

# STATE OF NEW YORK

5395

2019-2020 Regular Sessions

## IN SENATE

April 29, 2019

Introduced by Sen. JACKSON -- 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

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 non-surgical treatment of  
8 the ankle and the anatomical structures of the ankle, cutaneous condi-  
9 tions and wounds of the ankle, and may include performing physical eval-  
10 uations in conjunction with the provision of podiatric treatment. [~~For~~  
11 ~~the purposes of wound care however, the practice of podiatry shall~~  
12 ~~include the treatment of such wounds if they are contiguous with wounds~~  
13 ~~relating, originating or in the course of treatment of a wound on the~~  
14 ~~foot within the podiatric scope of practice.] The practice of podiatry  
15 shall not include the following treatments or procedures performed above  
16 the level of the malleoli, unless otherwise provided: the treatment of  
17 melanoma; performance of mohs surgery; muscle flaps or microvascular  
18 anastomoses. Wound care shall not, however, extend beyond the level  
19 ending at the [~~distal~~] tibial tuberosity. The practice of podiatry may  
20 also include [~~diagnosing, treating, operating and prescribing for any~~  
21 ~~disease, injury, deformity or other condition of~~] the surgical treatment  
22 of the ankle and soft tissue of the leg below the tibial tuberosity if  
23 the podiatrist has obtained an issuance of a privilege to perform podia-  
24 tric standard ankle surgery or advanced ankle surgery in accordance with  
25 section seven thousand nine of this article. Podiatrists may treat trau-~~

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

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1 matic open wound fractures only in hospitals, as defined in article  
2 twenty-eight of the public health law. For the purposes of this article,  
3 the term "ankle" shall be defined as the distal metaphysis and epiphysis  
4 of the tibia and fibula, the articular cartilage of the distal tibia and  
5 distal fibula, the ligaments that connect the distal metaphysis and  
6 epiphysis of the tibia and fibula and talus, and the portions of skin,  
7 subcutaneous tissue, fascia, muscles, tendons, ligaments and nerves at or  
8 below the level of the myotendinous junction of the triceps surae.

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

37 § 2. Subparagraph (ii) of paragraph c of subdivision 1 of section 7009  
38 of the education law, as added by chapter 438 of the laws of 2012, is  
39 amended to read as follows:

40 (ii) have graduated on or after June first, two thousand six from a  
41 three-year residency program in podiatric medicine and surgery that was  
42 accredited by an accrediting agency acceptable to the department, be  
43 board qualified but not yet certified in reconstructive rearfoot and  
44 ankle surgery by a national certifying board having certification stand-  
45 ards acceptable to the department, and provide documentation that he or  
46 she has acceptable training and experience in standard or [~~advance~~]  
47 advanced midfoot, rearfoot and ankle procedures that has been approved  
48 by the department; or

49 § 3. Section 7010 of the education law, as added by chapter 438 of the  
50 laws of 2012, is amended to read as follows:

51 § 7010. Ankle surgery limited permits. 1. A limited permit to perform  
52 podiatric standard ankle surgery, as described in subdivision two of  
53 section seven thousand one of this article, may be issued by the depart-  
54 ment to a podiatrist who is licensed pursuant to this article and who  
55 has met the residency and board qualification/certification requirements  
56 set forth in subdivision one of section seven thousand nine of this

1 article in order to authorize such podiatrist to obtain the training and  
2 experience required for the issuance of a podiatric standard ankle  
3 surgery privilege pursuant to subdivision one of section seven thousand  
4 nine of this article. Such permits shall authorize the performance of  
5 podiatric standard ankle surgery only under the [~~direct personal~~] super-  
6 vision of a licensed podiatrist holding a podiatric standard ankle  
7 surgery privilege or a podiatric advanced ankle surgery privilege issued  
8 pursuant to section seven thousand nine of this article or of a physi-  
9 cian licensed pursuant to article one hundred thirty-one of this title  
10 and certified in orthopedic surgery by a national certifying board  
11 having certification standards acceptable to the department.

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

31 3. For the purposes of this section, [~~direct personal~~] supervision  
32 means supervision of procedures based on instructions given directly by  
33 [~~the supervising~~] a licensed podiatrist holding a podiatric standard or  
34 advanced ankle surgery privilege or physician who [~~remains in the imme-~~  
35 ~~diat area where the procedures are being performed~~] is immediately  
36 available to furnish assistance and direction throughout the performance  
37 of the procedure, authorizes the procedures and evaluates the procedures  
38 performed by the holder of the limited permit or with the approval of  
39 the chair of the orthopedic or surgery department of the hospital at  
40 which the procedure will be performed.

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

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

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

53 § 4. This act shall take effect immediately.