

CHAPTER 97-284

Committee Substitute for Committee Substitute for Senate Bill No. 496

An act relating to the regulation of orthotists, prosthetists, and pedorthists; providing definitions; creating the Board of Orthotists and Prosthetists; establishing membership requirements; providing for the adoption of rules; providing licensure requirements; providing for fees; creating the Orthotists and Prosthetists Educational Programs Task Force; providing for licensure without examination; providing for provisional licenses; providing for license renewal; providing for temporary licenses; prohibiting certain acts and providing penalties; providing exemptions from licensure; prohibiting the use of certain titles by unlicensed persons; providing for construction; providing that the provisions of the act relating to orthotics do not apply to licensed pharmacists or persons acting under the supervision of licensed pharmacists; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Definitions.—As used in this act, the term:

(1) “Agency” means the Agency for Health Care Administration.

(2) “Board” means the Board of Orthotists and Prosthetists.

(3) “Department” means the Department of Health.

(4) “Orthosis” means a medical device used to provide support, correction, or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity, but does not include the following assistive technology devices: upper extremity adaptive equipment used to facilitate the activities of daily living, including specialized utensils, combs, and brushes; finger splints; wheelchair seating and equipment that is an integral part of the wheelchair and not worn by the patient; elastic abdominal supports that do not have metal or plastic reinforcing stays; arch supports; nontherapeutic accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture; unmodified, over-the-counter shoes; prefabricated foot care products; durable medical equipment such as canes, crutches, or walkers; dental appliances; or devices implanted into the body by a physician. For purposes of this subsection, “accommodative” means designed with the primary goal of conforming to the individual’s anatomy and “inlay” means any removable material upon which the foot directly rests inside the shoe and which may be an integral design component of the shoe.

(5) “Orthotic fitter” means a person who is licensed to practice orthotics, pursuant to a licensed physician’s written prescription, whose scope of practice is limited to fitting prefabricated cervical orthoses not requiring more than minor modification; pressure gradient hose; trusses; custom-molded therapeutic footwear; prefabricated spinal orthoses, except for those used in

the treatment of scoliosis, rigid body jackets made of thermoformable materials, and “halo” devices; and prefabricated orthoses of the upper and lower extremities, except for those used in the treatment of bone fractures.

(6) “Orthotic fitter assistant” means a person who is licensed to practice orthotics, pursuant to a licensed physician’s written prescription, whose scope of practice is limited to fitting, without modification, prefabricated soft cervical orthoses; prefabricated soft spinal supports; pressure gradient hose; trusses; and soft prefabricated orthoses for the upper and lower extremities.

(7) “Orthotics” means the practice, pursuant to a licensed physician’s written prescription, of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of an orthosis or pedorthic device; however, the repair, replacement, adjustment, or servicing of any existing orthosis may be performed without an additional prescription from the patient’s physician, unless the original prescription states otherwise. If a patient is under the care of a licensed occupational therapist or physical therapist, the orthotist must consult with the therapist if the therapist has requested consultation regarding the fitting, design, or fabrication of an orthosis or regarding treatment with an orthosis.

(8) “Orthotist” means a person licensed to practice orthotics pursuant to this chapter.

(9) “Pedorthic device” means therapeutic shoes, shoe modifications made for therapeutic purposes, prosthetic fillers of the forefoot, and foot orthoses for use from the ankle and below, but does not include arch supports; nontherapeutic accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture; unmodified, over-the-counter shoes; or prefabricated foot care products. For purposes of this subsection, “accommodative” means designed with the primary goal of conforming to the individual’s anatomy and “inlay” means any removable material upon which the foot directly rests inside the shoe and which may be an integral design component of the shoe.

(10) “Pedorthics” means the practice, pursuant to a licensed physician’s written prescription, of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a pedorthic device; however, the repair, replacement, adjustment, or servicing of any existing pedorthic device may be performed without an additional prescription from the patient’s physician, unless the original prescription states otherwise. If a patient is under the care of a licensed occupational therapist or physical therapist, the pedorthist must consult with the therapist if the therapist has requested consultation regarding the fitting, design, or fabrication of a pedorthic device or regarding treatment with a pedorthic device.

