S T A T E O F N E W Y O R K

1295

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, the public health law, the social services law, the tax law, the vehicle and traffic law, the limited liability company law, the mental hygiene law, the general municipal law, the insurance law, the business corporation law, the civil practice law and rules, the county law and the workers' compensation law, in relation to designating podiatrists as podiatric physicians

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

Section 1. Section 6505-b of the education law, as amended by chapter 477 of the laws of 2008, is amended to read as follows:

S 6505-b. Course work or training in infection control practices. Every dentist, registered nurse, licensed practical nurse, [podiatrist] PODIATRIC PHYSICIAN, optometrist and dental hygienist practicing in the state shall, on or before July first, nineteen hundred ninety-four and every four years thereafter, complete course work or training appropriate to the professional's practice approved by the department regarding infection control and barrier precautions, including engineering and work practice controls, in accordance with regulatory standards promulgated by the department, in consultation with the department of health, which shall be consistent, as far as appropriate, with such standards adopted by the department of health pursuant to section two hundred thirty-nine of the public health law to prevent the transmission of HIV, HBV or HCV in the course of professional practice. Each such professional shall document to the department at the time of registration commencing with the first registration after July first, nineteen hundred ninety-four that the professional has completed course work or training in accordance with this section, provided, however that a professional subject to the provisions of paragraph (f) of subdivision

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

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one of section twenty-eight hundred five-k of the public health law shall not be required to so document. The department shall provide an exemption from this requirement to anyone who requests such an exemption and who (i) clearly demonstrates to the department's satisfaction that there would be no need for him or her to complete such course work or training because of the nature of his or her practice or (ii) that he or she has completed course work or training deemed by the department to be equivalent to the course work or training approved by the department pursuant to this section. The department shall consult with organizations representative of professions, institutions and those with expertise in infection control and HIV, HBV and HCV with respect to the regulatory standards promulgated pursuant to this section.

S 2. Paragraph a of subdivision 3 of section 6507 of the education law, as amended by chapter 356 of the laws of 2006, is amended to read as follows:

a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each profession. Notwithstanding any other provision of law, the commissioner shall establish standards requiring that all persons applying, on or after January first, nineteen hundred ninety-one, initially, or for the renewal of, a license, registration or limited permit to be a physician, chiropractor, dentist, registered nurse, [podiatrist] PODIATRIC PHYSICIAN, optometrist, psychiatrist, psychologist, licensed master social worker, licensed clinical social worker, licensed creative arts therapist, licensed marriage and family therapist, licensed mental health counselor, licensed psychoanalyst, or dental hygienist shall, in addition to all the other licensure, certification or permit requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Such coursework or training may also include information regarding the physical and behavioral indicators of the abuse of individuals with mental retardation and other developmental disabilities and voluntary reporting of abused or neglected adults to the office of mental retardation and developmental disabilities or the local adult protective services unit. Each applicant shall provide the department with documentation showing that he or she has completed the required training. The department shall provide an exemption from the child abuse and maltreatment training requirements to any applicant who requests such an exemption and who shows, to the department's satisfaction, that there would be no need because of the nature of his or her practice for him or her to complete such training;

S 3. The opening paragraph of subdivision 3 of section 6527 of the education law, as amended by chapter 257 of the laws of 1987, is amended to read as follows:

No individual who serves as a member of (a) a committee established to administer a utilization review plan of a hospital, including a hospital as defined in article twenty-eight of the public health law or a hospi-

tal as defined in subdivision ten of section 1.03 of the mental hygiene law, or (b) a committee having the responsibility of the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law or the evaluation and improvement of the quality of care rendered in a hospital as defined in article twenty-eight of the public health law or a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law, or (c) any medical review committee or subcommittee thereof of a local, county or state medical, dental, podiatry or optometrical society, any such society itself, a professional standards review organization or an individual when such committee, subcommittee, society, organization or individual is performing any medical or quality assurance review function including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, either described in clauses (a) and (b) of this subdivision, required by law, or involving any controversy or dispute between (i) a physician, dentist, [podiatrist] PODIATRIC PHYSICIAN or optometrist or hospital administrator and a patient concerning the diagnosis, treatment or care of such patient or the fees or charges therefor or (ii) a physician, dentist, [podiatrist] PODIATRIC PHYSICIAN or optometrist or hospital administrator and a provider of medical, dental, podiatric or optometrical services concerning any medical or health charges or fees of such physician, dentist, [podiatrist] PODIATRIC PHYSICIAN or optometrist, or (d) a committee appointed pursuant to section twenty-eight hundred five-j of the public health law to participate in the medical and dental malpractice prevention program, or (e) any individual who participated in the preparation of incident reports required by the department of health pursuant to section twenty-eight hundred five-l of the public health law, or (f) a committee established to administer a utilization review plan, or a committee having the responsibility of evaluation and improvement of the quality of care rendered, in a health maintenance organization organized under article forty-four of the public health law or article forty-three of the insurance law, including a committee of an individual practice association or medical group acting pursuant to a contract with such a health maintenance organization, shall be liable in damages to any person for any action taken or recommendations made, by him within the scope of his function in such capacity provided that (a) such individual has taken action or made recommendations within the scope of his function and without malice, and (b) in the reasonable belief after reasonable investigation that the act or recommendation was warranted, based upon the facts disclosed.

S 4. Subdivision 25-a of section 6530 of the education law, as added by chapter 542 of the laws of 2000, is amended to read as follows:

25-a. With respect to any non-emergency treatment, procedure or surgery which is expected to involve local or general anesthesia, failing to disclose to the patient the identities of all physicians, except medical residents in certified training programs, [podiatrists] PODIATRIC PHYSICIANS and dentists, reasonably anticipated to be actively involved in such treatment, procedure or surgery and to obtain such patient's informed consent to said practitioners' participation;

S 5. Subdivision 7 of section 6811 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

7. Any person to enter into an agreement with a physician, dentist, [podiatrist] PODIATRIC PHYSICIAN or veterinarian for the compounding or dispensing of secret formula (coded) prescriptions;

S 6. Paragraph j of subdivision 2 of section 6815 of the education law, as amended by chapter 752 of the laws of 1973, is amended to read as follows:

j. Except as required by article thirty-three of the public health law, the labeling provisions of this article shall not apply to the compounding and dispensing of drugs on the written prescription of a physician, a dentist, a [podiatrist] PODIATRIC PHYSICIAN or a veterinarian, which prescription when filled shall be kept on file for at least five years by the pharmacist or druggist. Such drug shall bear a label containing the name and place of business of the dispenser, the serial number and date of the prescription, directions for use as may be stated in the prescription, name and address of the patient and the name of the physician or other practitioner authorized by law to issue the prescription. In addition, such label shall contain the proprietary or brand name of the drug and, if applicable, the strength of the contents, unless the person issuing the prescription explicitly states on the prescription, in his own handwriting, that the name of the drug and the strength thereof should not appear on the label.

S 7. Subdivision c of section 6731 of the education law, as amended by chapter 389 of the laws of 2007, is amended to read as follows:

c. Such treatment shall be rendered pursuant to a referral which may be directive as to treatment by a licensed physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, nurse practitioner or licensed midwife, each acting within his or her lawful scope of practice, and in accordance with their diagnosis, except as provided in subdivision d of this section.

S 8. Subdivision 3 of section 6817 of the education law, as amended by chapter 752 of the laws of 1973, is amended to read as follows:

3. A drug dispensed on a written or oral prescription of a physician, dentist, [podiatrist] PODIATRIC PHYSICIAN or veterinarian (except a controlled substance), shall be exempt from the requirements of this section if such drug bears a label containing the name and place of business of the dispenser, the serial number and date of the prescription, directions for use as may be stated in the prescription and the name of the physician, dentist, [podiatrist] PODIATRIC PHYSICIAN or veterinarian issuing the prescription and the name of the patient. In addition, such drug shall bear a label containing the proprietary or brand name of the drug and, if applicable, the strength of the contents, unless the person issuing the prescription explicitly states on the prescription, in his own handwriting, that the name of the drug and the strength thereof should not appear on the label.

S 9. Section 7001 of the education law, as amended by chapter 677 of the laws of 1996, is amended to read as follows:

S 7001. Definition of practice of podiatry. 1. The practice of the profession of podiatry is defined as diagnosing, treating, operating and prescribing for any disease, injury, deformity or other condition of the foot, and may include performing physical evaluations in conjunction with the provision of podiatric treatment. [Podiatrists] PODIATRIC PHYSICIANS may treat traumatic open wound fractures only in hospitals, as defined in article twenty-eight of the public health law.

