

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1633

Short Title: Prosthetist/Orthotist/Pedorthist Licensure. (Public)

Sponsors: Senator Hartsell.

Referred to: Commerce, Small Business and Entrepreneurship.

May 19, 2008

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA PROSTHETISTS,
3 ORTHOTISTS, AND PEDORTHIST LICENSURE ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 12B.

8 "Prosthetist, Orthotist, and Pedorthist Licensure Act.

9 **"§ 90-202.20. Short title.**

10 This Article may be cited as the 'Prosthetist, Orthotist, and Pedorthist Licensure Act'.

11 **"§ 90-202.21. Legislative findings.**

12 The General Assembly finds the practice of orthotics, prosthetics, and pedorthics is
13 an area of health care that is continually evolving to include more sophisticated and
14 demanding patient care activities. The increasing population of elderly and physically
15 challenged individuals in North Carolina who need orthotic, prosthetic, and pedorthic
16 services requires that the orthotic, prosthetic, and pedorthic professions be regulated to
17 ensure the provision of high-quality services and devices. The General Assembly further
18 finds the practice of orthotics, prosthetics, and pedorthics by unqualified persons is a
19 threat to public health, safety, and welfare, and therefore it is necessary to establish
20 minimum standards of education, training, and competency for persons engaged in the
21 practice of orthotics, prosthetics, and pedorthics.

22 **"§ 90-202.22. Definitions.**

23 The following definitions apply in this act:

24 (1) Board. – The North Carolina Prosthetist, Orthotist, and Pedorthist
25 Licensure Board.

26 (2) Custom fabricated device. – An orthosis, prosthesis, or pedorthic device
27 that is fabricated to original measurements or a mold for use by a
28 patient in accordance with a prescription.

- 1 (3) Custom fitted device. – A prefabricated orthosis, prosthesis, or
2 pedorthic device that is sized or modified for use by a patient in
3 accordance with a prescription.
- 4 (4) Over-the-counter. – Prefabricated, mass-produced item that is
5 prepackaged and requires no professional advice or judgment in either
6 size selection or use, including fabric or elastic supports, corsets,
7 generic arch supports, and elastic hose.
- 8 (5) Orthotist. – An allied health professional who is specifically trained
9 and educated via a course of instruction accredited by the Commission
10 on Accreditation of Allied Health Education Programs in this
11 discipline to provide or manage the provision of a custom designed,
12 fabricated, or modified and fitted external orthosis to an orthotic
13 patient based on a clinical assessment and a physician's, physician's
14 assistant, or nurse practitioner's or podiatrist's prescription, to restore
15 physiological function or cosmesis and represents himself or herself to
16 the public by such title as providing orthotic services.
- 17 (6) Orthosis. – A custom designed, fabricated, fitted, modified, or fitted
18 and modified device to correct, support, or compensate for a
19 neuromusculoskeletal disorder or acquired condition. Orthosis does
20 not include fabric or elastic supports, corsets, arch supports, low
21 temperature plastic splints, trusses, elastic hose, canes, crutches, soft
22 cervical collars, dental appliances, or other similar devices that are
23 carried in stock and sold as over-the-counter items by a drugstore or
24 department store, corset shop, or surgical supply facility.
- 25 (7) Orthotics. – Evaluating, measuring, designing, fabricating, assembling,
26 fitting, adjusting, or servicing an orthosis for the correction or
27 alleviation of neuromuscular or musculoskeletal dysfunction, disease,
28 injury, or deformity, as provided in this act.
- 29 (8) Pedorthic device. – Therapeutic footwear, foot orthoses for use at the
30 ankle or below, and modified footwear made for therapeutic purposes.
31 The term does not include nontherapeutic accommodative inlays or
32 nontherapeutic accommodative footwear, regardless of method of
33 manufacture, shoe modifications made for nontherapeutic purposes,
34 unmodified, over-the-counter shoes, or prefabricated foot care
35 products.
- 36 (9) Pedorthics. – Evaluating, measuring, designing, fabricating,
37 assembling, fitting, adjusting, or servicing a pedorthic devise for the
38 correction or alleviation of neuromuscular or musculoskeletal
39 dysfunction, disease, injury, or deformity, as provided in this act.
- 40 (10) Pedorthist. – An individual licensed under this act to practice
41 pedorthics.
- 42 (11) Prefabricated orthosis. – A brace or support designed to provide for
43 alignment, correction, or prevention of neuromuscular or
44 musculoskeletal dysfunction, disease, injury, or deformity. The term

