

3586

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. BRADLEY, CYMBROWITZ, MILLMAN, JAFFEE, FIELDS --
Multi-Sponsored by -- M. of A. BOYLAND, CAHILL, DelMONTE, MARKEY,
WEISENBERG -- read once and referred to the Committee on Higher Educa-
tion

AN ACT to amend the education law, in relation to creating the profes-
sion of orthotics, prosthetic and pedorthic practice

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

1 Section 1. The education law is amended by adding a new article 167 to
2 read as follows:

3 ARTICLE 167

4 ORTHOTIC, PROSTHETIC AND PEDORTHIC PRACTICE

5 SECTION 8800. INTRODUCTION.

6 8801. DEFINITIONS.

7 8802. PRACTICE OF ORTHOTICS, PROSTHETICS AND PEDORTHICS; AND THE
8 USE OF THE TITLES "ORTHOTIST", "PROSTHETIST" AND
9 "PEDORTHIST".

10 8803. STATE BOARD FOR ORTHOTICS, PROSTHETICS AND PEDORTHICS.

11 8804. REQUIREMENTS AND PROCEDURES FOR PROFESSIONAL LICENSURE.

12 8805. EXEMPTIONS.

13 8806. LICENSURE WITHOUT EXAMINATION.

14 S 8800. INTRODUCTION. THIS ARTICLE APPLIES TO THE PROFESSION OF
15 ORTHOTICS, PROSTHETICS AND PEDORTHICS, AND PROVIDES FOR THE LICENSING OF
16 ORTHOTISTS AND PROSTHETISTS AND PEDORTHISTS. THE GENERAL PROVISIONS FOR
17 ALL PROFESSIONS CONTAINED IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE
18 APPLY TO THIS ARTICLE.

19 S 8801. DEFINITIONS. AS USED IN THIS ARTICLE:

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

LBD03356-01-9

1 1. "ORTHOISIS" MEANS A MEDICAL DEVICE USED TO PROVIDE SUPPORT,
2 CORRECTION, OR ALLEVIATION OF NEUROMUSCULAR OR MUSCULOSKELETAL DYSFUNC-
3 TION, DISEASE, INJURY OR DEFORMITY, BUT DOES NOT INCLUDE THE FOLLOWING
4 ASSISTIVE TECHNOLOGY DEVICES: UPPER EXTREMITY ADAPTIVE EQUIPMENT USED TO
5 FACILITATE THE ACTIVITIES OF DAILY LIVING, INCLUDING SPECIALIZED UTEN-
6 SILS, COMBS, AND BRUSHES; FINGER SPLINTS; WHEELCHAIR SEATING AND EQUIP-
7 MENT THAT IS AN INTEGRAL PART OF THE WHEELCHAIR AND NOT WORN BY THE
8 PATIENT; ELASTIC ABDOMINAL SUPPORTS THAT DO NOT HAVE METAL OR PLASTIC
9 REINFORCING STAYS; ARCH SUPPORTS; NONTHERAPEUTIC ACCOMMODATIVE INLAYS
10 AND NONTHERAPEUTIC ACCOMMODATIVE FOOTWEAR, REGARDLESS OF METHOD OF MANU-
11 FACTURE; UNMODIFIED, OVER-THE-COUNTER SHOES; PREFABRICATED FOOT CARE
12 PRODUCTS; DURABLE MEDICAL EQUIPMENT SUCH AS CANES, CRUTCHES, OR WALKERS;
13 DENTAL APPLIANCES; OR DEVICES IMPLANTED INTO THE BODY BY A PHYSICIAN.

14 FOR PURPOSES OF THIS SUBDIVISION, "ACCOMMODATIVE" MEANS DESIGNED WITH
15 THE PRIMARY GOAL OF CONFORMING TO THE INDIVIDUAL'S ANATOMY AND "INLAY"
16 MEANS ANY REMOVABLE MATERIAL UPON WHICH THE FOOT DIRECTLY RESTS INSIDE
17 THE SHOE AND WHICH MAY BE AN INTEGRAL DESIGN COMPONENT OF THE SHOE.