2. The practice of podiatry shall not include treating any part of the human body other than the foot, nor treating fractures of the malleoli or cutting operations upon the malleoli. [Podiatrists] PODIATRIC PHYSICIANS licensed to practice, but not authorized to prescribe or administer narcotics prior to the effective date of this subdivision, may do so only after certification by the department in accordance with the quali-

fications established by the commissioner. The practice of podiatry shall include administering only local anesthetics for therapeutic purposes as well as for anesthesia and treatment under general anesthesia administered by authorized persons.

S 10. Section 7002 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

S 7002. Practice of podiatry and use of title ["podiatrist"] "PODIATRIC PHYSICIAN". Only a person licensed or exempt under this article shall practice podiatry or use the title ["podiatrist"] "PODIATRIC PHYSICIAN" or "chiropodist".

S 11. Section 7003 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

S 7003. State board for podiatry. A state board for podiatry shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven [podiatrists] PODIATRIC PHYSICIANS licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

S 12. The opening paragraph of section 7004 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

To qualify for a license as a [podiatrist] PODIATRIC PHYSICIAN, an applicant shall fulfill the following requirements:

S 13. Section 7005 of the education law, as amended by chapter 39 of the laws of 1982, is amended to read as follows:

S 7005. Exempt persons. Nothing in this article shall be construed to affect or prevent[: 1. A] A student from engaging in clinical practice under supervision of a licensed [podiatrist] PODIATRIC PHYSICIAN in a school of podiatry in this state registered by the department.

S 14. Section 7006 of the education law, as added by chapter 987 of the laws of 1971, subdivision 1 as amended by chapter 805 of the laws of 1984, subdivision 3 as added by chapter 413 of the laws of 1988 and subdivision 4 as amended by chapter 544 of the laws of 2003, is amended to read as follows:

S 7006. Special provision. 1. No corporation, except a hospital corporation authorized under article forty-three of the insurance law or a corporation organized and existing under the laws of the state of New York which, on or before the first day of March, nineteen hundred forty-two, was legally incorporated to practice podiatry, shall practice podiatry, and then only through licensed [podiatrists] PODIATRIC PHYSICIANS and shall conform to board of regents rules. No corporation organized to practice podiatry shall change its name or sell its franchise or transfer its corporate rights directly or indirectly, by transfer of capital stock control or otherwise, to any person or to another corporation without permission from the department and any corporation so changing its name or so transferring its franchise or corporate rights without such permission or found guilty of violating a board of regents rule shall be deemed to have forfeited its right to exist and shall be dissolved by a proceeding brought by the attorney general.

2. Any manufacturer or merchant may sell, advertise, fit, or adjust proprietary foot remedies, arch supports, corrective foot appliances or shoes.

3. Notwithstanding any inconsistent provision of any general, special or local law, any licensed [podiatrist] PODIATRIC PHYSICIAN who voluntarily and without the expectation of monetary compensation renders

first aid or emergency treatment at the scene of an accident or other emergency, outside of a hospital or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such [podiatrist] PODIATRIC PHYSICIAN. Nothing in this subdivision shall be deemed or construed to relieve a licensed [podiatrist] PODIATRIC PHYSICIAN from liability for damages for injuries or death caused by an act or omission on the part of a [podiatrist] PODIATRIC PHYSICIAN while rendering professional services in the normal and ordinary course of practice.

4. An unlicensed person may provide supportive services to a [podiatrist] PODIATRIC PHYSICIAN incidental to and concurrent with such [podiatrist] PODIATRIC PHYSICIAN personally performing a service or procedure. Nothing in this subdivision shall be construed to allow an unlicensed person to provide any service which constitutes the practice of podiatry as defined in this article. An unlicensed person providing supportive services to a [podiatrist] PODIATRIC PHYSICIAN may operate radiographic equipment under direct supervision for the sole purpose of foot radiography provided that such person completes a course of study acceptable to the department in consultation with the department of health.

S 15. Subdivision 1 of section 7007 of the education law, as added by chapter 728 of the laws of 1990, is amended to read as follows:

1. Limited permits to practice podiatry may be issued by the department to graduates of a program of professional education in podiatry registered by the department or accredited by an accrediting agency acceptable to the department. Such permits shall authorize the practice of podiatry only under the supervision of a licensed [podiatrist] PODIATRIC PHYSICIAN and only in:

a. a hospital or health facility licensed pursuant to article twenty-eight of the public health law;

b. a clerkship for a period of two years or less conducted by a licensed [podiatrist] PODIATRIC PHYSICIAN designated as a member of the faculty of an approved school of podiatry for purposes of a preceptorship program; or

S 16. The education law is amended by adding a new section 7009 to read as follows:

S 7009. PRIOR LICENSE AS PODIATRIST. ANY INDIVIDUAL LICENSED AS A PODIATRIST PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, BE DEEMED TO BE LICENSED AS A PODIATRIC PHYSICIAN PURSUANT TO THIS ARTICLE FOR ALL PURPOSES OF THE LAWS OF THIS STATE, AND ANY SUCH INDIVIDUAL MAY USE THE TITLE "PODIATRIC PHYSICIAN".

S 17. Paragraphs a and b of subdivision 1 of section 206-a of the public health law, as amended by chapter 460 of the laws of 1985, are amended to read as follows:

a. To deny to or to withhold from a physician, dentist or [podiatrist] PODIATRIC PHYSICIAN staff membership or professional privileges in a hospital because of his participation in any medical group practice, non-profit health insurance plan, or comprehensive health services plan offered by a health maintenance organization authorized by the laws of the state; or

b. To exclude or to expel a physician, dentist or [podiatrist] PODIATRIC PHYSICIAN from staff membership or to curtail, terminate or diminish in any way a physician's, dentist's or [podiatrist's] PODIATRIC PHYSICIAN'S professional privileges in a hospital because of his participation in any medical group practice, non-profit health insurance plan, or comprehensive health services plan offered by a health maintenance organization authorized by the laws of the state.

S 18. Subdivision 11 of section 238 of the public health law, as added by chapter 803 of the laws of 1992, is amended to read as follows:

11. "Practitioner" shall mean a licensed or registered physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, chiropractor, nurse, midwife, physician assistant or specialist assistant, physical therapist, or optometrist.

S 19. Subdivision 1 of section 579 of the public health law, as separately amended by chapters 397 and 440 of the laws of 2004, is amended to read as follows:

1. This title is applicable to all clinical laboratories and blood banks operating within the state, except clinical laboratories and blood banks operated by the federal government and clinical laboratories operated by a licensed physician, osteopath, dentist, midwife, nurse practitioner or [podiatrist] PODIATRIC PHYSICIAN who performs laboratory tests or procedures, personally or through his or her employees, solely as an adjunct to the treatment of his or her own patients; to the extent authorized by federal and state law, including the education law, and consistent with any applicable written practice agreement.

S 20. Subdivision 1 of section 585 of the public health law, as added by chapter 803 of the laws of 1992, is amended to read as follows:

1. "Health services purveyor" means any person, firm, partnership, group, association, corporation or professional corporation, or any agent, employee, fiduciary, employer or representative thereof, including but not limited to a physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, or chiropractor, either in individual practice, group practice or employed in a facility owned by any person, group, association, firm, partnership or corporation hiring any of the aforementioned practitioners, who provide health or health related services.

S 21. Subdivisions 1 and 3 of section 2801-b of the public health law, as amended by chapter 605 of the laws of 2008, are amended to read as follows:

1. It shall be an improper practice for the governing body of a hospital to refuse to act upon an application for staff membership or professional privileges or to deny or withhold from a physician, [podiatrist] PODIATRIC PHYSICIAN, optometrist, dentist or licensed midwife staff membership or professional privileges in a hospital, or to exclude or expel a physician, [podiatrist] PODIATRIC PHYSICIAN, optometrist, dentist or licensed midwife from staff membership in a hospital or curtail, terminate or diminish in any way a physician's, [podiatrist's] PODIATRIC PHYSICIAN'S, optometrist's, dentist's or licensed midwife's professional privileges in a hospital, without stating the reasons therefor, or if the reasons stated are unrelated to standards of patient care, patient welfare, the objectives of the institution or the character or competency of the applicant. It shall be an improper practice for a governing body of a hospital to refuse to act upon an application or to deny or to withhold staff membership or professional privileges to a [podiatrist] PODIATRIC PHYSICIAN based solely upon a practitioner's category of licensure.

