

Summary of Testimony of Chad A. Asplund, M.D., MPH, FACSM
Director, Athletic Medicine and Head Team Physician
Adjunct Associate Professor, Health and Kinesiology
Georgia Southern University

On Behalf of the American Medical Society for Sports Medicine
IN SUPPORT OF HR 921, THE SPORTS MEDICINE LICENSURE CLARITY ACT
Before the Health Sub-Committee of the House Energy and Commerce Committee

What Is HR 921:

HR 921, THE SPORTS MEDICINE LICENSURE CLARITY ACT is a bill that will allow fully-licensed medical professionals that travel with their sports teams, to continue to treat athletes and staff under their care during times when those sanctioned events require them travel across state lines into states where the medical professional is not licensed to practice.

What Does HR 921 Do:

- To ensure that medical professionals' licenses are valid when crossing state lines with their teams for officially sanctioned events, as long as care is confined within the parameters of the bill
- To ensure the medical practice act in the medical professional's home state dictates the scope of practice, licensure requirements and laws, rules and regulations governing their actions
- To ensure that a medical professional's medical malpractice and liability coverage can and will cover them when they are traveling outside of their state borders for an officially sanctioned event

What Does HR 921 Not Do:

- Try to bypass state licensing rules and regulations. - These medical professionals must be fully licensed and insured in their home state.
- Allow a medical professional to practice on the general population. - Their scope of practice is limited to treating only team athletes and staff that the medical providers are contractually hired and insured to treat.
- Allow a medical professional to expand their scope of practice to match the state they are in.
- Allow a team physician or trainer to treat an athlete in a hospital or clinic.
- Allow a team medical professional to practice indefinitely in any state they are not licensed in.
- This act allows a physician to act in a state, only as long as their team is in that state for a sanctioned event.

Who Supports HR 921:

- The American Medical Society for Sports Medicine
- The National Athletic Trainers' Association
- The American Academy of Orthopedic Surgeons
- Physicians Insurance Association of America
- Leading national professional and collegiate sports organizations, including: NCAA, MLB and NFL

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Mr. Chairman, Ranking Member, Members of the Committee:

Thank you for inviting me here to discuss HR 921 – The Sports Medicine Licensure Clarity Act. My name is Chad Asplund. I am a sports medicine physician and the Head Team Physician at Georgia Southern University.

I graduated from the U.S. Coast Guard Academy and received my Doctorate of Medicine from the University of Pittsburgh. I trained in family medicine at Dewitt Army Community Hospital, in Ft. Belvoir, Virginia and completed a sports medicine fellowship at the The Ohio State University. In addition, I received my Masters of Public Health at the University of Florida. In my career as a sports medicine physician, I have provided care to athletes at all levels – professional, Olympic, NCAA division I, II and III, high school and recreational athletes.

I am representing the American Medical Society for Sports Medicine (AMSSM), the largest organization of team physicians in the world, and serve as chair of its Practice and Policy Committee. AMSSM provides a forum to foster professional relationships among sports medicine physicians to advance the discipline of sports medicine through education, research, advocacy and excellence in patient care. AMSSM was formed in 1991 to fill a void that has existed in sports medicine from its earliest beginnings. AMSSM's founders – most being recognized sports medicine specialists – realized that while there were several physician organizations which supported sports medicine, there was not a forum specific for primary care non-surgical sports medicine physicians. Upholding and promoting priority issues in sports

medicine affecting members, patients, and their communities is a key objective of AMSSM, and it is in that spirit of advocacy that I appear before you today.

I would like to recognize some of our partner organizations in this effort, including: the National Athletic Trainers' Association, the American Academy of Orthopedic Surgeons, and Physician Insurers Association of America. Each has been actively involved in the writing of this bill. In addition, leading collegiate and professional sporting bodies: National Collegiate Athletic Association; National Football League; Major League Baseball; National Hockey League; United States Tennis Association; NFL Team Physician's Association; Major League Baseball Team Physician's Association. I know many of these organizations submitted individual or joint letters of support for HR 921.

Nearly every day (if not actually every day) of the year in this country, one sports team travels across state lines, sometimes across the country, to compete against another team. These athletes might be members of elite travel, college, semi-professional teams up to and including those athletes that compete at the highest professional and international levels. These athletes give their all to represent their teams, their colleges and universities, their cities or their countries.

And every day that those athletes are out on the field of play, there are team physicians and athletic trainers ensuring their health and safety. There are approximately 14,000 physicians and athletic trainers that provide care to athletic teams, and of these it can be estimated that approximately 300-500 that would be affected by this bill would travel across state lines each week. What you may not realize is that in many cases, when these medical professionals travel with their teams, they do so risking their professional licenses and personal assets to make sure those athletes have access to the medical professionals that know them best and are in a position to offer the best possible medical care for most non-emergency situations.

HR 921 would protect the medical professionals that keep these athletes safe -- helping them return to the field when possible, and keeping them off the field when necessary to protect them and avoid further injury.

HR 921 has **three main components**:

- **To ensure that medical professionals' licenses are valid when crossing state lines with their teams for officially sanctioned events, as long as care is confined within the parameters of the bill**
- **To ensure the medical practice act in the medical professional's home state dictates the scope of practice, licensure requirements and laws, rules and regulations governing their actions**
- **To ensure that a medical professional's medical malpractice and liability coverage can and will cover them when they are traveling outside of their state borders for an officially sanctioned event**

AMSSM members assisted with drafting HR 921 because there does not appear to be a feasible state-based solution. There is no consistency to state laws that allow for team physicians to practice in their state. Some states allow temporary exemption for team physicians from contiguous states. Some states have reciprocity for states that allow similar exemptions for physicians in their state.

