

4835--B

2013-2014 Regular Sessions

I N S E N A T E

April 25, 2013

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 -- 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. 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

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

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

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

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

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

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

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

51 c. Training and certification: either:

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

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

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

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

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

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

42 2. A limited permit to perform podiatric advanced ankle surgery, as  
43 described in subdivision two of section seven thousand one of this arti-  
44 cle, may be issued by the department to a podiatrist who is licensed  
45 pursuant to this article and who has met the residency and board certif-  
46 ication requirements set forth in subdivision two of section seven thou-  
47 sand nine of this article in order to authorize such podiatrist to  
48 obtain the training and experience required for the issuance of a podia-  
49 tric advanced ankle surgery privilege pursuant to subdivision two of  
50 section seven thousand nine of this article; PROVIDED, HOWEVER, THAT  
51 BOARD QUALIFICATION SHALL BE DEEMED TO SATISFY THE CERTIFICATION  
52 REQUIREMENTS SET FORTH IN SUCH SECTION FOR PURPOSES OF THIS SUBDIVISION.  
53 Such permits shall authorize the performance of podiatric advanced ankle  
54 surgery only under the [direct personal] supervision of a licensed  
55 podiatrist holding a podiatric advanced ankle surgery privilege issued  
56 pursuant to subdivision two of section seven thousand nine of this arti-

1 cle or of a physician licensed pursuant to article one hundred thirty-  
2 one of this title and certified in orthopedic surgery by a national  
3 certifying board having certification standards acceptable to the  
4 department.

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

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

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

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

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