1 does not include fabric or elastic support, corsets, arch supports,
2 low-temperature plastic splints, trusses, elastic hose, canes, crutches,
3 soft cervical collars, dental appliances, or other similar devices carried
4 in stock and sold as over-the-counter items by a drugstore, department
5 store, corset shop, or surgical supply facility.

6 (12) Prosthesis. – A custom designed, fabricated, fitted, modified, or fitted
7 and modified device to replace an absent external limb for purposes of
8 restoring physiological function or cosmesis. Prosthesis does not
9 include artificial eyes, ears, dental appliances, cosmetic devices such
10 as artificial breasts, eyelashes, or wigs, or other devices that do not
11 have a significant impact on the musculoskeletal functions of the body.

12 (13) Prosthetics. – The science and practice of evaluating, measuring,
13 designing, fabricating, assembling, fitting, adjusting, or servicing a
14 prosthesis under an order from a licensed physician or podiatrist.

15 (14) Prosthetist. – An individual licensed under this act to practice
16 prosthetics.

17 **"§ 90-202.23. License required; exemptions.**

18 (a) On or after January 1, 2009, no person shall practice or offer to practice
19 prosthetics, orthotics, or pedorthics as defined in this Article, use the title 'Licensed
20 Prosthetist, Licensed Orthotist, or Licensed Pedorthist, use the letters 'LP', 'LO', or
21 otherwise indicate or imply that the person is a licensed prosthetist, licensed orthotist, or
22 licensed pedorthist, unless that person is currently licensed as provided in this Article.

23 (b) The provisions of this Article shall not apply to:

24 (1) Any person licensed to engage in another profession or occupation or
25 any person working under the supervision of a person licensed to
26 engage in another profession or occupation in this State if the person is
27 performing work incidental to or within the practice of that profession
28 and the person does not represent himself or herself as a licensed
29 prosthetist, licensed orthotist, or licensed pedorthist.

30 (2) A student enrolled in a prosthetics, orthotics, or pedorthics educational
31 program if services performed by the student are an integral part of the
32 student's course of study and are performed under the direct
33 supervision of a licensed prosthetist, licensed orthotist, or licensed
34 pedorthist.

35 (3) A prosthetist, orthotist, or pedorthist employed by the United States
36 government when performing duties associated with employment.

37 (c) Unlawful Act. – A person who violates this section is guilty of a Class 1
38 misdemeanor and may be subject to a civil penalty of not more than one thousand
39 dollars (\$1,000) for each violation. The Board may make application to superior court
40 for an order enjoining a violation of this section. Upon a showing by the Board that a
41 person has violated or is about to violate this section, the court may grant an injunction,
42 restraining order, or take other appropriate action.

43 **"§ 90-202.24. The North Carolina Prosthetist, Orthotist, and Pedorthist Licensure**
44 **Board.**

1 (a) Board. – The North Carolina Prosthetist, Orthotist, and Pedorthist Licensure
2 Board is created. The Board consists of nine members serving for staggered terms.
3 Upon expiration of the terms of the initial Board members, each member is appointed
4 for a term of three years, beginning on January 1 of each year. A member serves until
5 the member's successor is appointed. No member may serve more than two consecutive
6 full terms.