18 2. "ORTHOTICS" MEANS THE PRACTICE, PURSUANT TO A LICENSED PHYSICIAN'S
19 WRITTEN PRESCRIPTION, OF EVALUATING, TREATMENT FORMULATING, MEASURING,
20 DESIGNING, FABRICATING, ASSEMBLING, FITTING, ADJUSTING, SERVICING, OR
21 PROVIDING THE INITIAL TRAINING NECESSARY TO ACCOMPLISH THE FITTING OF AN
22 ORTHOSIS OR PEDORTHIC DEVICE.

23 3. "ORTHOTIST" MEANS A PERSON LICENSED TO PRACTICE ORTHOTICS PURSUANT
24 TO THIS CHAPTER.

25 4. "PEDORTHIC DEVICE" MEANS THERAPEUTIC SHOES, SHOE MODIFICATIONS MADE
26 FOR THERAPEUTIC PURPOSES, PROSTHETIC FILLERS OF THE FOREFOOT, AND FOOT
27 ORTHOSES FOR USE FROM THE ANKLE AND BELOW, BUT DOES NOT INCLUDE ARCH
28 SUPPORTS; NONTHERAPEUTIC ACCOMMODATIVE INLAYS AND NONTHERAPEUTIC ACCOM-
29 MODATIVE FOOTWEAR, REGARDLESS OF METHOD OF MANUFACTURE; UNMODIFIED,
30 OVER-THE-COUNTER SHOES; OR PREFABRICATED FOOT CARE PRODUCTS. FOR
31 PURPOSES OF THIS SUBDIVISION, "ACCOMMODATIVE" MEANS DESIGNED WITH THE
32 PRIMARY GOAL OF CONFORMING TO THE INDIVIDUAL'S ANATOMY AND "INLAY" MEANS
33 ANY REMOVABLE MATERIAL UPON WHICH THE FOOT DIRECTLY RESTS INSIDE THE
34 SHOE AND WHICH MAY BE AN INTEGRAL DESIGN COMPONENT OF THE SHOE.

35 5. "PEDORTHICS" MEANS THE PRACTICE, PURSUANT TO A LICENSED PHYSICIAN'S
36 WRITTEN PRESCRIPTION, OF EVALUATING, TREATMENT FORMULATING, MEASURING,
37 DESIGNING, FABRICATING, ASSEMBLING, FITTING, ADJUSTING, SERVICING, OR
38 PROVIDING THE INITIAL TRAINING NECESSARY TO ACCOMPLISH THE FITTING OF A
39 PEDORTHIC DEVICE.

40 6. "PEDORTHIST" MEANS A PERSON LICENSED TO PRACTICE PEDORTHICS PURSU-
41 ANT TO THIS CHAPTER.

42 7. "PROSTHESIS" MEANS A MEDICAL DEVICE USED TO REPLACE A MISSING
43 APPENDAGE OR OTHER EXTERNAL BODY PART, INCLUDING AN ARTIFICIAL LIMB,
44 HAND, OR FOOT. IT DOES NOT INCLUDE SURGICALLY IMPLANTED DEVICES OR ARTI-
45 FICIAL EYES; DENTAL APPLIANCES; OSTOMY PRODUCTS; COSMETIC DEVICES SUCH
46 AS BREAST PROSTHESES, EYELASHES, OR WIGS; OR OTHER DEVICES THAT DO NOT
47 HAVE A SIGNIFICANT IMPACT ON THE MUSCULOSKELETAL FUNCTIONS OF THE BODY.

48 8. "PROSTHETICS" MEANS THE PRACTICE, PURSUANT TO A LICENSED PHYSI-
49 CIAN'S WRITTEN PRESCRIPTION, OF EVALUATING, TREATMENT FORMULATING, MEAS-
50 URING, DESIGNING, FABRICATING, ASSEMBLING, FITTING, ADJUSTING, SERVIC-
51 ING, OR PROVIDING THE INITIAL TRAINING NECESSARY TO ACCOMPLISH THE
52 FITTING OF A PROSTHESIS.

53 9. "PROSTHETIST" MEANS A PERSON LICENSED TO PRACTICE PROSTHETICS
54 PURSUANT TO THIS CHAPTER.

