

7108--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

May 1, 2013

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Introduced by M. of A. PRETLOW, SIMANOWITZ, WALTER -- Multi-Sponsored by  
-- M. of A. CURRAN, RA -- read once and referred to the Committee on  
Higher Education -- committee discharged, bill amended, ordered  
reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to making technical  
changes to the scope of 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. Subdivisions 1 and 2 of section 7001 of the education law,  
2     subdivision 1 as amended by chapter 23 of the laws of 2013 and subdivi-  
3     sion 2 as amended by chapter 438 of the laws of 2012, are amended to  
4     read as follows:  
5     1. The practice of the profession of podiatry is defined as diagnos-  
6     ing, treating, operating and prescribing for any disease, injury,  
7     deformity or other condition of the foot, THE DIAGNOSING, TREATING,  
8     OPERATING OR PRESCRIBING FOR CUTANEOUS CONDITIONS OF THE ANKLE TO THE  
9     LEVEL OF THE DISTAL TIBIAL TUBEROSITY, and may include performing phys-  
10    ical evaluations in conjunction with the provision of podiatric treat-  
11    ment. For the purposes of wound care however, the practice of podiatry  
12    shall include the treatment of such wounds if they are [contiguous with]  
13    RELATED TO A CONDITION OF THE FOOT OR ANKLE TO THE LEVEL OF THE DISTAL  
14    TIBIAL TUBEROSITY OR ARE wounds relating, originating or in the course  
15    of treatment of [a wound on] the foot OR ANKLE TO THE LEVEL OF THE  
16    DISTAL TIBIAL TUBEROSITY within the podiatric scope of practice. Wound  
17    care shall not, however, extend beyond the level ending at the distal  
18    tibial tuberosity. The practice of podiatry may also include diagnosing,  
19    treating, operating and prescribing for any disease, injury, deformity  
20    or other condition of the ankle and soft tissue of the leg below the  
21    tibial tuberosity if the podiatrist has obtained an issuance of a privi-  
22    lege to perform podiatric standard ankle surgery or advanced ankle  
23    surgery in accordance with section seven thousand nine of this article;

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

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1 PROVIDED, HOWEVER, THAT SUCH PRIVILEGE SHALL NOT BE REQUIRED FOR THE  
2 DIAGNOSING, TREATING, OPERATING OR PRESCRIBING FOR CUTANEOUS CONDITIONS  
3 OR WOUND CARE TO THE LEVEL OF THE DISTAL TIBIAL TUBEROSITY OF THE ANKLE.  
4 Podiatrists may treat traumatic open wound fractures only in hospitals,  
5 as defined in article twenty-eight of the public health law. For the  
6 purposes of this article, the term "ankle" shall be defined as the  
7 distal metaphysis and epiphysis of the tibia and fibula, the articular  
8 cartilage of the distal tibia and distal fibula, the ligaments that  
9 connect the distal metaphysis and epiphysis of the tibia and fibula and  
10 talus, and the portions of skin, subcutaneous tissue, fascia, muscles,  
11 tendons, ligaments and nerves at or below the level of the myotendinous  
12 junction of the triceps surae.

13 2. The practice of podiatry shall not include treating any part of the  
14 human body other than the foot, nor treating fractures of the malleoli  
15 or cutting operations upon the malleoli unless the podiatrist obtains an  
16 issuance of a privilege to perform podiatric standard ankle surgery or  
17 podiatric advanced ankle surgery OR UNLESS OTHERWISE PROVIDED IN SUBDI-  
18 VISION ONE OF THIS SECTION. Podiatrists who have obtained an issuance of  
19 a privilege to perform podiatric standard ankle surgery may perform  
20 surgery on the ankle which may include soft tissue and osseous proce-  
21 dures except those procedures specifically authorized for podiatrists  
22 who have obtained an issuance of a privilege for advanced ankle surgery.  
23 Podiatrists who have obtained an issuance of a privilege to perform  
24 podiatric advanced ankle surgery may perform surgery on the ankle which  
25 may include ankle fracture fixation, ankle fusion, ankle arthroscopy,  
26 insertion or removal of external fixation pins into or from the tibial  
27 diaphysis at or below the level of the myotendinous junction of the  
28 triceps surae, and insertion and removal of retrograde tibiotalocalcan-  
29 neal intramedullary rods and locking screws up to the level of the  
30 myotendinous junction of the triceps surae, but does not include the  
31 surgical treatment of complications within the tibial diaphysis related  
32 to the use of such external fixation pins. Podiatrists licensed to prac-  
33 tice, but not authorized to prescribe or administer narcotics prior to  
34 the effective date of this subdivision, may do so only after certifi-  
35 cation by the department in accordance with the qualifications estab-  
36 lished by the commissioner. The practice of podiatry shall include  
37 administering only local anesthetics for therapeutic purposes as well as  
38 for anesthesia and treatment under general anesthesia administered by  
39 authorized persons. The practice of podiatry by any licensee shall not  
40 include partial or total ankle replacements nor the treatment of pilon  
41 fractures.

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

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

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

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

50 c. Training and certification: either:

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

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

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

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

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

S 7010. Ankle surgery limited permits. 1. A limited permit to perform podiatric standard ankle surgery, as described in subdivision two of section seven thousand one of this article, may be issued by the department to a podiatrist who is licensed pursuant to this article and who has met the residency and board qualification/certification requirements set forth in subdivision one of section seven thousand nine of this article in order to authorize such podiatrist to obtain the training and experience required for the issuance of a podiatric standard ankle surgery privilege pursuant to subdivision one of section seven thousand nine of this article. Such permits shall authorize the performance of podiatric standard ankle surgery only under the [direct personal] supervision of a licensed podiatrist holding a podiatric standard ankle surgery privilege or a podiatric advanced ankle surgery privilege issued pursuant to section seven thousand nine of this article or of a physician licensed pursuant to article one hundred thirty-one of this title and certified in orthopedic surgery by a national certifying board having certification standards acceptable to the department.

2. A limited permit to perform podiatric advanced ankle surgery, as described in subdivision two of section seven thousand one of this article, may be issued by the department to a podiatrist who is licensed pursuant to this article and who has met the residency and board certification requirements set forth in subdivision two of section seven thousand nine of this article in order to authorize such podiatrist to obtain the training and experience required for the issuance of a podiatric advanced ankle surgery privilege pursuant to subdivision two of section seven thousand nine of this article; PROVIDED, HOWEVER, THAT BOARD QUALIFICATION SHALL BE DEEMED TO SATISFY THE CERTIFICATION REQUIREMENTS SET FORTH IN SUCH SECTION FOR PURPOSES OF THIS SUBDIVISION. Such permits shall authorize the performance of podiatric advanced ankle surgery only under the [direct personal] supervision of a licensed podiatrist holding a podiatric advanced ankle surgery privilege issued pursuant to subdivision two of section seven thousand nine of this article or of a physician licensed pursuant to article one hundred thirty-one of this title and certified in orthopedic surgery by a national

1 certifying board having certification standards acceptable to the  
2 department.

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

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

15 5. Limited permits shall be issued for a period of one year, and may  
16 be renewed for additional one year periods when necessary to permit the  
17 completion of the training and experience required to obtain a podiatric  
18 standard ankle surgery privilege or podiatric advanced ankle surgery  
19 privilege, as applicable, provided that no permit may be renewed more  
20 than four times for each such privilege.

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

23 S 4. This act shall take effect on the same date and in the same  
24 manner as chapter 438 of the laws of 2012 takes effect.