(11) “Pedorthist” means a person licensed to practice pedorthics pursuant to this chapter.

(12) “Prosthesis” means a medical device used to replace a missing appendage or other external body part, including an artificial limb, hand, or

foot. It does not include surgically implanted devices or artificial eyes; dental appliances; ostomy products; cosmetic devices such as breast prostheses, eyelashes, or wigs; or other devices that do not have a significant impact on the musculoskeletal functions of the body.

(13) "Prosthetics" means the practice, pursuant to a licensed physician's written prescription, of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a prosthesis, except the repair, replacement, adjustment, or servicing of any existing prosthesis may be performed without an additional prescription from the patient's physician, unless the original prescription states otherwise. If a patient is under the care of a licensed occupational therapist or physical therapist, the prosthetist must consult with the therapist if the therapist has requested consultation regarding the fitting, design, or fabrication of a prosthesis or regarding treatment with a prosthesis.

(14) "Prosthetist" means a person licensed to practice prosthetics pursuant to this chapter.

(15) "Prosthetist-orthotist" means a person licensed to practice as a prosthetist and as an orthotist.

Section 2. Board of Orthotists and Prosthetists; appointment; membership; terms; headquarters.—

(1) The Board of Orthotists and Prosthetists is created within the Department of Health and shall consist of seven members appointed by the Governor and confirmed by the Senate.

(2) The members of the board must be residents of this state. One member must be a practicing prosthetist with 3 years' experience after receiving a Bachelor of Science degree in Orthotics and Prosthetics; one member must be a practicing prosthetist with at least 6 years' experience after certification by a national certifying body; one member must be a practicing orthotist with 3 years' experience after receiving a Bachelor of Science degree in Orthotics and Prosthetics; one member must be a practicing orthotist with at least 6 years' experience after certification by a national certifying body; two members must be prosthetic or orthotic users who are not deriving economic benefit from the fitting or dispensing of orthotic or prosthetic devices and who have never been orthotists or prosthetists or members of a closely related profession; and one member must be a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, who has extensive knowledge of orthotics or prosthetics. One of the prosthetist or orthotist members must have received training in pedorthics and have 3 years of pedorthic experience as part of his or her practice.

(3) Members of the board shall be appointed for terms of 4 years each and shall serve until their successors are appointed. However, for the purpose of staggering terms, two of the original board members shall serve terms of 4 years each, two shall serve terms of 3 years each, two shall serve terms of 2 years each, and one shall serve a term of 1 year, as designated by the Governor. Members may be reappointed for additional terms.

(4) The provisions of chapter 455, Florida Statutes, relating to activities of regulatory boards apply to the board.

(5) The board shall maintain its official headquarters in Tallahassee.

Section 3. Authority to adopt rules.—The board shall adopt rules to administer this act, including rules relating to standards of practice for orthotists, prosthetists, and pedorthists.

Section 4. Licensure requirements.—

(1) The department shall issue a license to practice orthotics, prosthetics, or pedorthics to qualified applicants. Licensure shall be granted independently in orthotics, prosthetics, or pedorthics, but a person may be licensed in more than one such discipline.

(2) An applicant for licensure must apply to the department on a form prescribed by it in order to take the appropriate licensure examination, including a practical examination demonstrating clinical patient management, when appropriate, and written examinations, one of which demonstrates orthotic, prosthetic, or pedorthic problem-solving skills. The board may accept the examination results of a national orthotic, prosthetic, or pedorthic standards organization in lieu of administering the state examination. In such cases, the department shall set fees appropriate to the level of practitioner and shall examine each applicant who the board verifies:

(a) Has completed the application form and paid an application fee, not to exceed \$500, which shall be nonrefundable, an examination fee and the actual per applicant costs to the department for purchase or development of the examination, and a license fee not to exceed \$500;

(b) Is of good moral character;

(c) Is 18 years of age or older;

(d) Has completed the appropriate educational preparation, including practical training requirements; and

(e) Has successfully completed an appropriate clinical internship in the professional area for which the license is sought.

