

4835

2013-2014 Regular Sessions

I N S E N A T E

April 25, 2013

Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to making technical changes to the scope of the practice of podiatry; and to repeal certain provisions of the public health law and the civil practice law and rules relating thereto

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
2 438 of the laws of 2012, 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 performing physical evaluations in conjunction
7 with the provision of podiatric treatment. For the purposes of wound
8 care however, the practice of podiatry shall include the treatment of
9 such wounds if they are [contiguous with] RELATED TO A CONDITION OF THE
10 FOOT OR ARE wounds relating, originating or in the course of treatment
11 of [a wound on] the foot within the podiatric scope of practice. Wound
12 care shall not, however, extend beyond [to] the level ending at the
13 distal tibial tuberosity. The practice of podiatry may also include
14 diagnosing, treating, operating and prescribing for any disease, injury,
15 deformity or other condition of the ankle and soft tissue of the leg
16 below the tibial tuberosity if the podiatrist has obtained an issuance
17 of a privilege to perform podiatric standard ankle surgery or advanced
18 ankle surgery in accordance with section seven thousand nine of this
19 article; PROVIDED, HOWEVER, THAT SUCH PRIVILEGE SHALL NOT BE REQUIRED
20 FOR THE DIAGNOSING, TREATING, OPERATING OR PRESCRIBING FOR CUTANEOUS
21 CONDITIONS OF THE ANKLE. Podiatrists may treat traumatic open wound
22 fractures only in hospitals, as defined in article twenty-eight of the
23 public health law. For the purposes of this article, the term "ankle"

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

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1 shall be defined as the distal metaphysis and epiphysis of the tibia and
2 fibula, the articular cartilage of the distal tibia and distal fibula,
3 the ligaments that connect the distal metaphysis and epiphysis of the
4 tibia and fibula and talus, and the portions of skin, subcutaneous
5 tissue, fascia, muscles, tendons, ligaments and nerves at or below the
6 level of the myotendinous junction of the triceps surae.

7 2. The practice of podiatry shall not include treating any part of the
8 human body other than the foot, nor treating fractures of the malleoli
9 or cutting operations upon the malleoli unless the podiatrist obtains an
10 issuance of a privilege to perform podiatric standard ankle surgery or
11 podiatric advanced ankle surgery OR UNLESS OTHERWISE PROVIDED IN SUBDI-
12 VISION ONE OF THIS SECTION. Podiatrists who have obtained an issuance
13 of a privilege to perform podiatric standard ankle surgery may perform
14 surgery on the ankle which may include soft tissue and osseous proce-
15 dures except those procedures specifically authorized for podiatrists
16 who have obtained an issuance of a privilege for advanced ankle surgery.
17 Podiatrists who have obtained an issuance of a privilege to perform
18 podiatric advanced ankle surgery may perform surgery on the ankle which
19 may include ankle fracture fixation, ankle fusion, ankle arthroscopy OF
20 THE TIBIA AND FIBULA, insertion or removal of external fixation pins
21 into or from the tibial diaphysis at or below the level of the myotendi-
22 nous junction of the triceps surae, and insertion and removal of retro-
23 grade tibiotalocalcanneal intramedullary rods and locking screws up to
24 the level of the myotendinous junction of the triceps surae, but does
25 not include the surgical treatment of complications within the tibial
26 diaphysis related to the use of such external fixation pins. [Podia-
27 trists licensed to practice, but not authorized to prescribe or adminis-
28 ter narcotics prior to the effective date of this subdivision, may do so
29 only after certification by the department in accordance with the quali-
30 fications established by the commissioner.] The practice of podiatry
31 shall include administering only local anesthetics for therapeutic
32 purposes as well as for anesthesia and treatment under general anes-
33 thesia administered by authorized persons. The practice of podiatry by
34 any licensee shall not include partial or total ankle replacements nor
35 the treatment of pilon fractures.

