

4835

2013-2014 Regular Sessions

I N   S E N A T E

April 25, 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, in relation to making technical changes to the scope of the practice of podiatry; and to repeal certain provisions of the public health law and the civil practice law and rules relating thereto

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     438 of the laws of 2012, 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 performing physical evaluations in conjunction  
7     with the provision of podiatric treatment. For the purposes of wound  
8     care however, the practice of podiatry shall include the treatment of  
9     such wounds if they are [contiguous with] RELATED TO A CONDITION OF THE  
10    FOOT OR ARE wounds relating, originating or in the course of treatment  
11    of [a wound on] the foot within the podiatric scope of practice. Wound  
12    care shall not, however, extend beyond [to] the level ending at the  
13    distal tibial tuberosity. The practice of podiatry may also include  
14    diagnosing, treating, operating and prescribing for any disease, injury,  
15    deformity or other condition of the ankle and soft tissue of the leg  
16    below the tibial tuberosity if the podiatrist has obtained an issuance  
17    of a privilege to perform podiatric standard ankle surgery or advanced  
18    ankle surgery in accordance with section seven thousand nine of this  
19    article; PROVIDED, HOWEVER, THAT SUCH PRIVILEGE SHALL NOT BE REQUIRED  
20    FOR THE DIAGNOSING, TREATING, OPERATING OR PRESCRIBING FOR CUTANEOUS  
21    CONDITIONS OF THE ANKLE. Podiatrists may treat traumatic open wound  
22    fractures only in hospitals, as defined in article twenty-eight of the  
23    public health law. For the purposes of this article, the term "ankle"

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

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1 shall be defined as the distal metaphysis and epiphysis of the tibia and  
2 fibula, the articular cartilage of the distal tibia and distal fibula,  
3 the ligaments that connect the distal metaphysis and epiphysis of the  
4 tibia and fibula and talus, and the portions of skin, subcutaneous  
5 tissue, fascia, muscles, tendons, ligaments and nerves at or below the  
6 level of the myotendinous junction of the triceps surae.

7 2. The practice of podiatry shall not include treating any part of the  
8 human body other than the foot, nor treating fractures of the malleoli  
9 or cutting operations upon the malleoli unless the podiatrist obtains an  
10 issuance of a privilege to perform podiatric standard ankle surgery or  
11 podiatric advanced ankle surgery OR UNLESS OTHERWISE PROVIDED IN SUBDI-  
12 VISION ONE OF THIS SECTION. Podiatrists who have obtained an issuance  
13 of a privilege to perform podiatric standard ankle surgery may perform  
14 surgery on the ankle which may include soft tissue and osseous proce-  
15 dures except those procedures specifically authorized for podiatrists  
16 who have obtained an issuance of a privilege for advanced ankle surgery.  
17 Podiatrists who have obtained an issuance of a privilege to perform  
18 podiatric advanced ankle surgery may perform surgery on the ankle which  
19 may include ankle fracture fixation, ankle fusion, ankle arthroscopy OF  
20 THE TIBIA AND FIBULA, insertion or removal of external fixation pins  
21 into or from the tibial diaphysis at or below the level of the myotendi-  
22 nous junction of the triceps surae, and insertion and removal of retro-  
23 grade tibiotalocalcanneal intramedullary rods and locking screws up to  
24 the level of the myotendinous junction of the triceps surae, but does  
25 not include the surgical treatment of complications within the tibial  
26 diaphysis related to the use of such external fixation pins. [Podia-  
27 trists licensed to practice, but not authorized to prescribe or adminis-  
28 ter narcotics prior to the effective date of this subdivision, may do so  
29 only after certification by the department in accordance with the quali-  
30 fications established by the commissioner.] The practice of podiatry  
31 shall include administering only local anesthetics for therapeutic  
32 purposes as well as for anesthesia and treatment under general anes-  
33 thesia administered by authorized persons. The practice of podiatry by  
34 any licensee shall not include partial or total ankle replacements nor  
35 the treatment of pilon fractures.

36 3. A. THE DEPARTMENT SHALL CONDUCT A STUDY TO DETERMINE WHETHER TO  
37 MAKE AVAILABLE TO THE PUBLIC PROFILES ON PODIATRISTS WHO HAVE OBTAINED  
38 AN ISSUANCE OF PRIVILEGE TO PERFORM PODIATRIC STANDARD OR ADVANCED ANKLE  
39 SURGERY PURSUANT TO SUBDIVISIONS ONE AND TWO OF SECTION SEVEN THOUSAND  
40 NINE OF THIS ARTICLE. SUCH STUDY SHALL INCLUDE CONSIDERATION OF WHETHER  
41 IT WOULD BE APPROPRIATE AND FEASIBLE FOR THE DEPARTMENT TO MAKE PUBLICLY  
42 AVAILABLE PROFILES FOR SUCH PODIATRISTS IN A MANNER SIMILAR TO PHYSICIAN  
43 PROFILES MADE AVAILABLE ON THE DEPARTMENT OF HEALTH'S WEBSITE IN ACCORD-  
44 ANCE WITH SECTION TWENTY-NINE HUNDRED NINETY-FIVE-A OF THE PUBLIC HEALTH  
45 LAW. THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF HEALTH AS  
46 NECESSARY ON MATTERS RELATED TO THE OPERATION OF THE DEPARTMENT OF  
47 HEALTH'S PHYSICIAN PROFILES ESTABLISHED PURSUANT TO SECTION TWENTY-NINE  
48 HUNDRED NINETY-FIVE-A OF THE PUBLIC HEALTH LAW IN CONDUCTING ITS STUDY.

