

3758--A

2011-2012 Regular Sessions

I N S E N A T E

March 3, 2011

Introduced by Sens. LIBOUS, KLEIN, ADAMS, MAZIARZ, OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, the public health law and the civil practice law and rules, in relation to the practice of podiatry

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 7001 of the education law, as amended by chapter
2 677 of the laws of 1996, is amended to read as follows:
3 S 7001. Definition of practice of podiatry. 1. The practice of the
4 profession of podiatry is defined as diagnosing, treating, operating and
5 prescribing for any disease, injury, deformity or other condition of the
6 foot, [and may include] ANKLE AND ALL SOFT TISSUE STRUCTURES OF THE LEG
7 BELOW THE DISTAL TIBIAL TUBEROCITY. SURGICAL TREATMENT OF THE ANKLE
8 SHALL NOT EXTEND BEYOND THE TIBIAL METAPHYSEAL FLAIR; PROVIDED, HOWEVER,
9 THAT SUCH SURGICAL TREATMENT MAY EXTEND TO THE DISTAL TIBIAL TUBEROCITY
10 AS NECESSARY FOR THE TREATMENT OF THE ANKLE, INCLUDING, BUT NOT LIMITED
11 TO, THE APPLICATION OF EXTERNAL FIXATION; AND PROVIDED, FURTHER, THAT
12 SUCH TREATMENT SHALL NOT INCLUDE PILON FRACTURES. THE PRACTICE OF PODIA-
13 TRY INCLUDES performing physical evaluations in conjunction with [the
14 provision of] podiatric treatment. Podiatrists [may] SHALL ONLY treat
15 traumatic open wound fractures [only] AND PROVIDE SURGICAL MANAGEMENT OF
16 COMPLICATED FRACTURES OF THE ANKLE in hospitals [, as defined in] OR
17 AMBULATORY SURGERY CENTERS CERTIFIED PURSUANT TO article twenty-eight of
18 the public health law. FOR THE PURPOSES OF THIS ARTICLE, THE TERM
19 "ANKLE" SHALL BE DEFINED AS THE DISTAL METAPHYSIS AND EPIPHYSIS OF THE
20 TIBIA AND FIBULA, THE ARTICULAR CARTILAGE OF THE DISTAL TIBIA AND DISTAL
21 FIBULA, THE LIGAMENTS THAT CONNECT THE DISTAL METAPHYSIS AND EPIPHYSIS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 OF THE TIBIA AND FIBULA AND TALUS, AND THE PORTIONS OF SKIN, SUBCUTANE-
2 OUS TISSUE, FASCIA, MUSCLES, TENDONS AND NERVES AT OR BELOW THE LEVEL OF
3 THE MYOTENDINOUS JUNCTION OF THE TRICEPS SURAE.

4 2. [The practice of podiatry shall not include treating any part of
5 the human body other than the foot, nor treating fractures of the
6 malleoli or cutting operations upon the malleoli. Podiatrists licensed
7 to practice, but not authorized to prescribe or administer narcotics
8 prior to the effective date of this subdivision, may do so only after
9 certification by the department in accordance with the qualifications
10 established by the commissioner.] The practice of podiatry shall include
11 administering only local anesthetics for therapeutic purposes as well as
12 for anesthesia and treatment under general anesthesia administered by
13 authorized persons.

14 3. PODIATRISTS LICENSED TO PRACTICE PRIOR TO THE EFFECTIVE DATE OF
15 THIS SUBDIVISION MAY PERFORM SURGICAL TREATMENT OF THE ANKLE ONLY AFTER
16 CERTIFICATION BY THE DEPARTMENT IN ACCORDANCE WITH THE QUALIFICATIONS
17 ESTABLISHED BY THE COMMISSIONER. QUALIFICATIONS TO OPERATE ON THE ANKLE,
18 PURSUANT TO THIS SUBDIVISION, SHALL INCLUDE, BUT NOT BE LIMITED TO: THE
19 SUCCESSFUL COMPLETION OF A RESIDENCY PROGRAM OR PROGRAMS, APPROVED BY
20 THE COUNCIL ON PODIATRIC MEDICAL EDUCATION; OR COMPLETION OF A POST-SEC-
21 ONDARY ACCREDITED EDUCATIONAL PROGRAM ACCEPTABLE TO THE COMMISSIONER
22 WITH DEMONSTRATED COMPETENCY IN THE SURGICAL TREATMENT OF THE REAR FOOT
23 AND ANKLE; OR CERTIFICATION BY THE AMERICAN BOARD OF PODIATRIC SURGERY
24 OR A NATIONAL CERTIFYING BOARD HAVING CERTIFICATION STANDARDS ACCEPTABLE
25 TO THE COMMISSIONER.

26 S 2. Paragraph (i) of subdivision 1 of section 230-d of the public
27 health law, as added by chapter 365 of the laws of 2007, is amended to
28 read as follows:

29 (i) "Licensee" shall mean an individual licensed or otherwise author-
30 ized under [articles] ARTICLE one hundred thirty-one [or], one hundred
31 thirty-one-B OR ONE HUNDRED FORTY-ONE of the education law.

32 S 3. Section 2995-d of the public health law is amended by adding a
33 new subdivision 4-a to read as follows:

34 4-A. IN COOPERATION WITH THE EDUCATION DEPARTMENT, STUDY HEALTH CARE
35 PRACTITIONER DATA RELATING TO PODIATRISTS. SUCH STUDY SHALL INCLUDE
36 CONSIDERATION OF WHETHER AN INDIVIDUAL PODIATRIST PROFILING PROGRAM
37 SHOULD BE ESTABLISHED AND OUTLINE AN APPROPRIATE METHOD TO DEVELOP AND
38 IMPLEMENT SUCH A PROFILING PROGRAM IF SUCH A PROGRAM IS DETERMINED BY
39 THE DEPARTMENT TO BE IN THE PUBLIC INTEREST. SUCH PROGRAM AND RECOMMEN-
40 DATIONS MAY BE SIMILAR TO THE PHYSICIAN PROFILES ESTABLISHED PURSUANT TO
41 SECTION TWENTY-NINE HUNDRED NINETY-FIVE-A OF THIS TITLE. SUCH A PROPOSED
42 PODIATRIST PROFILING PROGRAM, IF SUCH A PROGRAM IS DETERMINED BY THE
43 DEPARTMENT TO BE IN THE PUBLIC INTEREST, SHOULD BE CAPABLE OF PRESENT-
44 ING, IN A COST EFFECTIVE MANNER, RELEVANT MEDICAL AND TREATMENT INFORMA-
45 TION IN A FORMAT THAT IS EASILY UNDERSTOOD BY AND MADE AVAILABLE TO THE
46 GENERAL PUBLIC. SUCH STUDY AND ITS FINDINGS SHALL BE SUBMITTED TO THE
47 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
48 ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF
49 THE ASSEMBLY ON OR BEFORE JUNE FIRST, TWO THOUSAND EIGHTEEN;

50 S 4. Paragraph 1 of subdivision (d) of section 3101 of the civil prac-
51 tice law and rules is amended by adding a new subparagraph (iv) to read
52 as follows:

53 (IV) IN AN ACTION FOR PODIATRIC MEDICAL MALPRACTICE, A PHYSICIAN MAY
54 BE CALLED AS AN EXPERT WITNESS AT TRIAL.

55 S 5. This act shall take effect 18 months after it shall have become a
56 law; provided, however, that effective immediately, the addition, amend-

1 ment and/or repeal of any rule or regulation necessary for the implemen-
2 tation of the provisions of this act on its effective date are author-
3 ized and directed to be made and completed on or before such effective
4 date.