

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 764

By: Maddox

AS INTRODUCED

An Act relating to professions and occupations; creating the Oklahoma Licensed Orthotists and Prosthetists Act; defining terms; providing for rules; requiring licensure for certain activities; requiring certain qualifications; requiring examinations; providing exemptions; authorizing temporary licenses; providing for fees; authorizing use of certain designations and representations; providing exemptions to act; providing for denial, suspension, revocation and refusal to renew licenses; providing grounds; specifying penalties; authorizing administrative penalties; requiring notice and opportunity for hearing; providing for appointment of an advisory council; providing for appointments, qualifications, meetings and membership; providing for removal; providing for meetings and specifying duties; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3001 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Licensed Orthotists and Prosthetists Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3002 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Licensed Orthotists and Prosthetists Act:

1. "Advisory Council" means the Oklahoma Licensed Orthotists and Prosthetists Advisory Council appointed pursuant to Section 11 of this act;

2. "Board" means the State Board of Health;
3. "Department" means the Oklahoma State 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. The term orthosis does not include the following assistive technology devices:
 - a. upper extremity adaptive equipment used to facilitate the activities of daily living, including specialized utensils, combs, brushes, and finger splints,
 - b. wheelchair seating and equipment that is an integral part of the wheelchair and not worn by the patients,
 - c. elastic abdominal supports that do not have metal or plastic reinforcing stays,
 - d. arch supports,
 - e. devices implanted into the body by a physician,
 - f. prefabricated foot care products,
 - g. durable medical equipment such as canes, crutches, or walkers,
 - h. dental appliances,
 - i. unmodified, over-the-counter shoes, or
 - j. nontherapeutic accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture; and
5. "Accommodative" means designed with the primary goal of conforming to the individual's anatomy;
6. "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;
7. "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 modifications;

- a. pressure gradient hose,
- b. trusses, custom-molded therapeutic footwear,
- c. prefabricated spinal orthoses, except for those used in the treatment of scoliosis, rigid body jackets made of thermoformable materials, and "halo" devices, and
- d. prefabricated orthoses of the upper and lower extremities, except for those used in the treatment of bone fractures;

8. "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:

- a. prefabricated soft cervical orthoses,
- b. prefabricated soft spinal supports, pressure gradient hose,
- c. trusses, and
- d. soft prefabricated orthoses for the upper and lower extremities;

9. "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;

10. "Orthotist" means a person licensed to practice orthotics pursuant to the "Oklahoma Licensed Orthotists and Prosthetists Act";

11. "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. The term pedorthic device 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;

12. "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;

13. "Pedorthist" means a person licensed to practice pedorthics pursuant to the Oklahoma Licensed Orthotists and Prosthetists Act;

14. "Prosthesis" means a medical device used to replace a missing appendage or other external body part, including an artificial limb, hand, or foot. The term prosthesis 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;

15. "Prosthetics" means the practice, pursuant to 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;

16. "Prosthetist" means a person licensed to practice prosthetics pursuant to the Oklahoma Licensed Orthotists and Prosthetists Act; and

17. "Prosthetist-orthotist" means a person licensed to practice as a prosthetist and as an orthotist.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3003 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Health shall promulgate rules necessary to implement the provisions of the Oklahoma Licensed Orthotists and Prosthetists Act. Such rules shall include, but shall not be limited to:

1. Procedures for issuance of licenses to practice and for biennial renewal of licenses;
2. Procedures and standards for examinations;
3. Procedures and standards for issuance of provisional and temporary licenses;
4. Continuing education requirements and course criteria, not to exceed thirty (30) hours biennially, as a condition for license renewal;
5. Procedures for approving continuing education courses;
6. Procedures for investigations of applicants to ensure compliance with the Oklahoma Licensed Orthotists and Prosthetists Act and rules promulgated by the Board;
7. Physical plant and life safety standards to protect the health and safety of patients in areas where orthotic, prosthetic, or pedorthic devices are fabricated or fitted; and
8. Such other powers and duties necessary to implement the Oklahoma Licensed Orthotists and Prosthetists Act.

