

4835--A

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 -- 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 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, THE DIAGNOSING, TREATING, OPERATING OR PRESCRIBING FOR CUTANEOUS  
7     CONDITIONS OF THE ANKLE TO THE LEVEL OF THE DISTAL TIBIAL TUBEROSITY,  
8     and may include performing physical evaluations in conjunction with the  
9     provision of podiatric treatment. For the purposes of wound care howev-  
10    er, the practice of podiatry shall include the treatment of such wounds  
11    if they are [contiguous with] RELATED TO A CONDITION OF THE FOOT OR  
12    ANKLE TO THE LEVEL OF THE DISTAL TIBIAL TUBEROSITY OR ARE wounds relat-  
13    ing, originating or in the course of treatment of [a wound on] the foot  
14    OR ANKLE TO THE LEVEL OF THE DISTAL TIBIAL TUBEROSITY within the podia-  
15    tric scope of practice. Wound care shall not, however, extend beyond to  
16    the level ending at the distal tibial tuberosity. The practice of podia-  
17    try may also include diagnosing, treating, operating and prescribing for  
18    any disease, injury, deformity or other condition of the ankle and soft  
19    tissue of the leg below the tibial tuberosity if the podiatrist has  
20    obtained an issuance of a privilege to perform podiatric standard ankle  
21    surgery or advanced ankle surgery in accordance with section seven thou-  
22    sand nine of this article; PROVIDED, HOWEVER, THAT SUCH PRIVILEGE SHALL  
23    NOT BE REQUIRED FOR THE DIAGNOSING, TREATING, OPERATING OR PRESCRIBING

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

LBD10560-02-3

1 FOR CUTANEOUS CONDITIONS OR WOUND CARE TO THE LEVEL OF THE DISTAL TIBIAL  
2 TUBEROSITY OF THE ANKLE. Podiatrists may treat traumatic open wound  
3 fractures only in hospitals, as defined in article twenty-eight of the  
4 public health law. For the purposes of this article, the term "ankle"  
5 shall be defined as the distal metaphysis and epiphysis of the tibia and  
6 fibula, the articular cartilage of the distal tibia and distal fibula,  
7 the ligaments that connect the distal metaphysis and epiphysis of the  
8 tibia and fibula and talus, and the portions of skin, subcutaneous  
9 tissue, fascia, muscles, tendons, ligaments and nerves at or below the  
10 level of the myotendinous junction of the triceps surae.

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

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

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

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

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

48 c. Training and certification: either:

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

55 (ii) have graduated on or after June first, two thousand six from a  
56 three-year residency program in podiatric medicine and surgery that was

1 accredited by an accrediting agency acceptable to the department, be  
2 board qualified but not yet certified in FOOT SURGERY OR IN reconstruc-  
3 tive rearfoot and ankle surgery by a national certifying board having  
4 certification standards acceptable to the department, and provide  
5 documentation that he or she has acceptable training and experience in  
6 standard or advance midfoot, rearfoot and ankle procedures that has been  
7 approved by the department; or

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

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

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

21 S 7010. Ankle surgery limited permits. 1. A limited permit to perform  
22 podiatric standard ankle surgery, as described in subdivision two of  
23 section seven thousand one of this article, may be issued by the depart-  
24 ment to a podiatrist who is licensed pursuant to this article and who  
25 has met the residency and board qualification/certification requirements  
26 set forth in subdivision one of section seven thousand nine of this  
27 article in order to authorize such podiatrist to obtain the training and  
28 experience required for the issuance of a podiatric standard ankle  
29 surgery privilege pursuant to subdivision one of section seven thousand  
30 nine of this article. Such permits shall authorize the performance of  
31 podiatric standard ankle surgery only under the [direct personal] super-  
32 vision of a licensed podiatrist holding a podiatric standard ankle  
33 surgery privilege or a podiatric advanced ankle surgery privilege issued  
34 pursuant to section seven thousand nine of this article or of a physi-  
35 cian licensed pursuant to article one hundred thirty-one of this title  
36 and certified in orthopedic surgery by a national certifying board  
37 having certification standards acceptable to the department.

38 2. A limited permit to perform podiatric advanced ankle surgery, as  
39 described in subdivision two of section seven thousand one of this arti-  
40 cle, may be issued by the department to a podiatrist who is licensed  
41 pursuant to this article and who has met the residency and board certif-  
42 ication requirements set forth in subdivision two of section seven thou-  
43 sand nine of this article in order to authorize such podiatrist to  
44 obtain the training and experience required for the issuance of a podia-  
45 tric advanced ankle surgery privilege pursuant to subdivision two of  
46 section seven thousand nine of this article. Such permits shall author-  
47 ize the performance of podiatric advanced ankle surgery only under the  
48 [direct personal] supervision of a licensed podiatrist holding a podia-  
49 tric advanced ankle surgery privilege issued pursuant to subdivision two  
50 of section seven thousand nine of this article or of a physician  
51 licensed pursuant to article one hundred thirty-one of this title and  
52 certified in orthopedic surgery by a national certifying board having  
53 certification standards acceptable to the department.

54 3. For the purposes of this section, [direct personal] supervision  
55 means supervision of procedures based on instructions given directly by  
56 [the supervising] A LICENSED podiatrist HOLDING A PODIATRIC STANDARD OR

1 ADVANCED ANKLE SURGERY PRIVILEGE or physician who remains in the immedi-  
2 ate area where the procedures are being performed, authorizes the proce-  
3 dures and evaluates the procedures performed by the holder of the limit-  
4 ed permit OR WITH THE APPROVAL OF THE CHAIR OF THE ORTHOPEDIC OR SURGERY  
5 DEPARTMENT OF THE HOSPITAL AT WHICH THE PROCEDURE WILL BE PERFORMED.

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

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

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

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