3. After the filing of any such complaint, the public health council shall make a prompt investigation in connection therewith. In conducting such investigation, the public health council is authorized to receive reports from the governing body of the hospital and the complainant, as the case may be, and the furnishing of such information to the public health council, or by the council to the governing body or complainant, shall not subject any person or hospital to any action for damages or other relief. Such information when received by the public health council, or its authorized representative, shall be kept confidential and shall be used solely for the purposes of this section and the improvement of the standards of patient care and patient welfare. The records of such proceedings shall not be admissible as evidence in any other action of any kind in any court or before any other tribunal, board, agency, or person. If the council shall determine after such investigation that cause exists for crediting the allegations of the complaint, the council shall promptly so advise the governing body of the hospital against which the complaint was made, and shall direct that such governing body make a review of the actions of such body in denying or withholding staff membership or professional privileges from the complainant physician, [podiatrist] PODIATRIC PHYSICIAN, optometrist, dentist or licensed midwife or in excluding or expelling such physician, [podiatrist] PODIATRIC PHYSICIAN, optometrist, dentist or licensed midwife from staff membership or in curtailing, terminating or in any way diminishing such physician's, [podiatrist's] PODIATRIC PHYSICIAN'S, optometrist's, dentist's or licensed midwife's professional privileges in the hospital.

S 22. Subdivision 1 of section 2803-d of the public health law, as amended by chapter 230 of the laws of 2004, is amended to read as follows:

1. The following persons are required to report in accordance with this section when they have reasonable cause to believe that a person receiving care or services in a residential health care facility has been physically abused, mistreated or neglected by other than a person receiving care or services in the facility: any operator or employee of such facility, any person who, or employee of any corporation, partnership, organization or other entity which, is under contract to provide patient care services in such facility, and any nursing home administrator, physician, medical examiner, coroner, physician's associate, specialist's assistant, osteopath, chiropractor, physical therapist, occupational therapist, registered professional nurse, licensed practical nurse, dentist, [podiatrist] PODIATRIC PHYSICIAN, optometrist, pharmacist, psychologist, licensed master social worker, licensed clinical social worker, speech pathologist and audiologist.

S 23. Section 2805-k of the public health law, as amended by chapter 485 of the laws of 1986, paragraph (f) of subdivision 1 as amended by chapter 477 of the laws of 2008 and paragraph (g) of subdivision 1 as relettered by chapter 786 of the laws of 1992, is amended to read as follows:

S 2805-k. Investigations prior to granting or renewing privileges. 1. Prior to granting or renewing professional privileges or association of any physician, dentist or [podiatrist] PODIATRIC PHYSICIAN or hiring a physician, dentist or [podiatrist] PODIATRIC PHYSICIAN, a hospital or facility approved pursuant to this article shall request from the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN and the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN shall be required to provide the following information:

(a) The name of any hospital or facility with or at which the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN had or has any association, employment, privileges or practice;

(b) Where such association, employment, privilege or practice was discontinued, the reasons for its discontinuation;

(c) Any pending professional medical, dental or podiatric misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in such proceedings or actions, and any additional information concerning such proceedings or actions as the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN may deem appropriate;

(d) The substance of the findings in such actions or proceedings and any additional information concerning such actions or proceedings as the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN may deem appropriate;

(e) A waiver by the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subdivision; [and]

(f) Documentation that the physician, dentist or podiatrist has completed the course work or training as mandated by section two hundred thirty-nine of this chapter or section six thousand five hundred five-b of the education law. A hospital or facility shall not grant or renew professional privileges or association to a physician, dentist, or [podiatrist] PODIATRIC PHYSICIAN who has not completed such course work or training[.]; AND

(g) A verification by the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN that the information provided by the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN is true and accurate.

2. Prior to granting privileges or association to any physician, dentist or [podiatrist] PODIATRIC PHYSICIAN, or hiring a physician, dentist or [podiatrist] PODIATRIC PHYSICIAN, any hospital or facility approved pursuant to this article shall request from any hospital with or at which such physician, dentist or [podiatrist] PODIATRIC PHYSICIAN had or has privileges, was associated, or was employed, the following information concerning such physician, dentist or [podiatrist] PODIATRIC PHYSICIAN:

(a) Any pending professional medical conduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another; and

(c) Any information required to be reported by hospitals pursuant to section twenty-eight hundred three-e of this article AS ADDED BY CHAPTER EIGHT HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED EIGHTY.

3. If requested by the department, a hospital shall provide documentation that, prior to granting privileges, association or employing a physician, dentist or [podiatrist] PODIATRIC PHYSICIAN, it has complied with the requirements of subdivisions one and two of this section and that, prior to renewing privileges, association or employment, it has complied with the requirements of subdivision one of this section. Copies of the information and documentation required pursuant to subdivisions one and two of this section shall be placed in the physician's, dentist's or [podiatrist's] PODIATRIC PHYSICIAN'S personnel or credentials file maintained by the hospital.

4. Any hospital which receives a request for information from another hospital pursuant to subdivision one or two of this section shall provide such information concerning the physician, dentist or [podia-

trist] PODIATRIC PHYSICIAN in question to the extent such information is known to the hospital receiving such a request, including the reasons for suspension, termination, curtailment of employment or privileges at the hospital. Any hospital or hospital employee providing such information in good faith shall not be liable in any civil action for the release of such information.

S 24. Subdivision 29 of section 3302 of the public health law, as amended by chapter 163 of the laws of 1973 and as renumbered by chapter 537 of the laws of 1998, is amended to read as follows:

29. "Practitioner" means:

A physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, veterinarian, scientific investigator, or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed professional practice or research licensed pursuant to this article. Such person shall be deemed a "practitioner" only as to such substances, or conduct relating to such substances, as is permitted by his license, permit or otherwise permitted by law.

S 25. Paragraph (a) of subdivision 4 of section 3515 of the public health law, as added by chapter 175 of the laws of 2006, is amended to read as follows:

(a) a student enrolled in or attending a school or college of medicine, osteopathy, dentistry, podiatry, chiropractic, or radiologic technology who applies radiation to a human being, while under the direct supervision of a licensed physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, chiropractor, or radiologic technologist respectively;

S 26. Paragraph (l) of subdivision 2 of section 365-a of the social services law, as amended by chapter 81 of the laws of 1995, is amended to read as follows:

(l) care and services of [podiatrists] PODIATRIC PHYSICIANS which care and services shall only be provided upon referral by a physician, nurse practitioner or certified nurse midwife in accordance with the program of early and periodic screening and diagnosis established pursuant to subdivision three of this section or to persons eligible for benefits under title XVIII of the federal social security act as qualified medicare beneficiaries in accordance with federal requirements therefor and private duty nurses which care and services shall only be provided in accordance with regulations of the department of health; [provided, however, that private duty nursing services shall not be restricted when such services are more appropriate and cost-effective than nursing services provided by a home health agency pursuant to section three hundred sixty-seven-l;]

S 27. Paragraph (e) of subdivision 5 of section 365-g of the social services law, as amended by chapter 41 of the laws of 1992, is amended to read as follows:

(e) on a fee-for-services basis to in-patients in general hospitals certified under article twenty-eight of the public health law or article thirty-one of the mental hygiene law and residential health care facilities, with the exception of [podiatrists'] PODIATRIC PHYSICIANS' services;

S 28. Paragraph (a) of subdivision 1 of section 413 of the social services law, as separately amended by chapters 323 and 366 of the laws of 2008, is amended to read as follows:

(a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their

professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; [podiatrist] PODIATRIC PHYSICIAN; resident; intern; psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; social services worker; day care center worker; school-age child care worker; provider of family or group family day care; employee or volunteer in a residential care facility defined in subdivision four of section four hundred twelve-a of this title or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of alcoholism and substance abuse services; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.

S 29. Paragraph 2 of subdivision (a) of section 1212-A of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(2) a tax, at the same uniform rate, but at a rate not to exceed four per centum, in multiples of one-half of one per centum, on the receipts from every sale of the following services: beauty, barbering, hair restoring, manicuring, pedicuring, electrolysis, massage services and similar services, and every sale of services by weight control salons, health salons, gymnasiums, turkish and sauna bath and similar establishments and every charge for the use of such facilities, whether or not any tangible personal property is transferred in conjunction therewith; but excluding services rendered by a physician, osteopath, dentist, nurse, physiotherapist, chiropractor, [podiatrist] PODIATRIC PHYSICIAN, optometrist, ophthalmic dispenser or a person performing similar services licensed under title VIII of the education law, as amended, and excluding such services when performed on pets and other animals.