B. The repair, replacement, adjustment, or servicing of any existing orthosis, pedorthic device, or prosthesis may be performed without an additional prescription from the physician, unless the original prescription states otherwise. If a patient is under the care of a licensed occupational therapist or physical therapist, the orthotist, pedorthist, or prosthetist 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, a pedorthic device, or prosthesis.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3004 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Each application for a license issued pursuant to the Oklahoma Licensed Orthotists and Prosthetists Act shall be submitted on a form issued by the Oklahoma State Department of Health and

shall be accompanied by the nonrefundable fees required by the Oklahoma Licensed Orthotists and Prosthetists Act. The applicant is required to complete the application and pay the fees prior to taking the examination required pursuant to Oklahoma Licensed Orthotists and Prosthetists Act.

B. Each applicant for a license under the Oklahoma Licensed Orthotists and Prosthetists Act shall:

1. Be eighteen (18) years of age or older;
2. Complete the educational preparation and training and experience requirements required under the Oklahoma Licensed Orthotists and Prosthetists Act and rules promulgated by the State Board of Health;
3. Pass the appropriate practical and written examinations based on standards promulgated by the Board; and
4. Otherwise comply with the Oklahoma Licensed Orthotists and Prosthetists Act and rules promulgated by the Board.

C. In addition to the qualifications specified in subsection B of this section, an applicant for a license shall satisfy the following:

1. For an orthotist license, education and experience of at least the following:
 - a. 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, and one (1) year of qualified internship or residency, or
 - b. an associate degree, including courses in the anatomical, biological, and physical sciences, and three (3) years of clinical experience, after

receiving the degree, under the direct supervision of an orthotist;

2. For a prosthetist license, education and experience of at least the following:

- a. 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, and one (1) year of qualified internship or residency, or
- b. an associate degree, including courses in the anatomical, biological, and physical sciences, and three (3) years of clinical experience, after receiving the degree, under the direct supervision of an prosthetist;

3. For an orthotic fitter license, education and experience of at least the following:

- a. a high school diploma or its equivalent,
- b. forty (40) hours of training in orthotics education, and
- c. two (2) years of experience in orthotics;

4. For an orthotic fitter assistant license, education and experience of at least the following:

- a. a high school diploma or its equivalent, and
- b. forty (40) hours of training in orthotics education;

5. For a pedorthist license, education and experience of at least the following:

- a. a high school diploma or its equivalent,
- b. a minimum of one hundred twenty (120) hours of training, and

c. an internship of eighty (80) hours of qualified working experience.

D. Licensure shall be granted independently in orthotics, prosthetics, or pedorthics, and a separate application shall be filed for each discipline. A person may be licensed in more than one such discipline.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3005 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Examinations shall be held at such times and in such place and manner as the Commissioner of Health directs. An examination shall be held at least annually, and the Oklahoma State Department of Health shall determine the acceptable grade on examinations. The examination shall include a practical examination demonstrating clinical patient management, when appropriate, and written examinations, one of which demonstrates orthotic, prosthetic, or pedorthic problem-solving skills.

B. The State Board of Health may accept the examination results of a national orthotic, prosthetic, or pedorthic standards organization instead of administering the state examination.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3006 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person who has practiced orthotics, prosthetics, or pedorthics in this state since at least July 1, 1993, and who, before July 1, 2000, applies to the Oklahoma State Department of Health for a license to practice orthotics, prosthetics, or pedorthics, may be licensed as appropriate 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 Department has completed an investigation into the applicant's background and experience. The period of experience required for licensure under this section is five (5) years for a prosthetist and five (5) years for an orthotist.

B. 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 Oklahoma for at least two (2) years but less than five (5) years is eligible for a provisional license.