49 B. IF THE DEPARTMENT DETERMINES THAT MAKING PODIATRIST PROFILES AVAIL-  
50 ABLE IS APPROPRIATE AND FEASIBLE, THE DEPARTMENT, AFTER CONSULTATION  
51 WITH THE DEPARTMENT OF HEALTH, SHALL OUTLINE IN SUCH STUDY AND APPROPRI-  
52 ATE AND COST EFFECTIVE METHOD OF PRESENTING RELEVANT AND APPROPRIATE  
53 PODIATRIC PROFILING INFORMATION TO THE GENERAL PUBLIC. THE DEPARTMENT  
54 SHALL SUBMIT SUCH STUDY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE  
55 SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE

1 AND THE MINORITY LEADER OF THE ASSEMBLY ON OR BEFORE NOVEMBER FIRST, TWO  
2 THOUSAND SIXTEEN.

3 C. IF THE DEPARTMENT MAKES PODIATRIST PROFILES AVAILABLE AS SET FORTH  
4 IN PARAGRAPH B OF THIS SUBDIVISION, THE DEPARTMENT OF HEALTH SHALL  
5 INCLUDE ON ITS WEBSITE CONTAINING THE PHYSICIAN PROFILES ESTABLISHED  
6 PURSUANT TO SECTION TWENTY-NINE HUNDRED NINETY-FIVE-A OF THE PUBLIC  
7 HEALTH LAW A LINK TO THE WEBSITE ON WHICH SUCH PODIATRIST PROFILES MAY  
8 BE ACCESSED AND A STATEMENT DESCRIBING THE PURPOSE OF SUCH LINK.

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

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

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

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

17 c. Training and certification: either:

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

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

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

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

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

46 S 7010. Ankle surgery limited permits. 1. A limited permit to perform  
47 podiatric standard ankle surgery, as described in subdivision two of  
48 section seven thousand one of this article, may be issued by the depart-  
49 ment to a podiatrist who is licensed pursuant to this article and who  
50 has met the residency and board qualification/certification requirements  
51 set forth in subdivision one of section seven thousand nine of this  
52 article in order to authorize such podiatrist to obtain the training and  
53 experience required for the issuance of a podiatric standard ankle  
54 surgery privilege pursuant to subdivision one of section seven thousand  
55 nine of this article. Such permits shall authorize the performance of  
56 podiatric standard ankle surgery only under the [direct personal] super-

1 vision of a licensed podiatrist holding a podiatric standard ankle  
2 surgery privilege or a podiatric advanced ankle surgery privilege issued  
3 pursuant to section seven thousand nine of this article or of a physi-  
4 cian licensed pursuant to article one hundred thirty-one of this title  
5 and certified in orthopedic surgery by a national certifying board  
6 having certification standards acceptable to the department.

7 2. A limited permit to perform podiatric advanced ankle surgery, as  
8 described in subdivision two of section seven thousand one of this arti-  
9 cle, may be issued by the department to a podiatrist who is licensed  
10 pursuant to this article and who has met the residency and board certif-  
11 ication requirements set forth in subdivision two of section seven thou-  
12 sand nine of this article in order to authorize such podiatrist to  
13 obtain the training and experience required for the issuance of a podia-  
14 tric advanced ankle surgery privilege pursuant to subdivision two of  
15 section seven thousand nine of this article. Such permits shall author-  
16 ize the performance of podiatric advanced ankle surgery only under the  
17 [direct personal] supervision of a licensed podiatrist holding a podia-  
18 tric advanced ankle surgery privilege issued pursuant to subdivision two  
19 of section seven thousand nine of this article or of a physician  
20 licensed pursuant to article one hundred thirty-one of this title and  
21 certified in orthopedic surgery by a national certifying board having  
22 certification standards acceptable to the department.

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

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

35 5. Limited permits shall be issued for a period of one year, and may  
36 be renewed for additional one year periods when necessary to permit the  
37 completion of the training and experience required to obtain a podiatric  
38 standard ankle surgery privilege or podiatric advanced ankle surgery  
39 privilege, as applicable, provided that no permit may be renewed more  
40 than four times for each such privilege.

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

43 S 4. Subdivision 4-a of section 2995-d of the public health law is  
44 REPEALED.

45 S 5. Subparagraph (iv) of paragraph 1 of subdivision (d) of section  
46 3101 of the civil practice law and rules is REPEALED.

47 S 6. This act shall take effect on the same date and in the same  
48 manner as chapter 438 of the laws of 2012 takes effect.