

4600--A

2015-2016 Regular Sessions

I N S E N A T E

March 30, 2015

Introduced by Sens. LIBOUS, PARKER -- 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 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 TIBIAL TUBEROSITY, and may include performing physical
10 evaluations in conjunction with the provision of podiatric treatment.
11 THE PRACTICE OF PODIATRY SHALL NOT INCLUDE THE FOLLOWING TREATMENTS OR
12 PROCEDURES PERFORMED ABOVE THE LEVEL OF THE MALLEOLI, UNLESS OTHERWISE
13 PROVIDED: THE TREATMENT OF MELANOMA; PERFORMANCE OF MOHS SURGERY; MUSCLE
14 FLAPS OR MICROVASCULAR ANASTOMOSES. For the purposes of wound care
15 however, the practice of podiatry shall include the treatment of such
16 wounds if they are [contiguous with] RELATED TO A CONDITION OF THE FOOT
17 OR ANKLE TO THE LEVEL OF THE TIBIAL TUBEROSITY OR ARE wounds relating,
18 originating or in the course of treatment of [a wound on] the foot OR
19 ANKLE TO THE LEVEL OF THE TIBIAL TUBEROSITY within the podiatric scope
20 of practice. Wound care shall not, however, extend beyond the level
21 ending at the distal tibial tuberosity. The practice of podiatry may
22 also include diagnosing, treating, operating and prescribing for any
23 disease, injury, deformity or other condition of the ankle and soft

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

LBD05334-05-5

1 tissue of the leg below the tibial tuberosity if the podiatrist has
2 obtained an issuance of a privilege to perform podiatric standard ankle
3 surgery or advanced ankle surgery in accordance with section seven thou-
4 sand nine of this article; PROVIDED, HOWEVER, THAT SUCH PRIVILEGE SHALL
5 NOT BE REQUIRED FOR THE DIAGNOSING, TREATING, OPERATING OR PRESCRIBING
6 FOR CUTANEOUS CONDITIONS OR WOUND CARE TO THE LEVEL OF THE TIBIAL TUBER-
7 OSITY OF THE ANKLE. Podiatrists may treat traumatic open wound fractures
8 only in hospitals, as defined in article twenty-eight of the public
9 health law. For the purposes of this article, the term "ankle" shall be
10 defined as the distal metaphysis and epiphysis of the tibia and fibula,
11 the articular cartilage of the distal tibia and distal fibula, the liga-
12 ments that connect the distal metaphysis and epiphysis of the tibia and
13 fibula and talus, and the portions of skin, subcutaneous tissue, fascia,
14 muscles, tendons, ligaments and nerves at or below the level of the
15 myotendinous junction of the triceps surae.

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

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

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

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

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

53 c. Training and certification: either:

54 (i) have graduated on or after June first, two thousand six from a
55 three-year residency program in podiatric medicine and surgery that was
56 accredited by an accrediting agency acceptable to the department, and be

1 certified in reconstructive rearfoot and ankle surgery by a national
2 certifying board having certification standards acceptable to the
3 department; or

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

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

cle 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.

3. For the purposes of this section, [direct personal] supervision means supervision of procedures based on instructions given directly by [the supervising] A LICENSED podiatrist HOLDING A PODIATRIC STANDARD OR ADVANCED ANKLE SURGERY PRIVILEGE or physician who [remains in the immediate area where the procedures are being performed] IS IMMEDIATELY AVAILABLE TO FURNISH ASSISTANCE AND DIRECTION THROUGHOUT THE PERFORMANCE OF THE PROCEDURE, authorizes the procedures and evaluates the procedures performed by the holder of the limited permit OR WITH THE APPROVAL OF THE CHAIR OF THE ORTHOPEDIC OR SURGERY DEPARTMENT OF THE HOSPITAL AT WHICH THE PROCEDURE WILL BE PERFORMED.

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

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

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

S 4. This act shall take effect immediately.