(3) In addition to the requirements in subsection (2), to be licensed as:

(a) An orthotist, the applicant must have:

1. A Bachelor of Science degree in Orthotics and Prosthetics from a regionally accredited college or university, or a bachelor's degree with a certificate in orthotics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

2. An appropriate internship of 1 year of qualified experience, as determined by the board, or a residency program recognized by the board.

(b) A prosthetist, the applicant must have:

1. A Bachelor of Science degree in Orthotics and Prosthetics from a regionally accredited college or university, or a bachelor's degree with a certificate in prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

2. An internship of 1 year of qualified experience, as determined by the board, or a residency program recognized by the board.

(c) An orthotic fitter, the applicant must have:

1. A high school diploma or its equivalent;

2. A minimum of 40 hours of training in orthotics education, as approved by the board; and

3. Two years of experience in orthotics, as approved by the board.

(d) An orthotic fitter assistant, the applicant must have:

1. A high school diploma or its equivalent; and

2. A minimum of 40 hours of training in orthotics education, as approved by the board.

(e) A pedorthist, the applicant must have:

1. A high school diploma or its equivalent;

2. A minimum of 120 hours of training, as approved by the board; and

3. An internship of 80 hours of qualified working experience, as determined by the board.

(4) The board shall provide for an alternative to the requirements set forth in paragraphs (3)(a) and (b), which shall include an associate degree, including courses in the anatomical, biological, and physical sciences, and a minimum of 3 years' clinical experience, after receiving the degree, under the direct supervision of an orthotist, prosthetist, or prosthetist-orthotist in the discipline for which licensure is sought. This subsection is repealed July 1, 2002.

Section 5. Orthotists and Prosthetists Educational Programs Task Force.—

(1) There is created, within the Department of Health, the Orthotists and Prosthetists Educational Programs Task Force to assist the Board of Orthotists and Prosthetists in developing the proper educational requirements and minimum professional knowledge, competencies, and skills necessary for licensure of practitioners under this act. After review of existing national certifying examinations, the task force must make recommendations regarding the availability of examinations meeting the identified professional

knowledge, competencies, and skills. The task force must also make recommendations related to the availability of public and private educational and training programs within the state and strategies for addressing unmet needs. The task force must make its recommendations to the board and to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the applicable legislative committees of substance by January 15, 1998. The task force shall consist of five members appointed by the Secretary of Health, one of whom shall be designated by the secretary as chair. Members shall serve at the pleasure of the secretary.

(2) The task force shall meet at least once annually and may meet as often as is necessary. The chair, a quorum of the task force, or the department shall have the authority to call other meetings. A quorum is necessary for the purpose of conducting official business of the task force. Three members of the task force shall constitute a quorum.

(3) The task force shall use accepted rules of procedure to conduct its meetings. The department shall keep on file a complete record of each meeting.

(4) Members of the task force shall receive no compensation for their services, but shall be entitled to receive per diem and travel expenses as provided in s. 112.061, Florida Statutes.

(5) The task force may hold public hearings and may request that the department use its power to obtain information or evidence for consideration by the task force. The department shall provide administrative and staff support services relating to the functions of the task force.

Section 6. Licensure without examination; provisional licensure.—

(1) A person who has practiced orthotics, prosthetics, or pedorthics in this state for the required period since July 1, 1990, who, before March 1, 1998, applies to the department for a license to practice orthotics, prosthetics, or pedorthics, may be licensed as a prosthetist, orthotist, prosthetist-orthotist, orthotic fitter, orthotic fitter assistant, or pedorthist, as determined from the person's experience and educational preparation, without meeting the educational requirements set forth in section 4 of this act, upon receipt of the application fee and licensing fee and after the board has completed an investigation into the applicant's background and experience. The board shall require an application fee not to exceed \$500, which shall be nonrefundable. The board shall complete its investigation within 6 months after receipt of the application. The period of experience required for licensure under this subsection is 5 years for a prosthetist; 2 years for an orthotic fitter, an orthotic fitter assistant, or a pedorthist; and 5 years for an orthotist whose scope of practice is defined under section 1(7) of this act.