S 30. Subdivision 4 of section 404-a of the vehicle and traffic law, as amended by chapter 686 of the laws of 1994, the opening paragraph and paragraph (c) as amended by chapter 228 of the laws of 2008, is amended to read as follows:

4. Issue of plates. The commissioner shall issue sets of plates to such person in accordance with subdivision two of this section with proof of such disability of such person or such members of his family certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law, including the education law, and consistent with any applicable written practice agreement, or [podiatrist] PODIATRIC PHYSICIAN pursuant to subdivision four-a of this section, to the satisfaction of the commissioner who is empowered to carry out the effects of this section by formulating rules and regulations.

For the purposes of this section, a "severely disabled person" shall mean any person having any one or more of the following impairments, disabilities or conditions which are permanent in nature:

(a) Has limited or no use of one or both lower limbs;

(b) Has a neuro-muscular dysfunction which severely limits mobility;

(c) Has a physical or mental impairment or condition which is other than those specified above, but is of such nature as to impose unusual hardship in utilization of public transportation facilities and such condition is certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law, including the education law, and consistent with any applicable written practice agreement, duly licensed to practice medicine in this state, or, pursuant to subdivision four-a of this section, a [podiatrist] PODIATRIC PHYSICIAN duly licensed to practice podiatry in this state, as constituting an equal degree of disability (specifying the particular condition) so as to prevent such person from getting around without great difficulty in accordance with subdivision two of this section; or

(d) A blind person.

S 31. Subdivision 4-a of section 404-a of the vehicle and traffic law, as added by chapter 686 of the laws of 1994, is amended to read as follows:

4-a. Certification of disability by a [podiatrist] PODIATRIC PHYSICIAN. A [podiatrist] PODIATRIC PHYSICIAN duly licensed to practice podiatry in this state may certify only those conditions which he or she treats in the course of the practice of podiatry, as defined by section [seventy hundred] SEVEN THOUSAND one of the education law.

S 32. Paragraph (b) of subdivision 5 of section 404-a of the vehicle and traffic law, as amended by chapter 228 of the laws of 2008, is amended to read as follows:

(b) The commissioner may require the applicant for registration to furnish such proof of his disability or such proof of disability of such members of his family from a physician, physician assistant or nurse practitioner, to the extent authorized by law, including the education law, and consistent with any applicable written practice agreement, or [podiatrist] PODIATRIC PHYSICIAN pursuant to subdivision four-a of this section, as the commissioner deems necessary either for initial registration or renewal thereof; provided, however, that a handicapped or disabled permit issued by a municipality to such applicant pursuant to section twelve hundred three-a of this chapter shall be deemed sufficient proof of disability for purposes of this paragraph.

S 33. Subdivision (c) of section 1204 of the limited liability company law is amended to read as follows:

(c) Each report, diagnosis, prognosis and prescription made or issued by a professional service limited liability company practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, psychology, physical therapy or chiropractic shall bear the signature of one or more physicians, dentists, [podiatrists] PODIATRIC PHYSICIANS, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, licensed psychologists, physical therapists or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis or prescription.

S 34. Subdivision (c) of section 1302 of the limited liability company law is amended to read as follows:

(c) Each report, diagnosis, prognosis and prescription made or issued by a foreign professional service limited liability company practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veteri-

nary medicine, pharmacy, nursing, psychology, physical therapy or chiropractic shall bear the signature of one or more physicians, dentists, [podiatrists] PODIATRIC PHYSICIANS, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, licensed psychologists, physical therapists or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis or prescription.

S 35. Subdivision 48 of section 1.03 of the mental hygiene law, as added by chapter 223 of the laws of 1992, is amended to read as follows:

48. "Practitioner" shall mean a physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, veterinarian, scientific investigator, or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed professional practice or research licensed pursuant to this article. Such person shall be deemed a "practitioner" only as to such substances, or conduct relating to such substances, as is permitted by his license, permit or otherwise permitted by law.

S 36. Section 50-d of the general municipal law, as amended by chapter 82 of the laws of 1963 and subdivision 3 as added by chapter 673 of the laws of 1979, is amended to read as follows:

S 50-d. Municipal liability for malpractice of certain physicians, resident physicians, internes, dentists, [podiatrists] PODIATRIC PHYSICIANS and optometrists in public institutions. 1. Notwithstanding any inconsistent provision of law, general, special or local, or limitation contained in the provisions of any city charter, every municipal corporation shall be liable for, and shall assume the liability, to the extent that it shall save him harmless, of any resident physician, physician, interne, dentist, [podiatrist] PODIATRIC PHYSICIAN or optometrist rendering medical, dental, podiatry or optometry services of any kind to a person without receiving compensation from such person in a public institution maintained in whole or in part by the municipal corporation, or in the course of a home care service maintained by such public institution, for damages for personal injuries alleged to have been sustained by such person by reason of the malpractice of such resident physician, physician, interne, dentist, [podiatrist] PODIATRIC PHYSICIAN or optometrist while engaged in the rendition of such services. Every such resident physician, physician, interne, dentist, [podiatrist] PODIATRIC PHYSICIAN or optometrist for the purpose of this section, shall be deemed an employee of the municipal corporation notwithstanding that the municipal corporation derived no special benefit in its corporate capacity.

2. No action shall be maintained under this section against such municipality, resident physician, physician, interne, dentist, [podiatrist] PODIATRIC PHYSICIAN or optometrist unless a notice of claim shall have been made and served in compliance with section fifty-e of this [chapter] ARTICLE. Every such action shall be commenced pursuant to the provisions of section fifty-i of this [chapter] ARTICLE.

3. The provisions of this section shall not apply to the city of New York.

S 37. Paragraph 2 of subsection (i) of section 3216 of the insurance law is amended to read as follows:

(2) If a policy provides for reimbursement for any podiatrical service within the lawful scope of practice of a licensed [podiatrist] PODIATRIC PHYSICIAN, the insured shall be entitled to reimbursement for such service whether it is performed by a physician or licensed [podiatrist] PODIATRIC PHYSICIAN.

S 38. Subparagraph (B) of paragraph 4 of subsection (f) of section 4235 of the insurance law is amended to read as follows:

(B) any podiatrical service which is within the lawful scope of practice of a licensed [podiatrist] PODIATRIC PHYSICIAN, a subscriber to such policy shall be entitled to reimbursement for such service, whether the said service is performed by a physician or licensed [podiatrist] PODIATRIC PHYSICIAN and when such policy or any certificate issued thereunder is delivered or issued for delivery without this state by an authorized insurer, covered persons residing in this state shall be entitled to reimbursement for podiatric services as herein provided;

S 39. Subparagraph (D) of paragraph 1 of subsection (b) of section 4301 of the insurance law is amended to read as follows:

(D) podiatrical care provided through licensed [podiatrists] PODIATRIC PHYSICIANS,

S 40. Paragraph 3 of subsection (b) of section 4301 of the insurance law, as amended by chapter 593 of the laws of 2000, is amended to read as follows:

(3) Every medical expense indemnity corporation shall be open to the participation of licensed physicians, [podiatrists,] PODIATRIC PHYSICIANS, chiropractors, optometrists, physical and occupational therapists, speech-language pathologists, audiologists, and dentists, certified and registered psychologists without discrimination against schools of medical practice, podiatry practice, chiropractic practice, optometric practice, physical and occupational therapy practice, dental practice, speech-language pathology practice (subject to the permitted limitations of paragraph one of this subsection), audiology practice (subject to the permitted limitations of paragraph one of this subsection), and psychological training as defined in the education law.

S 41. Subsection (b) of section 5501 of the insurance law, as amended by chapter 522 of the laws of 1987, is amended to read as follows:

(b) "Medical malpractice insurance" means insurance against legal liability of the insured, and against loss, damage, or expense incident to a claim of such liability arising out of the death or injury of any person due to medical, dental, podiatric, certified nurse-midwifery or hospital malpractice by any licensed physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, certified nurse-midwife, certified registered nurse anesthetist or hospital.

S 42. Subsection (d) of section 5502 of the insurance law, as amended by chapter 147 of the laws of 2000, is amended to read as follows:

(d) Upon dissolution, the association shall not resume underwriting operations for physicians, dentists, [podiatrists] PODIATRIC PHYSICIANS, certified nurse-midwives, certified registered nurse anesthetists or for hospitals respectively, until the superintendent, after consultation with the commissioner of health, has determined that medical malpractice insurance is not readily available for physicians, dentists, [podiatrists] PODIATRIC PHYSICIANS, certified nurse-midwives, certified registered nurse anesthetists or for hospitals, as the case may be, in the voluntary market and has approved or promulgated a new plan of operation. If the superintendent determines during such period that insurance is readily available for physicians, dentists, [podiatrists] PODIATRIC PHYSICIANS, certified nurse-midwives, certified registered nurse anesthetists or for hospitals, as the case may be, in the voluntary market, the superintendent shall not authorize its underwriting operations for the respective categories.