AMSSM has looked at several options to solve the licensure problem, including leveraging the new state licensure compact and introducing and passing model legislation for each state. The compact cannot be adapted as a fix to this problem and changes in state law are decades away from providing a solution for a problem that is critical now. Any delay will continue to put athletes and the people that care from them at risk.

It is worth noting, that Federation of State Medical Boards (FSMB) recently recognized that traveling team physicians' and athletic trainers' work is different from traditional out-of-state practitioners, and in need of an exemption from state medical boards. FSMB made the following recommendation through its workgroup on state medical board innovation:

The recommendations are as follows: A recommendation that sports team physicians are held exempt from the state licensure requirement, as follows: A physician licensed in another state, territory or jurisdiction of the United States is exempt from the licensure requirements in (state) if the physician is employed or formally designated as the team physician by an athletic team visiting (state) for a specific sporting event and the physician limits the practice of medicine in (state) to medical treatment of the members, coaches and staff of the sports entity that employs (or has designated) the physician.

The full report can be found here -

http://www.fsmb.org/Media/Default/PDF/FSMB/Advocacy/report_of_state_innovations_adopted.pdf

However, even if states could get together and solve the licensing problem quickly, that would not solve the insurance problem. There is no mechanism that would force medical malpractice insurers to cover any action outside of the state that the medical physician is licensed to practice in. And this is a very real concern.

A group of our organization's physicians recently canvassed a sample of twenty (20) U.S.-based malpractice insurance providers to see if coverage would extend to situations when a team physician was treating an athlete at a sanctioned event outside of their home state. The results were published in the October 2012 issue of the British Journal of Sports Medicine. I am submitting the article with my testimony. What the researchers found was that roughly 18% of the insurers that responded would cover a team physician out of state regardless of whether the physician was licensed in the second state. Approximately 45% of the respondents would only cover the physician in cases where they were licensed in the second state, and 36% would not cover the physician at all. Therefore team physicians are essentially closed off from 90% of their malpractice insurance market.

I have outlined what HR 921 does, but I also what to stress what HR 921 does *not* do. HR 921 **DOES NOT**:

- **Try to bypass state licensing rules and regulations.**

These medical professionals must be fully licensed and insured in their home state. And their actions in their non-home state are limited to non-clinical facilities, such as a team bus, hotel, locker room or field of play, considering them essentially extensions of the team's home facility.

- **Allow a medical professional to practice on the general population.**

Their scope of practice is limited to treating only team athletes and staff that the medical providers are contractually hired and insured to treat. This bill does not extend to traveling fans, alumni, boosters or any member of the general population in either the "state of origin" or "state of entry." Thus HR 921 in no way establishes a precedent to limit a state's ability to regulate medical practice affecting its own citizens, and in every instance, the provider is limiting

care to individuals who already exist within the population that the clinician's malpractice carrier underwrote for when premiums were established.

- **Allow a medical professional to expand their scope of practice to match the state they are in.**

If a state where a medical professional has travelled into allows a broader scope of practice than the medical professional's home state, that medical professional is still restricted by their home state's laws, even if the medical professional might have adequate education and training to complete the expanded function or procedure.

- **Allow a team physician or trainer to treat an athlete in a hospital or clinic.**

Team athletic trainers and physicians often provide stop-gap measures when traveling with teams. These medical professionals work hard to ensure that their athletes are treated thoroughly enough to get them home, but that is not always possible. In instances when an athlete requires more extensive local care (often emergency care) the team physician must pass that care responsibility to a physician or other emergency responder who is licensed in that state.

- **Allow a team medical professional to practice indefinitely in any state they are not licensed in.**

This act allows a physician to act in a state, only as long as their team is in that state for a sanctioned event. If a medical professional wishes to practice in that state beyond that period of time, the medical professional would have to comply with that state's licensure rules and regulations.

Earlier this week, my university, Georgia Southern, received its first ever NCAA Bowl Bid. We will be traveling to Mobile, Alabama to play in the GoDaddy.com Bowl. This is a tremendous accomplishment for our team. As the team physician, as part of my job requirements, I will be traveling with them. And when I travel outside of my state of Georgia, I will be essentially practicing without a license, because Alabama does not recognize licensure reciprocity, and the period of time to obtain licensure in Alabama far outweighs the time we have between our bowl assignment and the actual game. Of course the fact that I am not considered licensed does not bar a student athlete from suing. And if I am sued, my home state license is at risk and my medical malpractice insurance coverage will likely not cover me. My

personal assets and the assets of my family are at risk. Currently, there is no legal mechanism in place to protect me.

Limiting my ability to provide care for my team is not in the best interest of the athletes under my supervision. Having physicians and athletic trainers who know their athletes' medical and injury history always results in the best protection and care for that athlete.

But there is no need to continue to put both physicians and athletes at unnecessary risk.

Today, you can take a significant step to solve this problem. You can chose to protect athletes and medical professionals, by ensuring athletes have access to the best care available and by ensuring that the medical professionals that provide that care during a sanctioned sporting event are protected regardless of where that care is given.

I urge you to help me and other physicians and athletic trainers continue to treat and serve the athletes under our care to the best of our ability and with the full protection of the law. I urge you to support and pass HR 921, the Sports Medicine Licensure Practice Act.

Thank you.

Respectfully Submitted

Chad A. Asplund, M.D., MPH, FACSM

Director, Athletic Medicine and Head Team Physician
Adjunct Associate Professor, Health and Kinesiology
Georgia Southern University

Chair, Policy and Practice Committee
American Medical Society for Sports Medicine