

A change early this school year in AIA by-laws regarding the categories of health care professionals authorized to administer and sign pre-participation physical examination (PPE) forms, brings to light certain challenges confronting athletic trainers (ATs) working in the high school setting. This change was an expansion on a by-law change adopted several years ago, but with this recent development the Arizona Board of Athletic Training (ABAT) has taken a particular interest in the issue. At its regular monthly meeting on December 1, 2014, ABAT voted to issue a notification to licensees pertaining to this issue. Since that time, The Arizona Athletic Trainers' Association (AzaTA) Board of Directors has been working with ABAT to refine the wording of this notification, which has now been finalized as follows:

In emergency legislation dated August 18, 2014, the AIA amended Section 15.7.1 (Physical Examination Rule) of its by-laws, to allow student athletes to satisfy eligibility requirements by submitting a pre-participation physical examination (P.P.E.) performed by a naturopathic physician (N.D. or N.M.D.) or a certified chiropractic sports physician (D.C.-C.C.S.P.). Prior to that amendment, Section 15.7.1 had already allowed for P.P.E.s to be performed by nurse practitioners (N.P. or R.N.P.) and physician assistants (P.A.), in addition to the long-standing provision for P.P.E.s to be performed by medical doctors (M.D.) and osteopathic doctors (D.O.)

Please be advised that licensed athletic trainers in Arizona may only work under the direction of a licensed physician. See Arizona Revised Statute (A.R.S.) §32-4103(B) and Arizona Administrative Code R4-49-405. The term "licensed physician" is defined in A.R.S. § 32-4101(9) to include only persons licensed pursuant to chapter 13 (M.D.) or chapter 17 (D.O.) of title 32. This does not allow for receiving physician direction from an N.M.D. licensed pursuant to chapter 14 (A.R.S. §32-1501 et seq.), a D.C.-C.C.S.P. licensed pursuant to chapter 8 (A.R.S. §32-900 et seq.), an N.P. licensed pursuant to chapter 15 (A.R.S. §32-1601 et seq.), or a P.A. licensed pursuant to Chapter 25 (A.R.S. §32-2501 et seq.) of title 32.

*Depending on the circumstances, while the AIA allows acceptance of a PPE for student athlete eligibility purposes which was prepared by a nurse practitioner, physician assistant, naturopathic physician or a chiropractor, if an athletic trainer relies solely on such a P.P.E. in providing athletic training services to a student athlete, such reliance may be a violation of Board statutes and rules regardless of the above-referenced AIA by-law. **Neither the Board, nor its staff, can provide legal advice to licensees regarding whether to accept a PPE or related matters. If a licensee has concerns about such matters, he or she should seek out independent legal advice in advance of engaging in conduct that may violate Board statutes or rules.***

In conjunction with its mission and responsibility to educate its members regarding critical issues pertaining to the practice of athletic training, the AzATA has agreed to disseminate the foregoing ABAT pronouncement to its members, along with the following recommendations for addressing this issue in their practice:

- On an annual basis, carefully review the language of the AT Practice Act (ARS §32-4101, et seq.) and the Rules and Regulations Adopted by ABAT (4 AAC 49), and be certain that you understand and are in full compliance with these statutes and rules in all aspects of your practice. There are links to both the statutes and rules on the ABAT website, *at.az.gov*.
- Share the content of the foregoing ABAT pronouncement with appropriate administrators of your school and/or school district, and explain to them the potential challenges which confront you if your school/district follows the letter of the AIA by-law and accepts for student-athlete eligibility purposes PPEs which are administered and signed by health care professionals other than MDs and DOs. Ideally, the school/district will adopt a specific written policy with regard to this issue, taking into consideration your professional concerns related to acceptance of PPEs signed by persons other than MDs and DOS.
- While you, as an AT, may not have control over the decision whether, for student-athlete eligibility purposes, your employer accepts PPEs from health care professionals other than MDs and DOs, you do have control over whether you rely upon the content of those PPEs in providing AT treatment to student athletes. **Be aware, that if you chose to rely in any manner upon a PPE administered and signed by someone other than an MD or DO in your treatment of an athlete, you do so at the risk of putting your AT license in peril, and at the risk of exposing yourself to civil liability for negligence as a result of having violated the AT Practice Act.** It is a basic tenant of negligence law, that violation of a statute intended to protect the public, constitutes *negligence per se*.
- Reliance upon a PPE signed by someone other than an MD or DO includes not only acceptance of a recommendation of the signer pertaining to the particular student-athlete, e.g. a recommendation that participation be limited to certain sports or that participation be allowed only if certain special protocols are followed, **but also the acceptance by the AT of the determination that the student athlete is cleared for participation from a health care standpoint and needs no particular AT care.** Accordingly, in the event of being provided a PPE signed by someone other than an MD or DO, it is recommended that the AT, **acting under the direction of his/her directing physician**, make an independent determination with regard to the needs, if any, of the student athlete for AT treatment as well as the nature of any such treatment.
- While the ABAT pronouncement addresses only the “physician direction” issues pertaining to PPEs signed by persons other than MDs and DOs, it stands to reason that the same issues and concerns are applicable to diagnosis of injuries *including concussions*, and to return-to-play (RTP) decisions and approvals. Given the widespread prevalence of PAs and NPs in family physician practices, and the specific provisions of the Arizona concussion law (ARS §15-341(A)(24)(b)) designating those practitioners as “qualified medical professionals,” ATs are well-advised to rely **only** upon direction received from their own directing physician with respect to those areas of their practice.

As is the case with ABAT, the AzATA cannot provide legal advice to its members regarding their particular practice situations. If members have questions or concerns about

how to best address this issue in their practice situation, they need to confer with legal counsel of their choosing. **Keep in mind, also, that attorneys who represent/advise your school/district are not necessarily addressing your personal/professional legal interests or concerns. You need to seek legal counsel from an attorney willing and qualified to represent your own personal/professional legal interests.**