S 43. Paragraph 1 of subsection (e) of section 5502 of the insurance law, as amended by chapter 510 of the laws of 1988, is amended to read as follows:

(1) To issue, or to cause to be issued, policies of insurance to physician, dentist and [podiatrist] PODIATRIC PHYSICIAN applicants subject to primary limits specified in the plan of operation not in excess of one million dollars for each claimant under one policy and three million dollars for all claimants under one policy in any one year, and excess coverage as provided in this paragraph. Each applicant shall be entitled to purchase a policy providing primary limits not to exceed one million dollars for each claimant and three million dollars for all claimants in any one year. In addition, any applicant insured by the association in an amount equal to or greater than one million dollars for each claimant and three million dollars for all claimants in any one year, or any other applicant covered under a policy or policies providing such primary levels of insurance against liability for medical, dental or podiatric malpractice that is issued by an authorized insurer, shall be entitled to purchase a policy from the association providing excess coverage of at least one million dollars per claimant and three million dollars for all claimants in any one year. The association shall, subject to the approval of the superintendent, make available, and if requested by the applicant, provide additional excess coverage in an amount requested by such applicant. With respect to the coverage required to be made available on and after July first, nineteen hundred eighty-five by this paragraph, the superintendent shall establish and promulgate rates to be charged for such excess coverage and additional excess coverage and shall require that the association accept payment for such coverage from the hospital excess liability pool pursuant to a payment schedule that is consistent with the receipt of funds by such pool from the hospital reimbursement system. Rates for excess coverage and additional excess coverage shall not be subject to the stabilization reserve fund charge established by section five thousand five hundred nine of this article.

S 44. Subsection (c) of section 5505 of the insurance law, as amended by chapter 522 of the laws of 1987, is amended to read as follows:

(c) The association's rates, rating plans, rating rules and rating classifications may provide for premium discounts for physicians, dentists, certified nurse-midwives, certified registered nurse anesthetists or [podiatrists] PODIATRIC PHYSICIANS commencing practice or conducting a limited practice as set forth in the plan of operation.

S 45. Subsection (a) of section 5506 of the insurance law, as amended by chapter 522 of the laws of 1987, is amended to read as follows:

(a) Any licensed physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, certified nurse-midwife, certified registered nurse anesthetist or hospital is entitled to apply to the association for coverage pursuant to this article. Application may be made directly to the association by the applicant, in which event no service fee shall be charged. If the applicant authorizes a broker or agent to make the application, the only charge for such service shall be a service fee as limited by the plan of operation and in compliance with the procedure established in subsections (c) and (d) of section two thousand one hundred nineteen of this chapter.

S 46. Paragraph (c) of section 1504 of the business corporation law, as added by chapter 974 of the laws of 1970, is amended to read as follows:

(c) Each report, diagnosis, prognosis, and prescription made or issued by a corporation practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, physiotherapy or chiropractic shall bear the signature of one or more physicians, dentists, [podiatrists] PODIATRIC PHYSICIANS, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, physiotherapists, or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis, or prescription.

S 47. Paragraph (c) of section 1526 of the business corporation law, as added by chapter 505 of the laws of 1983, is amended to read as follows:

(c) Each report, diagnosis, prognosis, and prescription made or issued by a foreign professional service corporation practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, physiotherapy or chiropractic shall bear the signature of one or more physicians, dentists, [podiatrists] PODIATRIC PHYSICIANS, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, physiotherapists, or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis, or prescription.

S 48. Paragraphs 1 and 3 of subdivision (a) and subdivision (e) of section 3012-a of the civil practice law and rules, as amended by chapter 507 of the laws of 1987, are amended to read as follows:

(1) the attorney has reviewed the facts of the case and has consulted with at least one physician in medical malpractice actions, at least one dentist in dental malpractice actions or at least one [podiatrist] PODIATRIC PHYSICIAN in podiatric malpractice actions who is licensed to practice in this state or any other state and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is a reasonable basis for the commencement of such action; or

(3) the attorney was unable to obtain the consultation required by paragraph one of this subdivision because the attorney had made three separate good faith attempts with three separate physicians, dentists or [podiatrists] PODIATRIC PHYSICIANS, in accordance with the provisions of paragraph one of this subdivision to obtain such consultation and none of those contacted would agree to such a consultation.

(e) For purposes of this section, and subject to the provisions of section thirty-one hundred one of this chapter, an attorney who submits a certificate as required by paragraph one or two of subdivision (a) of this section and the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN with whom the attorney consulted shall not be required to disclose the identity of the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN consulted and the contents of such consultation; provided, however, that when the attorney makes a claim under paragraph three of subdivision (a) of this section that he was unable to obtain the required consultation with the physician, dentist or [podiatrist] PODIATRIC PHYSICIAN, the court may, upon the request of a defendant made prior to compliance by the plaintiff with the provisions of section thirty-one hundred ONE of this chapter, require the attorney to divulge to the court the names of physicians, dentists or [podiatrists] PODIATRIC PHYSICIANS refusing such consultation.

S 49. The section heading and subdivision (b) of section 4504 of the civil practice law and rules, as amended by chapter 457 of the laws of 1991, are amended to read as follows:

Physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, chiropractor and nurse.

(b) Identification by dentist; crime committed against patient under sixteen. A dentist shall be required to disclose information necessary for identification of a patient. A physician, dentist, [podiatrist] PODIATRIC PHYSICIAN, chiropractor or nurse shall be required to disclose information indicating that a patient who is under the age of sixteen years has been the victim of a crime.

S 50. The opening paragraph of section 396-d of the county law, as added by chapter 1005 of the laws of 1969, is amended to read as follows:

Whenever a medical assistance clinic has been established as provided in this article, all medical assistance pursuant to title two of article five of the social services law may be given at such clinic under the supervision of the head of such clinic to those eligible persons electing to utilize the facilities of such clinic. The services of qualified physicians, dentists, nurses, optometrists, [podiatrists] PODIATRIC PHYSICIANS and other related professional personnel shall be made available at such clinic.

S 51. Subparagraph (iii) of paragraph (d) of subdivision 3 of section 13-c of the workers' compensation law, as added by chapter 803 of the laws of 1983, is amended to read as follows:

(iii) When physical therapy care is required it shall be rendered by a duly licensed physical therapist upon the referral which may be directive as to treatment of an authorized physician or [podiatrist] PODIATRIC PHYSICIAN within the scope of such physical therapist's specialized training and qualifications as defined in article one hundred thirty-six of the education law. Reports of such treatment and records of instruction for treatment, if any, shall be maintained by the physical therapist and referring professional and submitted to the chairman on such forms and at such times as the chairman may require.

S 52. Subparagraph (iii) of paragraph (d) of subdivision 4 of section 13-c of the workers' compensation law, as added by chapter 362 of the laws of 1986, is amended to read as follows:

(iii) When physical therapy care is required it shall be rendered by a duly licensed physical therapist upon the referral which may be directive as to treatment of an authorized physician or [podiatrist] PODIATRIC PHYSICIAN within the scope of such physical therapist's specialized training and qualifications as defined in article one hundred thirty-six of the education law. Reports of such treatment and records of instruction for treatment, if any, shall be maintained by the physical therapist and referring professional and submitted to the [chairman of] CHAIR ON such forms and at such times as the chairman may require.

S 53. The opening paragraph of subdivision 1 and subdivision 5 of section 13-g of the workers' compensation law, the opening paragraph of subdivision 1 as amended by chapter 674 of the laws of 1994 and subdivision 5 as amended by chapter 578 of the laws of 1959, are amended to read as follows:

Within forty-five days after a bill has been rendered to the employer by the hospital, physician or self-employed physical or occupational therapist who has rendered treatment pursuant to a referral from the injured employee's authorized physician or authorized [podiatrist] PODIATRIC PHYSICIAN for treatment to the injured employee, such employer must pay the bill or notify the hospital, physician or self-employed physical or occupational therapist in writing that the bill is not being paid and explain the reasons for non-payment. In the event that the

employer fails to make payment or notify the hospital, physician or self-employed physical or occupational therapist within such forty-five day period that payment is not being made, the hospital, physician, self-employed physical therapist or self-employed occupational therapist may notify the chair in writing that the bill has not been paid and request that the board make an award for payment of such bill. The board or the chair may make an award not in excess of the established fee schedules for any such bill or part thereof which remains unpaid after said forty-five day period or thirty days after all other questions duly and timely raised in accordance with the provisions of this chapter, relating to the employer's liability for the payment of such amount, shall have been finally determined adversely to the employer, whichever is later, in accordance with rules promulgated by the chair, and such award may be collected in like manner as an award of compensation. The chair shall assess the sum of fifty dollars against the employer for each such award made by the board, which sum shall be paid into the state treasury.