36 3. A. THE DEPARTMENT SHALL CONDUCT A STUDY TO DETERMINE WHETHER TO
37 MAKE AVAILABLE TO THE PUBLIC PROFILES ON PODIATRISTS WHO HAVE OBTAINED
38 AN ISSUANCE OF PRIVILEGE TO PERFORM PODIATRIC STANDARD OR ADVANCED ANKLE
39 SURGERY PURSUANT TO SUBDIVISIONS ONE AND TWO OF SECTION SEVEN THOUSAND
40 NINE OF THIS ARTICLE. SUCH STUDY SHALL INCLUDE CONSIDERATION OF WHETHER
41 IT WOULD BE APPROPRIATE AND FEASIBLE FOR THE DEPARTMENT TO MAKE PUBLICLY
42 AVAILABLE PROFILES FOR SUCH PODIATRISTS IN A MANNER SIMILAR TO PHYSICIAN
43 PROFILES MADE AVAILABLE ON THE DEPARTMENT OF HEALTH'S WEBSITE IN ACCORD-
44 ANCE WITH SECTION TWENTY-NINE HUNDRED NINETY-FIVE-A OF THE PUBLIC HEALTH
45 LAW. THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF HEALTH AS
46 NECESSARY ON MATTERS RELATED TO THE OPERATION OF THE DEPARTMENT OF
47 HEALTH'S PHYSICIAN PROFILES ESTABLISHED PURSUANT TO SECTION TWENTY-NINE
48 HUNDRED NINETY-FIVE-A OF THE PUBLIC HEALTH LAW IN CONDUCTING ITS STUDY.

49 B. IF THE DEPARTMENT DETERMINES THAT MAKING PODIATRIST PROFILES AVAIL-
50 ABLE IS APPROPRIATE AND FEASIBLE, THE DEPARTMENT, AFTER CONSULTATION
51 WITH THE DEPARTMENT OF HEALTH, SHALL OUTLINE IN SUCH STUDY AND APPROPRI-
52 ATE AND COST EFFECTIVE METHOD OF PRESENTING RELEVANT AND APPROPRIATE
53 PODIATRIC PROFILING INFORMATION TO THE GENERAL PUBLIC. THE DEPARTMENT
54 SHALL SUBMIT SUCH STUDY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
55 SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE

1 AND THE MINORITY LEADER OF THE ASSEMBLY ON OR BEFORE NOVEMBER FIRST, TWO
2 THOUSAND SIXTEEN.

3 C. IF THE DEPARTMENT MAKES PODIATRIST PROFILES AVAILABLE AS SET FORTH
4 IN PARAGRAPH B OF THIS SUBDIVISION, THE DEPARTMENT OF HEALTH SHALL
5 INCLUDE ON ITS WEBSITE CONTAINING THE PHYSICIAN PROFILES ESTABLISHED
6 PURSUANT TO SECTION TWENTY-NINE HUNDRED NINETY-FIVE-A OF THE PUBLIC
7 HEALTH LAW A LINK TO THE WEBSITE ON WHICH SUCH PODIATRIST PROFILES MAY
8 BE ACCESSED AND A STATEMENT DESCRIBING THE PURPOSE OF SUCH LINK.

9 S 2. Subdivision 1 of section 7009 of the education law, as added by
10 chapter 438 of the laws of 2012, is amended to read as follows:

11 1. For issuance of a privilege to perform podiatric standard ankle
12 surgery, as that term is used in subdivision two of section seven thou-
13 sand one of this article, the applicant shall fulfill the following
14 requirements:

15 a. Application: file an application with the department;

16 b. License: be licensed as a podiatrist in the state;

17 c. Training and certification: either:

18 (i) have graduated on or after June first, two thousand six from a
19 three-year residency program in podiatric medicine and surgery that was
20 accredited by an accrediting agency acceptable to the department, and be
21 certified in FOOT SURGERY OR IN reconstructive rearfoot and ankle
22 surgery by a national certifying board having certification standards
23 acceptable to the department; or

24 (ii) have graduated on or after June first, two thousand six from a
25 three-year residency program in podiatric medicine and surgery that was
26 accredited by an accrediting agency acceptable to the department, be
27 board qualified but not yet certified in FOOT SURGERY OR IN reconstruc-
28 tive rearfoot and ankle surgery by a national certifying board having
29 certification standards acceptable to the department, and provide
30 documentation that he or she has acceptable training and experience in
31 standard or advance midfoot, rearfoot and ankle procedures that has been
32 approved by the department; or

33 (iii) have graduated before June first, two thousand six from a two-
34 year residency program in podiatric medicine and surgery that was
35 accredited by an accrediting agency acceptable to the department, be
36 certified in FOOT SURGERY, FOOT AND ANKLE SURGERY OR IN reconstructive
37 rearfoot and ankle surgery by a national certifying board having certif-
38 ication standards acceptable to the department, and provide documenta-
39 tion that he or she has acceptable training and experience in standard
40 or advanced midfoot, rearfoot and ankle procedures that has been
41 approved by the department;

42 d. Fees: pay a fee to the department of two hundred twenty dollars for
43 the issuance of a privilege to perform podiatric standard ankle surgery.