C. An applicant for provisional licensure shall submit proof that such applicant has been actively practicing as a nationally certified orthotist, prosthetist, or prosthetist-orthotist, and shall include a provisional application fee and a provisional license fee.

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

E. After appropriate investigation, the Department shall license as an orthotist, prosthetist, or prosthetist-orthotist the provisional licensee who successfully completed the period of experience required and otherwise meets the requirements of subsection A of this section.

F. An applicant who has received certification as an orthotist, a prosthetist, a prosthetist-orthotist, or a pedorthist from a national certifying body that requires the successful completion of an examination, shall be licensed under this section without taking an additional examination. An applicant who has not received certification from a national certifying body that requires the

successful completion of an examination shall be required to take an examination as determined by the board.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3007 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Commissioner of Health shall have the power to issue a temporary license to:

1. An applicant for licensure who has recently moved to this state and has applied for license, if the applicant is licensed in another state and that state has standards comparable to those in Oklahoma; or

2. An applicant certified by a national certifying organization whose highest current educational and training requirements are equal to or exceed the requirements in the Oklahoma Licensed Orthotists and Prosthetists Act, and who presents proof that such applicant has been actively engaged in the practice of orthotics, prosthetics, or pedorthics within five (5) years prior to the application.

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

C. 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 Commissioner may grant the appropriate license upon receipt of the license fee and after the Oklahoma State Department of Health has completed an investigation and evaluation of the applicant's education and experience.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3008 of Title 59, unless there is created a duplication in numbering, reads as follows:

The licensing fee, the biennial renewal fee, and the examination fee shall be in amounts set by the Board of Health by rule based on the recommendations of the Oklahoma Licensed Orthotists and Prosthetists Advisory Board. The Board shall set the fees in amounts sufficient to meet the expenses of administering the Oklahoma Licensed Orthotists and Prosthetists Act and shall not exceed the following amounts:

License fee	\$500.00
Biennial renewal fee	\$500.00
Examination fee	\$150.00
Provisional application fee	\$500.00
Provisional license fee	\$500.00
Temporary license fee	\$250.00
Approval of a continuing education course fee	\$25.00

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3009 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person must be licensed under the Oklahoma Licensed Orthotists and Prosthetists Act to practice orthotics, prosthetics, or pedorthics, to represent oneself as a licensed orthotist, prosthetist or pedorthist, or use in connection with one's name the words "orthotist", "prosthetist", "prosthetist-orthotist", "orthotic fitter", "orthotic fitter assistant", "pedorthist", or abbreviations, titles, or insignia indicating that one is an orthotist, prosthetist, prosthetist-orthotist, orthotic fitter, orthotic fitter assistant or pedorthist.

B. A licensed orthotist, prosthetist, or pedorthist may delegate duties to nonlicensed support 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 nonlicensed persons.

C. The Oklahoma Licensed Orthotists and Prosthetists Act shall not apply to:

1. A physician or dentist licensed under Title 59 of the Oklahoma Statutes;

2. 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;

3. A person fulfilling the supervised residency or internship requirements of the Oklahoma Licensed Orthotists and Prosthetists Act;

4. 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 the Oklahoma Licensed Orthotists and Prosthetists Act;

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

6. A person engaged exclusively in the fabricating, fitting, or servicing of devices excluded under the Oklahoma Licensed Orthotists and Prosthetists Act;

D. The Oklahoma Licensed Orthotists and Prosthetists 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 the Oklahoma Licensed Orthotists and Prosthetists Act;

E. The provisions of the Oklahoma Licensed Orthotists and Prosthetists 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.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of Health may deny, suspend, refuse to renew or revoke the license of any person, or take such other action as is appropriate, against any person who:

1. Has a license to practice orthotics, prosthetics, or pedorthics revoked, suspended, or otherwise acted against, including the denial of licensure in another jurisdiction;

2. Has been convicted or found guilty of, or has plead 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;

3. Files a report or record that the licensee knows is false, intentionally or negligently fails to file a report or record required under the Oklahoma Licensed Orthotists and Prosthetists Act, willfully impedes or obstructs such filing, or induces another person to impede or obstruct such filing;

