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**RULE ADOPTIONS**  
**LAW AND PUBLIC SAFETY**  
**DIVISION OF CONSUMER AFFAIRS**  
**STATE BOARD OF MEDICAL EXAMINERS**

**Adopted New Rule: N.J.A.C. 13:35-10.8**  
**Athletic Trainers Sexual Misconduct**

Proposed: July 17, 2006 at 38 N.J.R. 2989(a).

Adopted: October 11, 2006 by the State Board of Medical Examiners, Sindy Paul, M.D., President.

Filed: April 26, 2007 as R.2007 d.165, without change.

Authority: N.J.S.A. 45:9-37.38.

Effective Date: May 21, 2007.

Expiration Date: March 17, 2010.

**Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted new rule.

Full text of the adopted new rule follows:

**13:35-10.8 Sexual misconduct**

(a) The purpose of this section is to identify for licensed athletic trainers conduct which shall be deemed sexual misconduct.

(b) As used in this section, the following terms have the following meanings, unless the context indicates otherwise:

"Athlete" means any person who is the recipient of athletic training services rendered by a licensed athletic trainer as set forth in N.J.A.C. 13:35-10.4.

"Athlete-athletic trainer relationship" means a relationship between a licensed athletic trainer and an athlete wherein the licensed athletic trainer is responsible to render athletic training services for the athlete.

"Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensed athletic trainer's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensed athletic trainer's body upon the part of the athlete's body, sexual penetration, or the insertion or any imposition of any object or any part of a licensed athletic trainer's or athlete's body into or near the genital, anal or other opening of the other person's body. "Sexual contact" does not include the touching of an athlete's body which is necessary during a generally accepted and recognized athletic training procedure.

"Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or nonverbal conduct that is sexual in nature, and which occurs in connection with a licensed athletic trainer's activities or role as a provider of athletic training services, and that either is unwelcome, offensive to a reasonable person, or creates a hostile workplace environment, and the licensed athletic trainer knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. "Sexual harassment" may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensed athletic trainer with an athlete, co-worker, employee, student or supervisee, whether or not such individual is in a subordinate position to the licensed athletic

trainer.

"Spouse" means the husband, wife or fiancée of the licensed athletic trainer or an individual involved in a long-term committed relationship with the licensed athletic trainer. For the purposes of the definition of "spouse," a long-term committed relationship means a relationship which is at least six months in duration.

(c) A licensed athletic trainer shall not seek or solicit sexual contact with an athlete with whom he or she has an athlete-athletic trainer relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(d) A licensed athletic trainer shall not engage in any discussion of an intimate sexual nature with an athlete with whom the licensed athletic trainer has an athlete-athletic trainer relationship unless that discussion is directly related to a proper athletic training purpose. Such discussion shall not include disclosure by the licensed athletic trainer of his or her own sexual relationships.

(e) A licensed athletic trainer shall provide draping or other measures which prevent the unnecessary exposure of the unclothed body of the athlete while examining the injured area.

(f) A licensed athletic trainer shall not engage in sexual contact with a student who is enrolled in a high school at which the licensed athletic trainer is employed.

(g) If a licensed athletic trainer has an athlete-athletic trainer relationship, the licensed athletic trainer shall not engage in sexual contact with the athlete if either:

1. Such sexual contact is prohibited by (f) above; or

2. The athlete-athletic trainer relationship is ongoing. The athlete-athletic trainer relationship is ongoing for the purposes of this section, unless:

i. Athletic training services are terminated by way of written notice to the athlete, the termination is documented in the licensed athletic trainer's records and alternative athletic training services are provided; or

ii. The athlete has left the school, college, university or team for which the licensed athletic trainer works.

(h) A licensed athletic trainer shall not engage in sexual harassment either within or outside of the professional setting.

(i) A licensed athletic trainer shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensed athletic trainer's personal prurient interests or which is for the sexual arousal, or sexual gratification of the licensed athletic trainer or athlete or which is an act of sexual abuse.

(j) Violation of any of the prohibitions or directives set forth in (c) through (i) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(k) Nothing in this section shall be construed to prevent a licensed athletic trainer from rendering athletic training services to a spouse, providing that the rendering of such athletic training services is consistent with accepted standards of athletic training and that the performance of athletic training is not utilized to exploit the athlete spouse for the sexual arousal or sexual gratification of the licensed athletic trainer.

(l) It shall not be a defense to any action under this section that:

1. The athlete solicited or consented to sexual contact with the licensed athletic trainer; or

2. The licensed athletic trainer is in love with or had affection for the athlete.