(5) In claims where the employer has failed to secure compensation to his employees as required by section fifty of this chapter, the board may make an award for the value of medical and podiatry services or treatment rendered to such employees, in accordance with the schedules of fees and charges prepared and established under the provisions of [section thirteen,] subdivision [a] (A) OF SECTION THIRTEEN, and [section thirteen-k,] subdivision two[,] OF SECTION THIRTEEN-K of this [chapter] ARTICLE, and for the reasonable value of hospital care in accordance with the charges currently in force in hospitals in the same community for cases coming within the provisions of this chapter. Such award shall be made to the physician, [podiatrist] PODIATRIC PHYSICIAN, or hospital entitled thereto. A default in the payment of such award may be enforced in the manner provided for the enforcement of compensation awards as set forth in section twenty-six of this [chapter] ARTICLE.

In all cases coming under this subdivision the payment of the claim of the physician, [podiatrist] PODIATRIC PHYSICIAN, or hospital for medical, podiatry, or surgical services or treatment shall be subordinate to that of the claimant or his beneficiaries.

S 54. Section 13-k of the workers' compensation law, as added by chapter 787 of the laws of 1952, subdivisions 2, 3 and 10 as amended by chapter 473 of the laws of 2000, subdivision 5 as amended by chapter 539 of the laws of 1964, subdivision 6 as amended by chapter 639 of the laws of 1996, subdivision 12 as amended by chapter 498 of the laws of 1982 and subdivision 13 as added by chapter 803 of the laws of 1983, is amended to read as follows:

S 13-k. Care and treatment of injured employees by duly licensed [podiatrists] PODIATRIC PHYSICIANS. 1. When the term "chairman" is [hereinafter] used IN THIS SECTION, it shall be deemed to mean the chairman of the [workmen's] WORKERS' compensation board of the state of New York.

2. An employee injured under circumstances which make such injury compensable under this article, when care is required for an injury to the foot which injury or resultant condition therefrom may lawfully be treated by a duly registered and licensed [podiatrist] PODIATRIC PHYSICIAN of the state of New York, may select to treat him or her any [podiatrist] PODIATRIC PHYSICIAN authorized by the chair to render podiatry care, as hereinafter provided. If the injury or condition is one which is without the limits prescribed by the education law for podiatry care and treatment, or the injuries involved affect other parts

of the body in addition to the foot, the said [podiatrist] PODIATRIC PHYSICIAN must so advise the said injured employee and instruct him or her to consult a physician of said employee's choice for appropriate care and treatment. Such physician shall thenceforth have overall supervision of the treatment of said patient including the future treatment to be administered to the patient by the [podiatrist] PODIATRIC PHYSICIAN. If for any reason during the period when podiatry treatment and care is required, the employee wishes to transfer his or her treatment and care to another authorized [podiatrist] PODIATRIC PHYSICIAN he or she may do so, in accordance with rules prescribed by the chair, provided however that the employer shall be liable for the proper fees of the original [podiatrist] PODIATRIC PHYSICIAN for the care and treatment he or she shall have rendered. A [podiatrist] PODIATRIC PHYSICIAN licensed and registered to practice podiatry in the state of New York who is desirous of being authorized to render podiatry care under this section and/or to conduct independent medical examinations in accordance with paragraph (b) of subdivision three of this section shall file an application for authorization under this section with the podiatry practice committee. In such application he or she shall agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking podiatry treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of [podiatrists] PODIATRIC PHYSICIANS authorized to render podiatry care or to conduct independent medical examinations under this chapter, or if the person seeking such treatment has been transferred from his or her care in accordance with the provisions of this section. This agreement shall run to the benefit of the injured person so treated or examined, and shall be available to him or her as a defense in any action by such [podiatrist] PODIATRIC PHYSICIAN for payment for treatment rendered by a [podiatrist] PODIATRIC PHYSICIAN after he or she has been removed from the list of [podiatrists] PODIATRIC PHYSICIANS authorized to render podiatry care or to conduct independent medical examinations under this section, or after the injured person was transferred from his or her care in accordance with the provisions of this section. The podiatry practice committee if it deems such licensed [podiatrist] PODIATRIC PHYSICIAN duly qualified shall recommend to the chair that such [podiatrist] PODIATRIC PHYSICIAN be authorized to render podiatry care and/or to conduct independent medical examinations under this section. Such recommendation shall be advisory to the chair only and shall not be binding or conclusive upon him or her. The chair shall prepare and establish a schedule for the state, or schedules limited to defined localities, of charges and fees for podiatry treatment and care, to be determined in accordance with and to be subject to change pursuant to rules promulgated by the chair. Before preparing such schedule for the state or schedules for limited localities the chair shall request the podiatry practice committee to submit to him or her a report on the amount of remuneration deemed by such committee to be fair and adequate for the types of podiatry care to be rendered under this chapter, but consideration shall be given to the view of other interested parties. The amounts payable by the employer for such treatment and services shall be the fees and charges established by such schedule.

3. (a) No claim for podiatry care or treatment shall be valid and enforceable as against the employer or employee unless within forty-eight hours following the first treatment the [podiatrist] PODIATRIC PHYSICIAN giving such care or treatment furnish to the employer and

directly to the chair a preliminary notice of such injury and treatment, within fifteen days thereafter a more complete report and subsequent thereto progress reports as requested in writing by the chair, board, employer or insurance carrier, at intervals of not less than three weeks apart or at less frequent intervals if requested on forms prescribed by the chair. The board may excuse the failure to give such notices within the designated periods when it finds it to be in the interest of justice to do so.

(b) Upon receipt of the notice provided for by paragraph (a) of this subdivision, the employer, the carrier and the claimant each shall be entitled to have the claimant examined by a qualified [podiatrist] PODIATRIC PHYSICIAN authorized by the chair in accordance with subdivision two of this section and section one hundred thirty-seven of this chapter, at a medical facility convenient to the claimant and in the presence of the claimant's [podiatrist] PODIATRIC PHYSICIAN, and refusal by the claimant to submit to such independent medical examination at such time or times as may reasonably be necessary in the opinion of the board shall bar the claimant from recovering compensation for any period during which he or she has refused to submit to such examination.

(c) Where it would place an unreasonable burden upon the employer or carrier to arrange for, or for the claimant to attend, an independent medical examination by an authorized [podiatrist] PODIATRIC PHYSICIAN, the employer or carrier shall arrange for such examination to be performed by a qualified [podiatrist] PODIATRIC PHYSICIAN in a medical facility convenient to the claimant.

(d) The independent podiatric examiner shall provide such reports and shall submit to investigation as required by the chair.

(e) In order to qualify as admissible medical evidence, for purposes of adjudicating any claim under this chapter, any report submitted to the board by an independent podiatric examiner licensed by the state of New York shall include the following:

(i) a signed statement certifying that the report is a full and truthful representation of the independent podiatric examiner's professional opinion with respect to the claimant's condition,

(ii) such examiner's board issued authorization number,

(iii) the name of the individual or entity requesting the examination,

(iv) if applicable, the registration number as required by section thirteen-n of this article, and

(v) such other information as the chair may require by regulation.

4. Fees for podiatry services shall be payable only to a duly authorized [podiatrist] PODIATRIC PHYSICIAN as defined in this section or to the agent, executor or administrator of the estate of such [podiatrist] PODIATRIC PHYSICIAN. No [podiatrist] PODIATRIC PHYSICIAN rendering treatment to a compensation claimant, shall collect or receive a fee from such claimant within this state, but shall have recourse for payment of services rendered only to the employer under the provisions of this section.

5. Whenever his attendance at a hearing is required, the [podiatrist] PODIATRIC PHYSICIAN of the injured employee shall be entitled to receive a fee from the employer in an amount to be fixed by the board, in addition to any fee payable under section eight thousand one of the civil practice law and rules.