7 The initial board members shall be appointed on or before October 1, 2009, as
8 follows:

- 9 (1) The General Assembly, upon the recommendation of the President Pro
10 Tempore of the Senate, shall appoint one licensed prosthetist, one
11 licensed orthotist, and one licensed pedorthist, each of whom shall
12 serve a term of three years.
- 13 (2) The General Assembly, upon the recommendation of the Speaker of
14 the House of Representatives, shall appoint one licensed prosthetist,
15 one licensed orthotist, and one licensed pedorthist, each of whom shall
16 serve a term of two years.
- 17 (3) The General Assembly, upon the recommendation of the President Pro
18 Tempore of the Senate, shall appoint one podiatrist who is licensed
19 under Article 12A of Chapter 90 of the General Statutes, who shall
20 serve a one-year term.
- 21 (4) The General Assembly, upon the recommendation of the Speaker of
22 the House of Representatives, shall appoint one podiatrist who is
23 licensed under Article 12A of Chapter 90 of the General Statutes, who
24 shall serve a two-year term.
- 25 (5) The Governor shall appoint one public member who shall serve a
26 three-year term.

27 (b) Qualifications. – Members of the Board shall be citizens of the United States
28 and residents of this State. The prosthetist, orthotist, and pedorthist members shall hold
29 current licenses from the Board and shall remain in good standing with the Board during
30 their terms. Public members of the Board shall not be: (i) trained or experienced in the
31 practice of prosthesis, orthotics, or pedorthics, (ii) an agent or employee of a person
32 engaged in the practice of prosthetics, orthotics, or pedorthics, (iii) a health care
33 professional licensed under Chapter 90 or a person enrolled in a program to become a
34 licensed health care professional, (iv) an agent or employee of a health care institution, a
35 health care insurer, or a health care professional school, (v) a member of an allied health
36 profession or a person enrolled in a program to become a member of an allied health
37 profession, or (vi) a spouse of an individual who may not serve as a public member of
38 the Board.

39 (c) Vacancies. – A member of the Board serves at the pleasure of the authority
40 that appointed it. A vacancy must be filled in the same manner as the original
41 appointment. An appointee to fill a vacancy shall serve the remainder of the unexpired
42 term and until the appointee's successor has been duly appointed.

43 (d) Removal. – The Board may remove any of its members for neglect of duty,
44 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings

1 in his or her capacity as a licensed prosthetist, licensed orthotist, or licensed pedorthist
2 shall be disqualified from participating in the official business of the Board until the
3 charges have been resolved.

4 (e) Compensation. – Each member of the Board shall receive per diem and
5 reimbursement for travel and subsistence as provided in G.S. 93B-5.

6 (f) Officers. – The officers of the Board shall be a chair, a vice-chair, and other
7 officers deemed necessary by the Board to carry out the purposes of this Article. All
8 officers shall be elected annually by the Board for one-year terms and shall serve until
9 their successors are elected and qualified.

10 (g) Meeting. – The Board shall hold its first meeting within 30 days after the
11 appointment of its members and shall hold at least two meetings each year to conduct
12 business and to review the standards and rules previously adopted by the Board. The
13 Board shall establish the procedures for calling, holding, and conducting regular and
14 special meetings. A majority of Board members constitutes a quorum.

15 **"§ 90-202.25. Powers and duties of the Board.**

16 The Board shall have the power and duty to:

- 17 (1) Administer and enforce the provisions of this act.
- 18 (2) Issue interpretations of this Article.
- 19 (3) Adopt, amend, or repeal rules as may be necessary to carry out the
20 provisions of this Article.
- 21 (4) Employ and fix the compensation of personnel that the Board
22 determines is necessary to carry into effect the provisions of this
23 Article and incur other expenses necessary to effectuate this Article.
- 24 (5) Determine the qualifications and fitness for applicants for licensure,
25 licensure renewal, and reciprocal licensure.
- 26 (6) Issue, renew, deny, suspend, or revoke licenses, order probation, issue
27 reprimands, and carry out any other disciplinary actions authorized by
28 this Article.
- 29 (7) Set fees for licensure, reciprocal licensure, licensure renewal, and
30 other services deemed necessary to carry out the purposes of this
31 Article.
- 32 (8) Establish continuing education requirements for licensees.
- 33 (9) Establish a code of ethics for licensees.
- 34 (10) Maintain a current list of all persons who have been licensed under this
35 Article.
- 36 (11) Conduct investigations for the purposes of determining whether
37 violations of this Article are grounds for disciplining licensees.
- 38 (12) Maintain a record of all proceedings and make available to all
39 licensees and other concerned parties an annual report of all Board
40 action.
- 41 (13) Adopt a seal containing the name of the Board for use on all official
42 documents and reports issued by the Board.