(2)(a) A person who has received certification as an orthotist, a prosthetist, or a prosthetist-orthotist from a national certifying body and who has practiced orthotics or prosthetics in this state for at least 2 years but less than 5 years is eligible for a provisional license.

(b) An applicant for provisional licensure shall submit proof that he or she has been actively practicing as a nationally certified orthotist, prosthetist, or prosthetist-orthotist, an application fee, and a provisional license fee.

(c) A provisional licensee is required to practice under supervision of a fully licensed orthotist, prosthetist, or prosthetist-orthotist for up to 3 years in order to meet the 5-year experience requirement of subsection (1) to be licensed as an orthotist, prosthetist, or prosthetist-orthotist.

(d) After appropriate investigation, the board shall license as an orthotist, prosthetist, or prosthetist-orthotist the provisional licensee who has successfully completed the period of experience required and otherwise meets the requirements of subsection (1).

(e) The board shall require an application fee, not to exceed \$500, which is nonrefundable, and a provisional licensure fee, not to exceed \$500.

(3) An applicant who has received certification as an orthotist, a prosthetist, a prosthetist-orthotist, or a pedorthist from a national certifying body which requires the successful completion of an examination, may be licensed under this section without taking an additional examination. An applicant who has not received certification from a national certifying body which requires the successful completion of an examination shall be required to take an examination as determined by the board. This examination shall be designed to determine if the applicant has the minimum qualifications needed to be licensed under this section. The board may charge an examination fee and the actual per applicant cost to the department for purchase or development of the examination.

(4) This section is repealed July 1, 2002.

Section 7. Biennial renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application fee, not to exceed \$500, as set by the board.

(2) The board shall adopt rules establishing a procedure for the biennial license renewal.

(3) The board may by rule prescribe continuing education requirements and approve course criteria, not to exceed 30 hours biennially, as a condition for license renewal. The board shall establish a procedure for approving continuing education courses and may set a fee for continuing education course approval.

Section 8. Temporary license.—The board may adopt rules governing the issuance of temporary licenses.

(1) The board may issue a temporary license to:

(a) An applicant for licensure who has recently moved to this state and has applied for a license, if the applicant is licensed in another state and that state has standards comparable to those in this state as determined by the board.

(b) An applicant certified by a national certifying organization whose highest current educational and training requirements are equal to or exceed the requirements in this act, as determined by the board, and who presents proof that he or she has been actively engaged in the practice of orthotics, prosthetics, or pedorthics within 5 years prior to the application.

(2) A temporary license shall be issued for a limited period of time, not to exceed 1 year, and is renewable for up to 1 additional year.

(3) At the end of the temporary license period, if the person holding a temporary license has made application for full licensure under the appropriate licensure category, the board may grant the appropriate license upon receipt of the license fee and after the board has completed an investigation and evaluation of the applicant's education and experience.

Section 9. Support personnel.—A person must be licensed to practice orthotics, prosthetics, or pedorthics in this state. However, a licensed orthotist, prosthetist, or pedorthist may delegate duties to nonlicensed supportive personnel if those duties are performed under the direct supervision of a licensed orthotist, prosthetist, or pedorthist. In such instances the supervising licensee is responsible for all acts performed by such persons.

Section 10. Prohibitions; penalties.—

(1) A person may not:

(a) Make a false or fraudulent statement in any application, affidavit, or statement presented to the board or in any proceeding before the board.

(b) Practice orthotics, prosthetics, or pedorthics without a license issued pursuant to this act unless otherwise exempt.

(2) A person who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Section 11. Disciplinary proceedings.—

(1) The following acts are grounds for disciplinary action against a licensee and the issuance of cease and desist orders or other related action by the department, pursuant to s. 455.227, Florida Statutes, against any person who engages in or aids in a violation.

