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

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I N S E N A T E

March 9, 2009

Introduced by Sens. KLEIN, ADAMS, HASSELL-THOMPSON, MAZIARZ, ONORATO, OPPENHEIMER, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

Section 1. 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] ANKLE AND ALL SOFT TISSUE STRUCTURES OF THE LEG BELOW THE DISTAL TIBIAL TUBEROCITY. SURGICAL TREATMENT OF THE ANKLE SHALL NOT EXTEND BEYOND THE TIBIAL METAPHYSEAL FLAIR; PROVIDED, HOWEVER, THAT SUCH SURGICAL TREATMENT MAY EXTEND TO THE DISTAL TIBIAL TUBEROCITY AS NECESSARY FOR THE TREATMENT OF THE ANKLE, INCLUDING, BUT NOT LIMITED TO, THE APPLICATION OF EXTERNAL FIXATION; AND PROVIDED, FURTHER, THAT SUCH TREATMENT SHALL NOT INCLUDE PILON FRACTURES. THE PRACTICE OF PODIATRY INCLUDES performing physical evaluations in conjunction with [the provision of] podiatric treatment. Podiatrists [may] SHALL ONLY treat traumatic open wound fractures [only] AND PROVIDE SURGICAL MANAGEMENT OF COMPLICATED FRACTURES OF THE ANKLE in hospitals [, as defined in] OR AMBULATORY SURGERY CENTERS CERTIFIED PURSUANT TO article twenty-eight of the public health law. FOR THE PURPOSES OF THIS ARTICLE, THE TERM

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

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"ANKLE" SHALL BE DEFINED AS THE DISTAL METAPHYSIS AND EPIPHYSIS OF THE TIBIA AND FIBULA, THE ARTICULAR CARTILAGE OF THE DISTAL TIBIA AND DISTAL FIBULA, THE LIGAMENTS THAT CONNECT THE DISTAL METAPHYSIS AND EPIPHYSIS OF THE TIBIA AND FIBULA AND TALUS, AND THE PORTIONS OF SKIN, SUBCUTANEOUS TISSUE, FASCIA, MUSCLES, TENDONS AND NERVES AT OR BELOW THE LEVEL OF THE MYOTENDINOUS JUNCTION OF THE TRICEPS SURAE.

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 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 qualifications 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.

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

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

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

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

4-A. IN COOPERATION WITH THE EDUCATION DEPARTMENT, STUDY HEALTH CARE PRACTITIONER DATA RELATING TO PODIATRISTS. SUCH STUDY SHALL INCLUDE CONSIDERATION OF WHETHER AN INDIVIDUAL PODIATRIST PROFILING PROGRAM SHOULD BE ESTABLISHED AND OUTLINE AN APPROPRIATE METHOD TO DEVELOP AND IMPLEMENT SUCH A PROFILING PROGRAM IF SUCH A PROGRAM IS DETERMINED BY THE DEPARTMENT TO BE IN THE PUBLIC INTEREST. SUCH PROGRAM AND RECOMMENDATIONS MAY BE SIMILAR TO THE PHYSICIAN PROFILES ESTABLISHED PURSUANT TO SECTION TWENTY-NINE HUNDRED NINETY-FIVE-A OF THIS TITLE. SUCH A PROPOSED PODIATRIST PROFILING PROGRAM, IF SUCH A PROGRAM IS DETERMINED BY THE DEPARTMENT TO BE IN THE PUBLIC INTEREST, SHOULD BE CAPABLE OF PRESENTING, IN A COST EFFECTIVE MANNER, RELEVANT MEDICAL AND TREATMENT INFORMATION IN A FORMAT THAT IS EASILY UNDERSTOOD BY AND MADE AVAILABLE TO THE GENERAL PUBLIC. SUCH STUDY AND ITS FINDINGS SHALL BE SUBMITTED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY ON OR BEFORE JUNE FIRST, TWO THOUSAND FIFTEEN;

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

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

S 5. This act shall take effect 18 months after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of the provisions of this act on its effective date are authorized and directed to be made and completed on or before such effective date.