55 10. "PROSTHETIST-ORTHOTIST" MEANS A PERSON LICENSED TO PRACTICE AS A
56 PROSTHETIST AND AS AN ORTHOTIST.

1 S 8802. PRACTICE OF ORTHOTICS, PROSTHETICS AND PEDORTHICS; AND THE USE
2 OF THE TITLES "ORTHOTIST", "PROSTHETIST" AND "PEDORTHIST". ONLY A
3 PERSON LICENSED OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE SHALL PRAC-
4 TICE THE PROFESSION OF ORTHOTICS AND/OR PROSTHETICS OR PEDORTHICS, OR
5 USE THE TITLE "ORTHOTIST", "PROSTHETIST", "PEDORTHIST" OR
6 "PROSTHETIST/ORTHOTIST" IN CONNECTION WITH HIS OR HER NAME OR WITH ANY
7 TRADE NAME IN THE CONDUCT OF HIS OR HER PROFESSION.

8 S 8803. STATE BOARD FOR ORTHOTICS, PROSTHETICS AND PEDORTHICS. 1. A
9 STATE BOARD FOR ORTHOTICS, PROSTHETICS AND PEDORTHICS SHALL BE APPOINTED
10 BY THE BOARD OF REGENTS UPON THE RECOMMENDATION OF THE COMMISSIONER FOR
11 THE PURPOSE OF ASSISTING THE BOARD OF REGENTS AND THE DEPARTMENT ON
12 MATTERS OF LICENSURE AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH SECTION
13 SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE.

14 2. THE BOARD SHALL CONSIST OF NINE INDIVIDUALS, TO BE COMPOSED OF THE
15 FOLLOWING:

16 (A) SIX MEMBERS SHALL BE LICENSED OR EXEMPT PURSUANT TO THIS ARTICLE;

17 (B) ONE MEMBER WHO SHALL BE AN EDUCATOR OF ORTHOTICS AND/OR PROSTHET-
18 ICS;

19 (C) ONE MEMBER WHO SHALL BE A LICENSED PHYSICIAN;

20 (D) ONE MEMBER WHO SHALL BE AN INDIVIDUAL NOT POSSESSING EITHER LICEN-
21 SURE OR TRAINING IN MEDICINE, ORTHOTICS, PROSTHETICS OR PEDORTHICS AND
22 SHALL REPRESENT THE PUBLIC AT LARGE;

23 3. MEMBERS OF THE BOARD SHALL SERVE TWO YEAR TERMS, PROVIDED, HOWEVER,
24 THAT NO MEMBER SHALL SERVE MORE THAN TWO TERMS.

25 4. AN EXECUTIVE SECRETARY TO THE BOARD SHALL BE APPOINTED BY THE BOARD
26 OF REGENTS ON RECOMMENDATION OF THE COMMISSIONER.

27 S 8804. REQUIREMENTS AND PROCEDURES FOR PROFESSIONAL LICENSURE. TO
28 QUALIFY FOR A LICENSE FOR THE PRACTICE OF ORTHOTICS, PROSTHETICS AND
29 PEDORTHICS, AN APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

30 1. APPLICATION. FILE AN APPLICATION WITH THE DEPARTMENT;

31 2. EDUCATION.

32 (A)(I) FOR A LICENSE TO PRACTICE ORTHOTICS AND/OR PROSTHETICS COMPLETE
33 EDUCATIONAL PREPARATION OF A FOUR-YEAR BACCALAUREATE OR HIGHER DEGREE IN
34 ORTHOTICS AND/OR PROSTHETICS FROM AN ACCREDITED COLLEGE PROGRAM APPROVED
35 BY THE STATE BOARD; OR

36 (II) SUBMIT EVIDENCE OF LICENSE OR CERTIFICATION, THE EDUCATIONAL
37 PREPARATION FOR WHICH IS DETERMINED BY THE DEPARTMENT TO BE EQUIVALENT
38 TO A COLLEGE PROGRAM REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH,
39 FROM ANY STATE OR COUNTRY, SATISFACTORY TO THE DEPARTMENT AND IN ACCORD-
40 ANCE WITH THE COMMISSIONER'S REGULATIONS;

41 (B) FOR A LICENSE TO PRACTICE PEDORTHICS HAVE RECEIVED A HIGH SCHOOL
42 DIPLOMA OR ITS EQUIVALENT, HAVE A MINIMUM OF ONE HUNDRED TWENTY HOURS OF
43 TRAINING AS APPROVED BY THE BOARD AND HAVE COMPLETED AN INTERNSHIP OF
44 EIGHTY HOURS QUALIFIED WORKING EXPERIENCE AS APPROVED BY THE BOARD.

