

1908

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law and the public health law, in relation to the practice of podiatry; to repeal sections 7009 and 7010 of the education law relating to ankle surgery; and to repeal subdivision 4-a of section 2995-d of the public health law, relating to a healthcare practitioners database

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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

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

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1 OF THE TIBIA AND FIBULA AND TALUS, AND THE PORTIONS OF SKIN, SUBCUTANE-  
2 OUS TISSUE, FASCIA, MUSCLES, TENDONS AND NERVES AT OR BELOW THE LEVEL OF  
3 THE MYOTENDINOUS JUNCTION OF THE TRICEPS SURAE.

4 2. [The practice of podiatry shall not include treating any part of  
5 the human body other than the foot, nor treating fractures of the  
6 malleoli or cutting operations upon the malleoli. Podiatrists licensed  
7 to practice, but not authorized to prescribe or administer narcotics  
8 prior to the effective date of this subdivision, may do so only after  
9 certification by the department in accordance with the qualifications  
10 established by the commissioner.] The practice of podiatry shall include  
11 administering only local anesthetics for therapeutic purposes as well as  
12 for anesthesia and treatment under general anesthesia administered by  
13 authorized persons.

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

26 S 2. Section 7001 of the education law, as amended by chapter 438 of  
27 the laws of 2012, is amended to read as follows:

28 S 7001. Definition of practice of podiatry. 1. The practice of the  
29 profession of podiatry is defined as diagnosing, treating, operating and  
30 prescribing for any disease, injury, deformity or other condition of the  
31 foot, [and may include] ANKLE AND ALL SOFT TISSUE STRUCTURES OF THE LEG  
32 BELOW THE DISTAL TIBIAL TUBEROCITY. SURGICAL TREATMENT OF THE ANKLE  
33 SHALL NOT EXTEND BEYOND THE TIBIAL METAPHYSEAL FLAIR; PROVIDED, HOWEVER,  
34 THAT SUCH SURGICAL TREATMENT MAY EXTEND TO THE DISTAL TIBIAL TUBEROCITY  
35 AS NECESSARY FOR THE TREATMENT OF THE ANKLE, INCLUDING, BUT NOT LIMITED  
36 TO, THE APPLICATION OF EXTERNAL FIXATION; AND PROVIDED, FURTHER, THAT  
37 SUCH TREATMENT SHALL NOT INCLUDE PILON FRACTURES. THE PRACTICE OF PODIA-  
38 TRY INCLUDES performing physical evaluations in conjunction with [the  
39 provision of] podiatric treatment. [For the purposes of wound care  
40 however, the practice of podiatry shall include the treatment of such  
41 wounds if they are contiguous with wounds relating, originating or in  
42 the course of treatment of a wound on the foot within the podiatric  
43 scope of practice. Wound care shall not, however, extend beyond to the  
44 level ending at the distal tibial tuberosity. The practice of podiatry  
45 may also include diagnosing, treating, operating and prescribing for any  
46 disease, injury, deformity or other condition of the ankle and soft  
47 tissue of the leg below the tibial tuberosity if the podiatrist has  
48 obtained an issuance of a privilege to perform podiatric standard ankle  
49 surgery or advanced ankle surgery in accordance with section seven thou-  
50 sand nine of this article.] Podiatrists [may] SHALL ONLY treat traumatic  
51 open wound fractures [only] AND PROVIDE SURGICAL MANAGEMENT OF COMPLI-  
52 CATED FRACTURES OF THE ANKLE in hospitals[, as defined in] OR AMBULATORY  
53 SURGERY CENTERS CERTIFIED PURSUANT TO article twenty-eight of the public  
54 health law. For the purposes of this article, the term "ankle" shall be  
55 defined as the distal metaphysis and epiphysis of the tibia and fibula,  
56 the articular cartilage of the distal tibia and distal fibula, the liga-