6. The provisions of subdivisions one and three of section thirteen-g of this article with respect to the conditions under which a hospital, physician or self-employed physical or occupational therapist may request payment or arbitration of a bill, or under which an award may be

made for payment of such bill, shall be applicable to bills rendered by a [podiatrist] PODIATRIC PHYSICIAN for services rendered to an injured employee. If the parties fail to agree as to the value of podiatry care rendered under this chapter to a claimant such value shall be decided by an arbitration committee consisting of three duly registered and licensed [podiatrists] PODIATRIC PHYSICIANS who are members of a recognized professional association representing [podiatrists] PODIATRIC PHYSICIANS in the state of New York, one to be appointed by the president of such an association, one to be appointed by the employer or carrier and one to be appointed by the chair of the workers' compensation board and the majority decision of such committee shall be conclusive upon the parties as to the value of the services rendered. The board or the chair may make an award not in excess of the established fee schedules for any such bill or part thereof which remains unpaid in the same manner as an award for bills rendered under subdivisions one and three of section thirteen-g of this article, and such award may be collected in like manner as an [aware] AWARD of compensation.

Where a [podiatrist's] PODIATRIC PHYSICIAN'S bill has been determined to be due and owing in accordance with the provisions of this section the board shall include in the amount of the award interest of not more than one and one-half percent (1 1/2%) per month payable to the [podiatrist] PODIATRIC PHYSICIAN in accordance with the rules and regulations promulgated by the board. The chair shall assess the sum of fifty dollars against the employer for each such award made by the board, which sum shall be paid into the state treasury.

A provider initiating an arbitration pursuant to this section shall pay a fee, as determined by regulations promulgated by the chair, to be used to cover the costs related to the conduct of such arbitration. Upon resolution in favor of such party, the amount due, based upon the bill in dispute, shall be increased by the amount of the fee paid by such party. Where a partial award is made, the amount due, based upon the bill in dispute shall be increased by a part of such fee. Each member of the arbitration committee shall be entitled to receive and shall be paid a fee for each day's attendance at an arbitration session in an amount fixed by the chair of the [workers' compensation] board.

7. Within the limits prescribed by the education law for podiatry care and treatment, the report or testimony of an authorized [podiatrist] PODIATRIC PHYSICIAN concerning the condition of the foot of an injured employee and the treatment thereof shall be deemed competent evidence and the professional opinion of the [podiatrist] PODIATRIC PHYSICIAN as to causal relation and as to required treatment shall be deemed competent but shall not be controlling. Nothing in this section shall be deemed to deprive any employer or insurance carrier of any right to medical examination or presentation of medical testimony now conferred by law.

8. The chairman shall promulgate rules governing the procedure to be followed by those rendering podiatry care under this section, which rules so far as practicable shall conform to the rules presently in effect with reference to medical care furnished to claimants in [workmen's] WORKERS' compensation. In connection with the promulgation of said rules the chairman may consult the podiatry practice committee hereinafter provided and may take into consideration the view of other interested parties.

9. The chairman shall appoint for and with jurisdiction in the entire state of New York a single podiatry practice committee composed of one

duly licensed physician and two duly registered and licensed [podiatrists] PODIATRIC PHYSICIANS of the state of New York. Each podiatry member of said committee shall have been engaged in the practice of podiatry as a duly registered and licensed [podiatrist] PODIATRIC PHYSICIAN of the state of New York at least ten years prior to the time of his appointment and shall receive compensation either on an annual basis or on a per diem basis to be fixed by the chairman within amounts appropriated therefor. One of said members shall be designated by the chairman as chairman of said podiatry practice committee. No member of said committee shall render podiatry treatment under this section nor be employed by or accept or participate in any fee from any insurance company authorized to write [workmen's] WORKERS' compensation insurance in this state or from any self-insurer, whether such employment or fee relates to a [workmen's] WORKERS' compensation claim or otherwise. The attorney general, upon request, shall advise and assist such committee.

10. The podiatry practice committee shall investigate, hear and make findings with respect to all charges as to professional or other misconduct of any authorized [podiatrist] PODIATRIC PHYSICIAN as herein provided under rules and procedures to be prescribed by the chair and shall report evidence of such misconduct, with their findings and recommendation with respect thereto, to the chair. The findings, decision and recommendation of such podiatry practice committee shall be advisory to the chair only, and shall not be binding or conclusive upon him or her. The chair shall remove from the list of [podiatrists] PODIATRIC PHYSICIANS authorized to render podiatry care under this chapter or to conduct independent medical examinations in accordance with paragraph (b) of subdivision three of this section the name of any [podiatrist] PODIATRIC PHYSICIAN who he or she shall find after reasonable investigation is disqualified because such [podiatrist] PODIATRIC PHYSICIAN

(a) has been guilty of professional or other misconduct or incompetency in connection with podiatry services rendered under the law; or

(b) has exceeded the limits of his or her professional competence in rendering podiatry care under the law, or has made materially false statements regarding his or her qualifications in his or her application for authorization; or

(c) has failed to submit timely, full and truthful podiatry reports of all his or her findings to the employer and directly to the chair or the board within the time limits provided in this section; or

(d) has knowingly made a false statement or presentation as to a material fact in any medical report made pursuant to this chapter or in testifying or otherwise providing information for the purposes of this chapter; or

(e) has solicited or has employed another to solicit for himself or herself or for another professional treatment, examination or care of an injured employee with any claim under this chapter; or

(f) has refused to appear before, to testify, to submit to a deposition, or to answer upon request of, the chair, board, podiatry practice committee or any duly authorized officer of the state, any legal question or produce any relevant book or paper concerning his or her conduct under an authorization granted to him or her under the law[,]; or

(g) has directly or indirectly requested, received or participated in the division, transference, assignment, rebating, splitting or refunding of a fee for, or has directly or indirectly requested, received or profited by means of a credit or other valuable consideration as a commission, discount or gratuity in connection with the treatment, or independent medical examination, of a workers' compensation claimant.

Nothing contained in this paragraph shall prohibit such [podiatrists] PODIATRIC PHYSICIANS who practice as partners, in groups or as a professional corporation from pooling fees and moneys received, either by the partnership, professional corporation or group by the individual members thereof, for professional services furnished by any individual professional member, or employee of such partnership, corporation or group, nor shall the professionals constituting the partnership, corporation, or group be prohibited from sharing, dividing or apportioning the fees and moneys received by them or by the partnership, corporation or group in accordance with a partnership or other agreement.

11. Any person who violates or attempts to violate, and any person who aids another to violate or attempts to induce him to violate the provisions of paragraph [g] (G) of subdivision ten of this section shall be guilty of a misdemeanor.

12. Nothing in this section shall be construed as limiting in any respect the power or duty of the chairman to investigate instances of misconduct, either before or after investigation by the podiatry practice committee or to temporarily suspend the authorization of any [podiatrist] PODIATRIC PHYSICIAN that he may believe to be guilty of such misconduct. The provisions of subdivision one of section thirteen-d of this article which are not inconsistent with the provisions of this section shall be applicable as fully as if set forth herein.

13. Upon the referral which may be directive as to treatment of an authorized [podiatrist] PODIATRIC PHYSICIAN physical therapy care may be rendered by a duly licensed physical therapist.

S 55. Paragraph (a) of subdivision 3 of section 137 of the workers' compensation law, as added by chapter 473 of the laws of 2000, is amended to read as follows:

(a) Only a New York state licensed and board certified physician, surgeon, [podiatrist] PODIATRIC PHYSICIAN or any other person authorized to examine or evaluate injury or illness by the board shall perform such independent medical examination. Where a claimant resides out of state a practitioner qualified to examine or evaluate injury or illness by the board shall perform such independent medical examination.

S 56. Section 141 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

S 141. General powers and duties of the chair. The chair shall be the administrative head of the [workers' compensation] board and shall exercise the powers and perform the duties in relation to the administration of this chapter heretofore vested in the commissioner of labor by chapter fifty of the laws of nineteen hundred twenty-one, and acts amendatory thereof, and by this chapter [excepting], WITH THE EXCEPTION OF article six [thereof] HEREOF, and except in so far as such powers and duties are vested by this chapter in the [workers' compensation] board. The chair shall preside at all meetings of the board and shall appoint all committees and panels of the board; shall designate the times and places for the hearing of claims under this chapter and shall perform all administrative functions of the board as in this chapter set forth. The chair, in the name of the board, shall enforce all the provisions of this chapter, and may make administrative regulations and orders providing for the receipt, indexing and examining of all notices, claims and reports, for the giving of notice of hearings and of decisions, for certifying of records, for the fixing of the times and places for the hearing of claims, and for providing for the conduct of hearings and establishing of calendar practice to the extent not inconsistent with the rules of the board. The chair shall issue and may revoke certif-

icates of authorization of physicians, chiropractors and [podiatrists] PODIATRIC PHYSICIANS as provided in sections thirteen-a, thirteen-k and thirteen-1 of this chapter, and licenses for medical bureaus and x-ray and other laboratories under the provisions of section thirteen-c of this chapter, issue stop work orders as provided in section one hundred forty-one-a of this article, and shall have and exercise all powers not otherwise provided for herein in relation to the administration of this chapter heretofore expressly conferred upon the commissioner of labor by any of the provisions of this chapter, or of the labor law. The chair, on behalf of the [workers' compensation] board, shall enter into the agreement provided for in section one hundred seventy-one-h of the tax law, and shall take such other actions as may be necessary to carry out the agreement provided for in such section for matching beneficiary records of workers' compensation with information provided by employers to the state directory of new hires for the purposes of verifying eligibility for such benefits and for administering workers' compensation.