45 3. EXPERIENCE. HAVE EXPERIENCE SATISFACTORY TO THE STATE BOARD FOR
46 ORTHOTICS, PROSTHETICS AND PEDORTHICS IN ACCORDANCE WITH THE COMMISSION-
47 ER'S REGULATIONS;

48 4. EXAMINATION. PASS AN ORAL, WRITTEN AND PRACTICAL EXAMINATION SATIS-
49 FACTORY TO THE STATE BOARD FOR ORTHOTICS, PROSTHETICS AND PEDORTHICS AND
50 IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

51 5. AGE. BE AT LEAST TWENTY-ONE YEARS OF AGE;

52 6. CHARACTER. BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPART-
53 MENT;

54 7. CITIZENSHIP OR IMMIGRATION STATUS. BE A UNITED STATES CITIZEN OR AN
55 ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES;
56 AND

1 8. FEES. PAY A FEE OF THREE HUNDRED FIFTY DOLLARS TO THE DEPARTMENT
2 FOR ADMISSION TO A DEPARTMENT CONDUCTED EXAMINATION AND FOR AN INITIAL
3 LICENSE; A FEE OF ONE HUNDRED FIFTY DOLLARS FOR EACH REEXAMINATION; A
4 FEE OF TWO HUNDRED DOLLARS FOR AN INITIAL LICENSE FOR PERSONS NOT
5 REQUIRING ADMISSION TO A DEPARTMENT CONDUCTED EXAMINATION; AND A FEE OF
6 FIVE HUNDRED DOLLARS FOR EACH TRIENNIAL REGISTRATION PERIOD.

7 S 8805. EXEMPTIONS. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO
8 AFFECT, PREVENT OR IN ANY MANNER EXPAND OR LIMIT:

9 1. THE AUTHORITY OF ANY PERSON OTHERWISE AUTHORIZED BY LAW OR REGU-
10 LATION TO PRACTICE OR PERFORM ANY FUNCTION OF AN ORTHOTIST, PROSTHETIST
11 OR PEDORTHIST; OR

12 2. THE ACTIVITIES AND SERVICES OF ANY PERSON WHO IS LICENSED TO PRAC-
13 TICE MEDICINE AND SURGERY, DENTISTRY OR PODIATRY BY THE STATE; OR

14 3. AN ORTHOTIST, PROSTHETIST OR PEDORTHIST LICENSED IN ANOTHER STATE
15 OR COUNTRY FROM CONDUCTING A TEACHING CLINICAL DEMONSTRATION IN
16 CONNECTION WITH A PROGRAM OF BASIC CLINICAL EDUCATION, GRADUATE EDUCA-
17 TION, OR POSTGRADUATE EDUCATION IN AN APPROVED SCHOOL OF ORTHOTICS,
18 PROSTHETICS OR PEDORTHICS OR IN ITS AFFILIATED CLINICAL FACILITY OR
19 HEALTH CARE AGENCY, OR BEFORE A GROUP OF LICENSED ORTHOTISTS, PROSTHE-
20 TISTS OR PEDORTHISTS WHO ARE MEMBERS OF A PROFESSIONAL SOCIETY; OR

21 4. AN ORTHOTIC OR PROSTHETIC SPECIALIST WHO IS SERVING IN THE ARMED
22 FORCES OR THE PUBLIC HEALTH SERVICE OF THE UNITED STATES OR IS EMPLOYED
23 BY THE VETERANS ADMINISTRATION FROM PRACTICING THE PROFESSION OF ORTHOT-
24 ICS OR PROSTHETICS, PROVIDED SUCH PRACTICE IS LIMITED TO SUCH SERVICE OR
25 EMPLOYMENT; OR