44 S 3. Section 7010 of the education law, as added by chapter 438 of the
45 laws of 2012, is amended to read as follows:

46 S 7010. Ankle surgery limited permits. 1. A limited permit to perform
47 podiatric standard ankle surgery, as described in subdivision two of
48 section seven thousand one of this article, may be issued by the depart-
49 ment to a podiatrist who is licensed pursuant to this article and who
50 has met the residency and board qualification/certification requirements
51 set forth in subdivision one of section seven thousand nine of this
52 article in order to authorize such podiatrist to obtain the training and
53 experience required for the issuance of a podiatric standard ankle
54 surgery privilege pursuant to subdivision one of section seven thousand
55 nine of this article. Such permits shall authorize the performance of
56 podiatric standard ankle surgery only under the [direct personal] super-

1 vision of a licensed podiatrist holding a podiatric standard ankle
2 surgery privilege or a podiatric advanced ankle surgery privilege issued
3 pursuant to section seven thousand nine of this article or of a physi-
4 cian licensed pursuant to article one hundred thirty-one of this title
5 and certified in orthopedic surgery by a national certifying board
6 having certification standards acceptable to the department.

7 2. A limited permit to perform podiatric advanced ankle surgery, as
8 described in subdivision two of section seven thousand one of this arti-
9 cle, may be issued by the department to a podiatrist who is licensed
10 pursuant to this article and who has met the residency and board certif-
11 ication requirements set forth in subdivision two of section seven thou-
12 sand nine of this article in order to authorize such podiatrist to
13 obtain the training and experience required for the issuance of a podia-
14 tric advanced ankle surgery privilege pursuant to subdivision two of
15 section seven thousand nine of this article. Such permits shall author-
16 ize the performance of podiatric advanced ankle surgery only under the
17 [direct personal] supervision of a licensed podiatrist holding a podia-
18 tric advanced ankle surgery privilege issued pursuant to subdivision two
19 of section seven thousand nine of this article or of a physician
20 licensed pursuant to article one hundred thirty-one of this title and
21 certified in orthopedic surgery by a national certifying board having
22 certification standards acceptable to the department.

23 3. For the purposes of this section, [direct personal] supervision
24 means supervision of procedures based on instructions given directly by
25 [the supervising] A LICENSED podiatrist HOLDING A PODIATRIC STANDARD OR
26 ADVANCED ANKLE SURGERY PRIVILEGE or physician who remains in the immedi-
27 ate area where the procedures are being performed, authorizes the proce-
28 dures and evaluates the procedures performed by the holder of the limit-
29 ed permit OR WITH THE APPROVAL OF THE CHAIR OF THE ORTHOPEDIC OR SURGERY
30 DEPARTMENT OF THE HOSPITAL AT WHICH THE PROCEDURE WILL PERFORMED.

31 4. The holder of a limited permit issued pursuant to this section
32 shall perform podiatric ankle surgery only in a hospital or health
33 facility licensed pursuant to article twenty-eight of the public health
34 law and appropriately authorized to provide such surgery.

35 5. Limited permits shall be issued for a period of one year, and may
36 be renewed for additional one year periods when necessary to permit the
37 completion of the training and experience required to obtain a podiatric
38 standard ankle surgery privilege or podiatric advanced ankle surgery
39 privilege, as applicable, provided that no permit may be renewed more
40 than four times for each such privilege.

41 6. The fee for a limited permit shall be one hundred five dollars and
42 the fee for a renewal shall be fifty dollars.

43 S 4. Subdivision 4-a of section 2995-d of the public health law is
44 REPEALED.

45 S 5. Subparagraph (iv) of paragraph 1 of subdivision (d) of section
46 3101 of the civil practice law and rules is REPEALED.

47 S 6. This act shall take effect on the same date and in the same
48 manner as chapter 438 of the laws of 2012 takes effect.