43 **"§ 90-202.26. Qualifications for licensure; renewal.**

1 (a) Licensure. – Upon application to the Board and payment of the required fees,
2 an applicant may be licensed under this act as a prosthetist, orthotist, or pedorthist if the
3 applicant meets all of the following qualifications and conditions:

4 (1) Possesses a high school diploma or its equivalent.

5 (2) Completes the amount of formal training, including, but not limited to,
6 any hours of classroom education and clinical practice established and
7 approved by a prosthetic, orthotic, and pedorthic credentialing
8 organization recognized by the National Organization for Competency
9 Assurance (NOCA) and accredited by the National Commission for
10 Certifying Agencies (NCCA).

11 (3) Completes a qualified work experience program or internship in
12 prosthetics, orthotics, or pedorthics in accordance with standards,
13 guidelines, or procedures established and approved by the Board.

14 (4) Passes all examinations that are required for certification by a
15 prosthetic, orthotic, or pedorthic credentialing organization recognized
16 by the National Organization for Competency Assurance (NOCA) and
17 accredited by the National Commission for Certifying Agencies
18 (NCCA).

19 (5) Fulfills all educational and training requirements consistent with those
20 required for certification by a prosthetic, orthotic, and pedorthic
21 credentialing organization recognized by the National Organization for
22 Competency Assurance (NOCA) and accredited by the National
23 Commission for Certifying Agencies (NCCA).

24 (b) Renewal. – A license expires two years after the date it is issued unless it is
25 renewed. Failure to renew a license within six months of the date the license expires
26 shall result in automatic forfeiture of the right to practice prosthetics, orthotics, or
27 pedorthics in this State until such time that the license has been reinstated. To renew a
28 license, a licensee must meet all of the following conditions:

29 (1) Submit an application for license renewal.

30 (2) Pay the required fees.

31 (3) Complete continuing education requirements approved by the Board.

32 An application for renewal of a license that has been expired for less than three years
33 shall be accompanied by proof satisfactory to the Board that the applicant has satisfied
34 the continuing education requirements established by the Board and the renewal and late
35 fees required by G.S. 90-202.28. A license that has been expired for more than three
36 years shall not be renewed, but the applicant may reapply for licensure by complying
37 with the current requirements for licensure under this Article.

38 **"§ 90-202.27. Reciprocity.**

39 The Board may grant, upon application and the payment of proper fees, a license to
40 a person who, at the time of application, holds a valid license, certificate, or registration
41 as a prosthetist, orthotist, or pedorthist, issued by another state if both of the following
42 conditions are met:

1 (1) The standards for licensure, certification, or registration in the state in
2 which the applicant is licensed, certified, or registered are substantially
3 equivalent to those provided in this act.

4 (2) The applicant provides proof of licensure, certification, or registration
5 in good standing in all states in which the applicant has been licensed,
6 certified, or registered.

7 **"§ 90-202.28. Expenses; fees.**

8 (a) All fees shall be payable to the Board and deposited in the name of the Board
9 in financial institutions designated by the Board as official depositories. These fees shall
10 be used to carry out the purposes of this Article.

11 (b) All salaries, compensation, and expenses incurred or allowed to carry out the
12 purposes of this Article shall be paid by the Board exclusively out of the fees received
13 by the Board as authorized by this Article or funds received from other sources. In no
14 case shall any salary, expense, or other obligation authorized by this Article be charged
15 against the Department of State Treasurer.