26 5. AN ORTHOTIC OR PROSTHETIC STUDENT FROM ENGAGING IN CLINICAL PRAC-
27 TICE UNDER THE SUPERVISION OF A LICENSED ORTHOTIST OR PROSTHETIST AS
28 PART OF A PROGRAM CONDUCTED IN AN APPROVED SCHOOL OF ORTHOTICS OR PROS-
29 THETICS, OR IN A CLINICAL FACILITY OR HEALTH CARE AGENCY AFFILIATED WITH
30 THE SCHOOL OF ORTHOTICS OR PROSTHETICS AND THE SUPERVISION OF AN ORTHOT-
31 IC OR PROSTHETIC STUDENT BY A LICENSED ORTHOTIST OR PROSTHETIST SHALL BE
32 ON-SITE SUPERVISION AND NOT NECESSARILY DIRECT PERSONAL SUPERVISION; OR

33 6. AN ORTHOTIC OR PROSTHETIC GRADUATE OF AN APPROVED PROGRAM FROM
34 ENGAGING IN CLINICAL PRACTICE UNDER THE ON-SITE, BUT NOT NECESSARILY
35 DIRECT PERSONAL SUPERVISION OF A LICENSED ORTHOTIST OR PROSTHETIST
36 PROVIDED THE GRADUATE HAS APPLIED AND PAID A FEE FOR THE LICENSING AND
37 EXAMINATION.

38 S 8806. LICENSURE WITHOUT EXAMINATION. 1. WITHIN EIGHTEEN MONTHS AFTER
39 THE EFFECTIVE DATE OF REGULATIONS IMPLEMENTING THE PROVISIONS OF THIS
40 ARTICLE, THE DEPARTMENT MAY ISSUE A LICENSE TO PRACTICE THE PROFESSION
41 OF ORTHOTICS, PROSTHETICS OR PEDORTHICS WITHOUT AN EXAMINATION TO A
42 PERSON WHO MEETS THE REQUIREMENTS OF SUBDIVISIONS ONE, FIVE, SIX AND
43 SEVEN OF SECTION EIGHTY-EIGHT HUNDRED FOUR OF THIS ARTICLE AND WHO IN
44 ADDITION HAS PRACTICED FULL-TIME FOR THE PAST FIVE YEARS IN AN ESTAB-
45 LISHED PROSTHETIC, ORTHOTIC OR PEDORTHIC FACILITY AS AN ORTHOTIST,
46 PROSTHETIST OR PEDORTHIST. THE APPLICANT MAY OBTAIN A LICENSE TO PRAC-
47 TICE ORTHOTICS, PROSTHETICS OR PEDORTHICS UNDER THE PROVISIONS OF THIS
48 ARTICLE AFTER THE BOARD HAS COMPLETED AN INVESTIGATION INTO THE APPLI-
49 CANT'S WORK HISTORY. SUCH INVESTIGATION MAY INCLUDE, BUT IS NOT LIMITED
50 TO, SUBMISSION BY THE APPLICANT OF A SWORN STATEMENT DETAILING THE
51 APPLICANT'S WORK HISTORY AND SCOPE OF PRACTICE. THE BOARD SHALL COMPLETE
52 ITS INVESTIGATION FOR THE PURPOSES OF THIS SUBDIVISION WITHIN SIX MONTHS
53 AFTER THE DATE OF THE APPLICATION.

54 2. THE PROVISIONS OF THIS ARTICLE SHALL NOT BE DEEMED TO AFFECT THE
55 VALIDITY OF ANY LICENSE OR PERMIT RELATING TO THE PRACTICE OF ORTHOTICS,
56 PROSTHETICS OR PEDORTHICS IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS

1 ARTICLE, OR THE CONTINUATION OR ANY ADMINISTRATIVE ACTION OR PROCEEDING
2 COMMENCED PRIOR TO SUCH EFFECTIVE DATE.

3 S 2. This act shall take effect January 1, 2010; provided, however,
4 that any actions necessary for the implementation of the provisions of
5 this act on its effective date are authorized to be completed on or
6 before such effective date.