ments that connect the distal metaphysis and epiphysis of the tibia and fibula and talus, and the portions of skin, subcutaneous tissue, fascia, muscles, tendons, ligaments 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 unless the podiatrist obtains an issuance of a privilege to perform podiatric standard ankle surgery or podiatric advanced ankle surgery. Podiatrists who have obtained an issuance of a privilege to perform podiatric standard ankle surgery may perform surgery on the ankle which may include soft tissue and osseous procedures except those procedures specifically authorized for podiatrists who have obtained an issuance of a privilege for advanced ankle surgery. Podiatrists who have obtained an issuance of a privilege to perform podiatric advanced ankle surgery may perform surgery on the ankle which may include ankle fracture fixation, ankle fusion, ankle arthroscopy, insertion or removal of external fixation pins into or from the tibial diaphysis at or below the level of the myotendinous junction of the triceps surae, and insertion and removal of retrograde tibiototalcanal intramedullary rods and locking screws up to the level of the myotendinous junction of the triceps surae, but does not include the surgical treatment of complications within the tibial diaphysis related to the use of such external fixation pins. 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. [The practice of podiatry by any licensee shall not include partial or total ankle replacements nor the treatment of pilon fractures.]

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 3. Sections 7009 and 7010 of the education law are REPEALED.

S 4. 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 5. Paragraph (i) of subdivision 1 of section 230-d of the public health law, as amended by chapter 438 of the laws of 2012, is amended to read as follows:

(i) "Licensee" shall mean an individual licensed or otherwise authorized under article one hundred thirty-one, one hundred thirty-one-B[,

1 individuals who have obtained an issuance of a privilege to perform  
2 podiatric standard or advanced ankle surgery pursuant to subdivisions  
3 one and two of section seven thousand nine] OR ONE HUNDRED FORTY-ONE of  
4 the education law.

5 S 6. Subdivision 4-a of section 2995-d of the public health law is  
6 REPEALED and a new subdivision 4-a is added to read as follows:

7 4-A. IN COOPERATION WITH THE EDUCATION DEPARTMENT, STUDY HEALTH CARE  
8 PRACTITIONER DATA RELATING TO PODIATRISTS. SUCH STUDY SHALL INCLUDE  
9 CONSIDERATION OF WHETHER AN INDIVIDUAL PODIATRIST PROFILING PROGRAM  
10 SHOULD BE ESTABLISHED AND OUTLINE AN APPROPRIATE METHOD TO DEVELOP AND  
11 IMPLEMENT SUCH A PROFILING PROGRAM IF SUCH A PROGRAM IS DETERMINED BY  
12 THE DEPARTMENT TO BE IN THE PUBLIC INTEREST. SUCH PROGRAM AND RECOMMEN-  
13 DATIONS MAY BE SIMILAR TO THE PHYSICIAN PROFILES ESTABLISHED PURSUANT TO  
14 SECTION TWENTY-NINE HUNDRED NINETY-FIVE-A OF THIS TITLE. SUCH A PROPOSED  
15 PODIATRIST PROFILING PROGRAM, IF SUCH A PROGRAM IS DETERMINED BY THE  
16 DEPARTMENT TO BE IN THE PUBLIC INTEREST, SHOULD BE CAPABLE OF PRESENT-  
17 ING, IN A COST EFFECTIVE MANNER, RELEVANT MEDICAL AND TREATMENT INFORMA-  
18 TION IN A FORMAT THAT IS EASILY UNDERSTOOD BY AND MADE AVAILABLE TO THE  
19 GENERAL PUBLIC. SUCH STUDY AND ITS FINDINGS SHALL BE SUBMITTED TO THE  
20 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE  
21 ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF  
22 THE ASSEMBLY ON OR BEFORE JUNE FIRST, TWO THOUSAND NINETEEN;

23 S 7. This act shall take effect 18 months after it shall have become a  
24 law, except that sections two and five of this act shall take effect on  
25 the same date and in the same manner as chapter 438 of the laws of 2012  
26 takes effect; provided, however, that effective immediately, the addi-  
27 tion, amendment and/or repeal of any rule or regulation necessary for  
28 the implementation of the provisions of this act on its effective date  
29 are authorized and directed to be made and completed on or before such  
30 effective date.