compensation from individuals or third party payees for services rendered; or
- (8) Making a false statement in connection with any application under this chapter; or
- (9) Making a false statement on any form promulgated by the board in accordance with this chapter or the rules and regulations adopted by the board; or
- (10) The licensee conducts continued treatment and rehabilitation procedures on individuals other than those associated with the employing institution or athletic organization; or
- (11) The licensee has violated any provision of this chapter or the rules and regulations promulgated hereunder.

36-29-19. Initiation of proceedings to cancel, suspend, or revoke license. The proceedings for cancellation, revocation, or suspension of a license may be initiated when the Board of Medical and Osteopathic Examiners has written information that any person may have been guilty of any misconduct pursuant to § 36-29-18 or is guilty of gross incompetence or unprofessional or dishonorable conduct.

36-29-20. Majority of board required to cancel, suspend, revoke, or reissue license. All proceedings relative to the cancellation, revocation, or suspension of a license, or relative to reissuing a license which has been canceled, revoked, or suspended shall only be held when a majority of the members of the Board of Medical and Osteopathic Examiners are present at the hearings. The decision of the board to suspend, revoke, or cancel a license requires a majority vote of all the board members.

36-29-21. Procedure to cancel, suspend, or revoke license. All proceedings relative to the cancellation, revocation, or suspension of a license shall conform to the procedure set forth in chapter 1-26.

36-29-22. Appeal from board action concerning refusal, cancellation, suspension, or revocation of license. Any party feeling aggrieved by any acts, rulings, or decisions of the Board of Medical and

Osteopathic Examiners relating to refusal to grant or to cancellation, revocation, or suspension of a license may appeal pursuant to chapter 1-26.

36-29-23. Reinstatement or reissuance of license canceled, suspended or revoked. Upon written application establishing compliance with existing licensing requirements and for reasons the Board of Medical and Osteopathic Examiners deems sufficient, the board, for good cause shown, by majority vote, may, under the conditions it may impose, reinstate or reissue a license to any person whose license has been canceled, suspended, or revoked. Upon suspension of a license, the board may provide for automatic reinstatement thereof after a specified fixed period of time.

36-29-24. Records of licensees maintained--Certified transcript as evidence--Copies furnished--Fee. The secretary of the Board of Medical and Osteopathic Examiners shall keep a record book in which are entered the names of all persons to whom licenses have been granted under this chapter, the license number of each, and the date of granting the license and its renewal and other matters of record. This book is a book of records, and a transcript of any record therein or a license that is not entered therein, the name and license number of the date of granting the license to a person charged with a violation of any of the provisions of this chapter, certified under the hand of the secretary, and the seal of the board, shall be admitted as evidence in any of the courts of this state. The original books, records, and papers of the board shall be kept at the office of the secretary of the board. The secretary shall furnish any person making an application a copy of any requested record, certified by him as secretary, upon payment of a fee of twenty-five cents per page.

36-29-25. Enforcement duties of board. In addition to the duties set forth elsewhere in this chapter, the Board of Medical and Osteopathic Examiners shall:

- (1) Recommend prosecutions for violations of this chapter to the appropriate state's attorneys; and
- (2) Recommend to the attorney general the bringing of civil actions to seek injunctions and other relief for violations of this chapter.

36-29-26. Investigation and report of violations. The Board of Medical and Osteopathic Examiners shall investigate every supposed violation of this chapter and report the same to the proper law enforcement officials wherein the violation is committed.

36-29-27. Injunction against violation--Alternate to criminal prosecution. Any person violating the provisions of this chapter may be enjoined from further violations by a suit brought by the state's attorney of the county wherein the violations occurred or suit may be brought by any citizen of this state. An action for injunction is an alternate to criminal proceedings, and the commencement of one proceeding by the Board of Medical and Osteopathic Examiners constitutes an election.

36-29-28. Violation as misdemeanor. Any person who violates any of the provisions of this chapter is guilty of a Class 2 misdemeanor

36-29-29. Expenses of board limited. The total expense incurred by the Board of Medical and Osteopathic Examiners may not exceed the total money collected by the board under the provisions of this chapter

36-29-30. Practicing athletic trainers--Qualifications for license--Limitation on application. Any person actively engaged as an athletic trainer in the state on July 1, 1984, shall be issued a license if he

submits proof of experience and credentials during the previous twelve months satisfactory to the initial athletic training advisory committee of this board, has a baccalaureate degree and if he pays the license fee required by this chapter. For the purpose of this section a person is actively engaged as an athletic trainer if he is employed as an athletic trainer by an educational institution for the duration of the institution's year or performs the duties of an athletic trainer as a major responsibility of his employment by a professional athletic organization or other athletic organization for the length of the athletic organization's season or meets equivalent criteria as determined by the board. No application for licensure under this section may be permitted after July 1, 1985.