16 (c) The Board shall establish fees not exceeding the following amounts:

17 (1) For issuance of any license, a fee not to exceed three hundred fifty
18 dollars (\$350.00).

19 (2) For the late renewal of any license, an additional late fee not to exceed
20 one hundred dollars (\$100.00).

21 (3) For the reinstatement of any license, an additional fee not to exceed
22 one hundred dollars (\$100.00).

23 (4) For copies of rules adopted pursuant to this Article and licensure
24 standards, charges not exceeding the actual cost of printing and
25 mailing.

26 **"§ 90-202.29. Disciplinary authority.**

27 (a) Authority. – The Board may deny, suspend, revoke, or refuse to issue or
28 renew a license if the licensee or applicant:

29 (1) Engages in any act or practice in violation of any of the provisions of
30 this act or of any of the rules adopted by the Board, or aids, abets, or
31 assists any other person in the violation of these provisions or rules.

32 (2) Gives false information to or withholds information from the Board in
33 procuring or attempting to procure a license.

34 (3) Has been convicted of or pled guilty or no contest to a crime that
35 indicates that the person is unfit or incompetent to practice as a
36 prosthetist, orthotist, or pedorthist or that indicates the person has
37 deceived or defrauded the public. A felony conviction shall result in
38 the automatic revocation of a license issued by the Board unless the
39 Board determines otherwise pursuant to rules adopted by the Board.

40 (4) Has been declared mentally incompetent by a court of competent
41 jurisdiction.

42 (5) Habitually uses or is addicted to drugs or intoxicating liquors to an
43 extent that affects his or her professional competency. If a licensee
44 violates this subdivision, the Board may require the licensee to

1 undergo a mental or physical examination by physicians designated by
2 the Board before or after the licensee has been charged. The results of
3 the examination shall be admissible as evidence in a hearing before the
4 Board.

5 (6) Has demonstrated gross negligence, incompetence, or misconduct in
6 the performance of prosthetics, orthotics, or pedorthics.

7 (7) Has had a license, certification, or registration denied, restricted,
8 revoked, or suspended by another state or jurisdiction.

9 (8) Fails to respond, within a reasonable time, to inquiries from the Board
10 concerning any matter affecting the individual's license to practice
11 prosthetics, orthotics, or pedorthics.

12 (9) Fails to complete continuing education requirements within the time
13 prescribed.

14 (b) Hearing. – Denial, refusal to renew, suspension, or revocation of a license, or
15 imposition of probationary conditions upon a licensee may be ordered by the Board
16 after a hearing held in accordance with Article 3A of Chapter 150B of the General
17 Statutes and rules adopted pursuant to this act. An application may be made to the Board
18 for reinstatement of a revoked license."

19 **SECTION 2.** A person who submits proof to the Board that the person has
20 been actively engaged in business as a prosthetist, orthotist, or pedorthist in this State
21 for at least three consecutive years before the effective date of this act and pays the
22 required fee for the issuance of a license shall be licensed without having to satisfy the
23 requirements of G.S. 90-202.26 enacted by Section 1 of this act. All persons who do
24 not make application to the Board within one year of the effective date of this act shall
25 be required to complete all requirements prescribed by the Board and otherwise to
26 comply with the provisions of G.S. 90-202.26.

27 **SECTION 3.** Notwithstanding G.S. 90-202.24(a)(1) and (2), as enacted by
28 Section 1 of this act, the initial prosthetists, orthotists, and pedorthists appointed to the
29 North Carolina Prosthetist, Orthotist, and Pedorthist Licensure Board do not have to
30 meet the licensure qualifications established under G.S. 90-202.26, as enacted by
31 Section 1 of this act. The appointees must be prosthetist, orthotist, and pedorthist
32 certified by a credentialing organization recognized by the National Organization for
33 Competency Assurance (NOCA) and accredited by the National Commission for
34 Certifying Agencies (NCCA) and must apply for and obtain a license from the Board
35 within 90 days after the Board begins issuing licenses.

36 **SECTION 4.** This act is effective when it becomes law.