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2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sens. KLEIN, ADAMS, HASSELL-THOMPSON, MAZIARZ, OPPENHEIMER  
-- read twice and ordered printed, and when printed to be committed to  
the Committee on Higher Education

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 7001 of the education law, as amended by chapter  
2     677 of the laws of 1996, is amended to read as follows:  
3     S 7001. Definition of practice of podiatry. 1. The practice of the  
4     profession of podiatry is defined as diagnosing, treating, operating and  
5     prescribing for any disease, injury, deformity or other condition of the  
6     foot, [and may include] ANKLE AND ALL SOFT TISSUE STRUCTURES OF THE LEG  
7     BELOW THE DISTAL TIBIAL TUBEROCITY. SURGICAL TREATMENT OF THE ANKLE  
8     SHALL NOT EXTEND BEYOND THE TIBIAL METAPHYSEAL FLAIR; PROVIDED, HOWEVER,  
9     THAT SUCH SURGICAL TREATMENT MAY EXTEND TO THE DISTAL TIBIAL TUBEROCITY  
10    AS NECESSARY FOR THE TREATMENT OF THE ANKLE, INCLUDING, BUT NOT LIMITED  
11    TO, THE APPLICATION OF EXTERNAL FIXATION; AND PROVIDED, FURTHER, THAT  
12    SUCH TREATMENT SHALL NOT INCLUDE PILON FRACTURES. THE PRACTICE OF PODIA-  
13    TRY INCLUDES performing physical evaluations in conjunction with [the  
14    provision of] podiatric treatment. Podiatrists [may] SHALL ONLY treat  
15    traumatic open wound fractures [only] AND PROVIDE SURGICAL MANAGEMENT OF  
16    COMPLICATED FRACTURES OF THE ANKLE in hospitals [, as defined in] OR  
17    AMBULATORY SURGERY CENTERS CERTIFIED PURSUANT TO article twenty-eight of  
18    the public health law. FOR THE PURPOSES OF THIS ARTICLE, THE TERM  
19    "ANKLE" SHALL BE DEFINED AS THE DISTAL METAPHYSIS AND EPIPHYSIS OF THE  
20    TIBIA AND FIBULA, THE ARTICULAR CARTILAGE OF THE DISTAL TIBIA AND DISTAL  
21    FIBULA, THE LIGAMENTS THAT CONNECT THE DISTAL METAPHYSIS AND EPIPHYSIS  
22    OF THE TIBIA AND FIBULA AND TALUS, AND THE PORTIONS OF SKIN, SUBCUTANE-  
23    OUS TISSUE, FASCIA, MUSCLES, TENDONS AND NERVES AT OR BELOW THE LEVEL OF  
24    THE MYOTENDINOUS JUNCTION OF THE TRICEPS SURAE.  
25    2. [The practice of podiatry shall not include treating any part of  
26    the human body other than the foot, nor treating fractures of the

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

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1 malleoli or cutting operations upon the malleoli. Podiatrists licensed  
2 to practice, but not authorized to prescribe or administer narcotics  
3 prior to the effective date of this subdivision, may do so only after  
4 certification by the department in accordance with the qualifications  
5 established by the commissioner.] The practice of podiatry shall include  
6 administering only local anesthetics for therapeutic purposes as well as  
7 for anesthesia and treatment under general anesthesia administered by  
8 authorized persons.

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

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

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

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

29 4-A. IN COOPERATION WITH THE EDUCATION DEPARTMENT, STUDY HEALTH CARE  
30 PRACTITIONER DATA RELATING TO PODIATRISTS. SUCH STUDY SHALL INCLUDE  
31 CONSIDERATION OF WHETHER AN INDIVIDUAL PODIATRIST PROFILING PROGRAM  
32 SHOULD BE ESTABLISHED AND OUTLINE AN APPROPRIATE METHOD TO DEVELOP AND  
33 IMPLEMENT SUCH A PROFILING PROGRAM IF SUCH A PROGRAM IS DETERMINED BY  
34 THE DEPARTMENT TO BE IN THE PUBLIC INTEREST. SUCH PROGRAM AND RECOMMEN-  
35 DATIONS MAY BE SIMILAR TO THE PHYSICIAN PROFILES ESTABLISHED PURSUANT TO  
36 SECTION TWENTY-NINE HUNDRED NINETY-FIVE-A OF THIS TITLE. SUCH A PROPOSED  
37 PODIATRIST PROFILING PROGRAM, IF SUCH A PROGRAM IS DETERMINED BY THE  
38 DEPARTMENT TO BE IN THE PUBLIC INTEREST, SHOULD BE CAPABLE OF PRESENT-  
39 ING, IN A COST EFFECTIVE MANNER, RELEVANT MEDICAL AND TREATMENT INFORMA-  
40 TION IN A FORMAT THAT IS EASILY UNDERSTOOD BY AND MADE AVAILABLE TO THE  
41 GENERAL PUBLIC. SUCH STUDY AND ITS FINDINGS SHALL BE SUBMITTED TO THE  
42 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE  
43 ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF  
44 THE ASSEMBLY ON OR BEFORE JUNE FIRST, TWO THOUSAND SEVENTEEN;

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

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

50 S 5. This act shall take effect 18 months after it shall have become a  
51 law; provided, however, that effective immediately, the addition, amend-  
52 ment and/or repeal of any rule or regulation necessary for the implemen-  
53 tation of the provisions of this act on its effective date are author-  
54 ized and directed to be made and completed on or before such effective  
55 date.