4. Advertises goods or services in a fraudulent, false, deceptive, or misleading manner;

5. Violates the provisions of the Oklahoma Licensed Orthotists and Prosthetists Act or any rules adopted thereunder;

6. Violates an order of the Commissioner previously entered in a disciplinary hearing or fails to comply with a subpoena issued by the Commissioner;

7. Practices with a revoked, suspended, or inactive license;

8. Engages in gross or repeated malpractice or failure to deliver orthotic, prosthetic, or pedorthic services with the level of care and skill that is recognized by a reasonably prudent licensed practitioner with similar professional training as being acceptable under similar conditions and circumstances; or

9. Fails to provide written notice of any applicable warranty for an orthosis, prosthesis, or pedorthic device that is provided to a patient.

B. Any person who has been determined by the Commissioner to have violated any provision of the Oklahoma Licensed Orthotists and Prosthetists Act or any rule promulgated hereunder shall be liable for an administrative penalty of not more than Five Hundred Dollars (\$500.00) for each day that said violation occurs.

C. In taking any action to suspend, deny renewal, or revoke a license, or to impose an administrative penalty, the Commissioner shall comply with requirements of the Administrative Procedures Act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3011 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Commissioner of Health, with the advice and consent of the State Board of Health, shall appoint an Oklahoma Licensed Orthotists and Prosthetists Advisory Council in accordance with the Oklahoma Sunset Law. The Advisory Council shall consist of seven (7) members.

B. The members of the Advisory Council must be residents of Oklahoma:

1. One member shall be a practicing prosthetist with three (3) years experience after receiving a Bachelor of Science degree in Orthotics and Prosthetics;

2. One member shall be a practicing prosthetist with at least six (6) years experience after certification by a national certifying body;

3. One member shall be a practicing orthotist with three (3) years experience after receiving a Bachelor of Science degree in Orthotics and Prosthetics;

4. One member shall be a practicing orthotist with at least six (6) years experience after certification by a national certifying body;

5. Two members shall 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

6. One member shall be a physician licensed under Title 59 of the Oklahoma Statutes, who has extensive knowledge of orthotics or prosthetics.

One of the prosthetist or orthotist members must have received training in pedorthics and have three (3) years of pedorthic experience.

C. Members of the Advisory Council shall be appointed for terms of four (4) years each and shall serve until their successors are appointed. For the purpose of staggering terms, two of the original council members shall serve terms of four (4) years each, two shall serve terms of three (3) years each, two shall serve terms of two (2) years each, and one shall serve a term of one (1) year, as designated by the Commissioner. Members may be reappointed for additional terms.

D. Any Advisory Council member may be removed by the Commissioner, after written notice, for incapacity, incompetence, neglect of duty, misfeasance or malfeasance in office.

E. Members of the Advisory Council shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses as provided by the State Travel Reimbursement Act.

F. The Advisory Council shall hold at least four (4) regular meetings each year. Meetings shall be held at such time and place as the Advisory Council may provide. The Advisory Council shall elect annually the following officers: a chair, a vice-chair, and a secretary.

G. The Advisory Council shall advise the State Board of Health on the following:

1. Rules including standards of practice, educational requirements, professional knowledge, competencies, and skills necessary for the licensure of practitioners under the Oklahoma Licensed Orthotists and Prosthetists Act;

2. The availability of examinations adequately assessing the professional knowledge, competencies, and skills required in the Oklahoma Licensed Orthotists and Prosthetists Act and in rules promulgated thereunder;

3. The availability of public and private educational and training programs within Oklahoma and strategies for meeting unmet needs;

4. Implementation and enforcement of the Oklahoma Licensed Orthotists and Prosthetists Act and rules promulgated pursuant thereto; and

5. Such other matters and activities as directed by the State Board of Health.

SECTION 12. This act shall become effective November 1, 1999.

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