S 57. Subdivision 2 of section 205 of the workers' compensation law, as amended by chapter 270 of the laws of 1990, is amended to read as follows:

2. for any period of disability during which an employee is not under the care of a duly licensed physician or with respect to disability resulting from a condition of the foot which may lawfully be treated by a duly registered and licensed [podiatrist] PODIATRIC PHYSICIAN of the state of New York or with respect to a disability resulting from a condition which may lawfully be treated by a duly registered and licensed chiropractor of the state of New York or with respect to a disability resulting from a condition which may lawfully be treated by a duly licensed dentist of the state of New York or with respect to a disability resulting from a condition which may lawfully be treated by a duly registered and licensed psychologist of the state of New York or with respect to a disability resulting from a condition which may lawfully be treated by a duly certified nurse midwife, for any period of such disability during which an employee is neither under the care of a physician nor a [podiatrist] PODIATRIC PHYSICIAN, nor a chiropractor, nor a dentist, nor a psychologist, nor a certified nurse midwife; and for any period of disability during which an employee who adheres to the faith or teachings of any church or denomination and who in accordance with its creed, tenets or principles depends for healing upon prayer through spiritual means alone in the practice of religion, is not under the care of a practitioner duly accredited by the church or denomination, and provided such employee shall submit to all physical examinations as required by this chapter.

S 58. Subdivision 1 of section 213 of the workers' compensation law, as amended by chapter 784 of the laws of 1980, is amended to read as follows:

1. Whenever a covered employer does not comply with this article by providing for the payment of disability benefits to his employees in one or more of the ways provided in section two hundred eleven OF THIS ARTICLE or whenever a carrier fails to pay the benefits required by this article to employees of a covered employer, then such employer shall be fully and directly liable to each of his employees for the payment of benefits provided by this article. The amount of the benefits to which employees of such employers are entitled under this article and attendance fees of their attending physicians or attending [podiatrists] PODIATRIC PHYSICIANS fixed pursuant to [subdivision two of] section two hundred thirty-two OF THIS ARTICLE shall, on order of the chairman, be

paid out of the fund established under section two hundred fourteen OF THIS ARTICLE. In case of non-compliance of the employer, such employer shall forthwith pay to the chairman, for credit to the fund, the sum so expended or one per cent of his payroll for his employees in employment during the period of non-compliance, whichever is greater; provided, however, that if it shall appear to the satisfaction of the chairman that the default in payment of benefits or the non-compliance of the employer otherwise with his obligation under this article was inadvertent, the chairman may fix the sum payable in such case for non-compliance or default at the amount paid out of the fund and a sum less than one per cent of such payroll, and in addition the penalties for non-compliance imposed under this article. In case of failure of the carrier to pay benefits, the employer shall forthwith pay to the chairman, for credit to the fund, the sum so expended.

S 59. Subdivisions 1, 2 and 3 of section 217 of the workers' compensation law, subdivision 1 as amended by chapter 167 of the laws of 1999 and subdivisions 2 and 3 as amended by chapter 270 of the laws of 1990, are amended to read as follows:

1. Written notice and proof of disability shall be furnished to the employer by or on behalf of the employee claiming benefits or, in the case of a claimant under section two hundred seven of this article, to the chair, within thirty days after commencement of the period of disability. Additional proof shall be furnished thereafter from time to time as the employer or carrier or chair may require but not more often than once each week. Such proof shall include a statement of disability by the employee's attending physician or attending [podiatrist] PODIATRIC PHYSICIAN or attending chiropractor or attending dentist or attending psychologist or attending certified nurse midwife, or in the case of an employee who adheres to the faith or teachings of any church or denomination, and who in accordance with its creed, tenets or principles depends for healing upon prayer through spiritual means alone in the practice of religion, by an accredited practitioner, containing facts and opinions as to such disability in compliance with regulations of the chair. Failure to furnish notice or proof within the time and in the manner above provided shall not invalidate the claim but no benefits shall be required to be paid for any period more than two weeks prior to the date on which the required proof is furnished unless it shall be shown to the satisfaction of the chair not to have been reasonably possible to furnish such notice or proof and that such notice or proof was furnished as soon as possible; provided, however, that no benefits shall be paid unless the required proof of disability is furnished within twenty-six weeks after commencement of the period of disability. No limitation of time provided in this section shall run as against any person who is mentally incompetent, or physically incapable of providing such notice as a result of a serious medical condition, or a minor so long as such person has no guardian of the person and/or property.

2. An employee claiming benefits shall, as requested by the employer or carrier, submit himself or herself at intervals, but not more than once a week, for examination by a physician or [podiatrist] PODIATRIC PHYSICIAN or chiropractor or dentist or psychologist or certified nurse midwife designated by the employer or carrier. All such examinations shall be without cost to the employee and shall be held at a reasonable time and place.

3. The chair may direct the claimant to submit to examination by a physician or [podiatrist] PODIATRIC PHYSICIAN or chiropractor or dentist or psychologist designated by him or her in any case in which the claim

to disability benefits is contested and in claims arising under section two hundred seven OF THIS ARTICLE, and in other cases as the chair or board may require.

S 60. Subdivision 5 of section 220 of the workers' compensation law, as amended by chapter 940 of the laws of 1973, is amended to read as follows:

5. In addition to other penalties herein provided, the chairman shall remove from the list of physicians authorized to render medical care under the provisions of articles one to eight, inclusive, of this chapter and from the list of [podiatrists] PODIATRIC PHYSICIANS authorized to render podiatric care under section thirteen-k of this chapter, and from the list of chiropractors authorized to render chiropractic care under section thirteen-l of this chapter the name of any physician or [podiatrist] PODIATRIC PHYSICIAN or chiropractor whom he shall find, after reasonable investigation, has submitted to the employer or carrier or chairman in connection with any claim for disability benefits under this article, a statement of disability that is not truthful and complete.

S 61. The opening paragraph of section 221 of the workers' compensation law, as separately amended by chapters 425 and 500 of the laws of 1985, is amended to read as follows:

Within twenty-six weeks of written notice of rejection of claim, the employee may file with the chairman a notice that his or her claim for disability benefits has not been paid, and the employee shall submit proof of disability and of his or her employment, wages and other facts reasonably necessary for determination of the employee's right to such benefits. Failure to file such notice within the time provided, may be excused by the chairman if it can be shown to the satisfaction of the chairman not to have been reasonably possible to furnish such notice and that such notice was furnished as soon as possible. On demand of the chairman the employer or carrier shall forthwith deliver to the chairman the original or a true copy of the attending physician's or attending [podiatrist's] PODIATRIC PHYSICIAN'S or accredited practitioner's statement, wage and employment data and all other papers in the possession of the employer or carrier with respect to such claim.

S 62. Section 232 of the workers' compensation law, as amended by chapter 270 of the laws of 1990, is amended to read as follows:

S 232. Fees of physicians, [podiatrists] PODIATRIC PHYSICIANS, chiropractors, dentists and psychologists. Whenever his or her attendance at a hearing before the board or its referees is required, the attending physician or attending [podiatrist] PODIATRIC PHYSICIAN or attending chiropractor or attending dentist or attending psychologist or attending certified nurse midwife of the disabled employee, except such physicians as are disqualified from testifying pursuant to subdivision one of section thirteen-b, or section nineteen-a of this chapter, and except such [podiatrists] PODIATRIC PHYSICIANS as are disqualified from testifying under the provisions of section thirteen-k OF THIS CHAPTER, and except such chiropractors as are disqualified from testifying under the provisions of section thirteen-l OF THIS CHAPTER, and except such psychologists as are disqualified from testifying under the provisions of section thirteen-m OF THIS CHAPTER, shall be entitled to receive a fee from the carrier or the fund established under section two hundred fourteen OF THIS ARTICLE, in an amount as directed and fixed by the board, or its referees, and such fee shall be in addition to any witness fee.

S 63. This act shall take effect immediately.