(a) Attempting to procure a license by fraudulent misrepresentation.

(b) Having a license to practice orthotics, prosthetics, or pedorthics revoked, suspended, or otherwise acted against, including the denial of licensure in another jurisdiction.

(c) Being convicted or found guilty of or pleading nolo contendere to, regardless of adjudication, in any jurisdiction, a crime that directly relates to the practice of orthotics, prosthetics, or pedorthics, including violations of federal laws or regulations regarding orthotics, prosthetics, or pedorthics.

(d) Filing a report or record that the licensee knows is false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only reports or records that are signed in a person's capacity as a licensee under this act.

(e) Advertising goods or services in a fraudulent, false, deceptive, or misleading manner.

(f) Violation of this act or chapter 455, Florida Statutes, or any rules adopted thereunder.

(g) Violation of an order of the board, agency, or department previously entered in a disciplinary hearing or failure to comply with a subpoena issued by the board, agency, or department.

(h) Practicing with a revoked, suspended, or inactive license.

(i) Gross or repeated malpractice or the failure to deliver orthotic, prosthetic, or pedorthic services with that level of care and skill which is recognized by a reasonably prudent licensed practitioner with similar professional training as being acceptable under similar conditions and circumstances.

(j) Failing to provide written notice of any applicable warranty for an orthosis, prosthesis, or pedorthic device that is provided to a patient.

(2) The board may enter an order imposing one or more of the penalties in s. 455.227(2), Florida Statutes, against any person who violates any provision of subsection (1).

Section 12. Exemptions from licensure.—

(1) This act does not apply to:

(a) A person who is licensed under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes;

(b) A person performing services for the Federal Government, if the person provides orthotic, prosthetic, or pedorthic care solely under the direction or control of the organization by which that person is employed;

(c) A person fulfilling the supervised residency or internship experience requirements of this act;

(d) A student, fellow, or trainee in orthotics, prosthetics, or pedorthics pursuing a course of study at a regionally accredited college or university or working in a recognized training center or research facility, if the activities and services are part of a course of study under a supervisor licensed under this act;

(e) An instructor in a regionally accredited university or college, while performing regularly assigned work under the curriculum of such a school; or

(f) A person engaged exclusively in the fabricating, fitting, or servicing of devices excluded under this act.

(2) This act does not require an additional license of, or regulate the practice of, any other licensed health care professional within the state, or prevent a qualified member of any other profession or any person employed under the supervision of such a licensed professional from doing work of a nature consistent with that person's training, as long as the person does not hold himself or herself out to the public as a licensee under this act.

(3) The provisions of this act relating to orthotics or pedorthics do not apply to any licensed pharmacist or to any person acting under the supervision of a licensed pharmacist. The practice of orthotics or pedorthics by a pharmacist or any of the pharmacist's employees acting under the supervision of a pharmacist shall be construed to be within the meaning of the term "practice of the profession of pharmacy" as set forth in s. 465.003(12), Florida Statutes, and shall be subject to regulation in the same manner as any other pharmacy practice. The Board of Pharmacy shall develop rules regarding the practice of orthotics and pedorthics by a pharmacist. Any pharmacist or person under the supervision of a pharmacist engaged in the practice of orthotics or pedorthics shall not be precluded from continuing that practice pending adoption of these rules.

Section 13. Use of titles.—A person must be licensed under this act to represent himself or herself as a licensed orthotist or prosthetist or use in connection with his or her name the words "orthotist," "prosthetist," "prosthetist-orthotist," "orthotic fitter," "orthotic fitter assistant," "pedorthist," or abbreviations, titles, or insignia indicating that he or she is an orthotist, prosthetist, prosthetist-orthotist, orthotic fitter, orthotic fitter assistant, or pedorthist.

Section 14. This act shall take effect July 1, 1997.

Became a law without the Governor's approval May 31, 1997.

Filed in Office Secretary of State May 30, 1997.