ENROLLED SENATE
BILL NO. 189

By: Maddox of the Senate

and

Matlock of the House

An Act relating to professions and occupations; creating the Orthotics and Prosthetics Practice Act; providing short title; defining terms; providing exemptions to application of act; providing for rules; authorizing investigations; authorizing the State Board of Medical Licensure and Supervision to require production of documents; authorizing seeking of injunctive relief; creating Advisory Committee on Orthotics and Prosthetics; providing for membership, terms, appointments, officers, quorum, travel reimbursement and advisory duties; providing qualifications for standard and alternative licensure; authorizing fees; requiring continuing education; providing procedures to allow persons already in practice as orthotists or prosthetists to continue practice; providing for registration; providing for scope of practice; authorizing administrative fines for violation of act; requiring maintenance of rosters to be available pursuant to Oklahoma Open Records Act; 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 “Orthotics and Prosthetics Practice 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 Orthotics and Prosthetics Practice Act:

1. "Board" means the State Board of Medical Licensure and Supervision;

2. "Committee" means the Advisory Committee on Orthotics and Prosthetics;

3. "Licensed orthotist" means a person licensed under the Orthotics and Prosthetics Practice Act to practice orthotics and who is entitled to represent himself or herself to the public by a title or description of services that includes the term "orthotic" or "orthotist";

4. "Licensed prosthetist" means a person licensed under the Orthotics and Prosthetics Practice Act to practice prosthetics and who is entitled to represent himself or herself to the public by a title or description of services that includes the term "prosthetic" or "prosthetist";

5. "Orthosis" means a custom-fabricated or custom-fitted brace or support designed to provide for alignment, correction, or prevention of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity, not excluding those of the foot; provided, however, "orthosis" does not include soft goods such as fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hose, canes, crutches, soft cervical collars, dental appliances, or essentially equivalent devices commonly sold as over-the-counter items requiring no professional advice or judgment in either size selection or use;

6. "Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis under a prescription from a licensed physician for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;

7. "Orthotist" means a person who evaluates, measures, designs, fabricates, assembles, fits, adjusts, or services an orthosis as prescribed by a licensed physician for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities;

8. "Prosthesis" means an artificial medical device that is not surgically implanted and that is used to replace a missing limb, appendage, or another external human body part including an artificial limb, hand, or foot; provided, however, "prosthesis" does not include artificial eyes, ears, fingers, toes, dental applicances, cosmetic devices such as artificial breasts, eyelashes, or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body;

9. "Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing prostheses under a prescription from a licensed physician;

10. "Prosthetist" means a person who evaluates, measures, designs, fabricates, fits, or services a prosthesis as prescribed by a licensed physician for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences;

11. "Registered prosthetist/orthotist assistant" means a person registered under the Orthotics and Prosthetics Practice Act who, under the direct supervision of a licensed orthotist or prosthetist, assists with patient care services or the fabrication of orthoses or prostheses;

12. "Registered prosthetic/orthotic technician" means a person registered under the Orthotics and Prosthetics Practice Act who, under the direct supervision of a licensed orthotist or prosthetist, assists with the fabrication of orthoses or prostheses but who does not provide direct patient care; and

13. "Resident" means a person who has completed an education program in either orthotics or prosthetics recognized by the Board and is continuing clinical education in a residency recognized by the Board and accredited by the National Commission on Orthotic and Prosthetic Education or other accrediting group recognized by the Board.

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:

The Orthotics and Prosthetics Practice Act shall not apply to:

1. Persons licensed by this state as practitioners of the healing arts when engaging in the practice or practices for which licensed;

2. A person who is employed by the government of the United States or any entity thereof while in the discharge of the employee's assigned duties;

3. A student enrolled in a school of orthotics or prosthetics recognized by the Board of Medical Licensure and Supervision or a resident as defined by Section 2 of this act who is continuing clinical education;

4. A person licensed by this state as a physical therapist, occupational therapist, or physician assistant when engaging in the practice for which licensed;

5. A person certified by the Board for Certification in Pedorthics when practicing pedorthics at the ankle or below; or

6. Persons engaged in the practice of orthotics as an employee or authorized representative of an orthotics manufacturer with employment responsibilities that include, but are not limited to, one or more of the following: evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, training, repairing, replacing or delivering an orthotic device under the order, direction or prescription of a physician or healthcare provider operating within their licensed scope of practice.

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. The State Board of Medical Licensure and Supervision is hereby authorized to adopt and promulgate rules, pursuant to the Administrative Procedures Act, that it deems necessary for the implementation and enforcement of the Orthotics and Prosthetics Practice Act, including but not limited to, qualifications for licensure, qualifications for registration, renewals, reinstatements, continuing education requirements, and fees. In so doing the Board shall give utmost consideration to the recommendations of the Advisory Committee on Orthotics and Prosthetics created by Section 5 of this act.

B. The Board is hereby empowered to perform investigations, require the production of records and other documents relating to practices regulated by the Orthotics and Prosthetics Practice Act, and seek injunctive relief.

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. There is hereby created, to continue until July 1, 2007, in accordance with the provisions of the Oklahoma Sunset Law, an Advisory Committee on Orthotics and Prosthetics, which shall consist of seven (7) voting members to be appointed by the State Board of Medical Licensure and Supervision to three-year terms ending December 31; provided, initial appointments shall be staggered such that two members are appointed for one (1) year, two members are appointed for two (2) years, and three members are appointed for three (3) years.

B. One member shall be a licensed physician who is a member of the State Board of Medical Licensure and Supervision. Two members shall be lay persons who are consumers of orthotic or prosthetic services. Two members shall be licensed orthotists, not more than one of whom may also be a licensed prosthetist. Two members shall be licensed prosthetists, not more than one of whom may also be a licensed orthotist; provided, licensure under the Orthotics and Prosthetics Practice Act not being possible until the act is implemented, two of the initial appointees to positions requiring licensure as an orthotist or prosthetist shall, in lieu of licensure, be certified by the American Board for Certification in Orthotics and Prosthetics and two shall be certified by the Board for Orthotist/Prosthetist Certification.

C. Members shall serve until their successors are appointed and qualified; provided, no member shall serve more than eight (8) consecutive years or two full terms, whichever is greater.

D. The Committee shall annually elect a chair and vice-chair from among the members required to be licensed. The chair or vice-chair and three other members shall constitute a quorum. Members shall be reimbursed from funds available to the State Board of Medical Licensure and Supervision pursuant to the State Travel Reimbursement Act.

E. 1. The Committee shall advise the Board on matters pertaining to orthotics and prosthetics, including but not limited to:

a. scope and standards of practice,

b. licensure and registration requirements, examination requirements, exceptions thereto, renewal requirements, temporary licensure or registration, and endorsement or reciprocity requirements,

c. methods and requirements for ensuring the continued competence of licensed and registered persons,

d. grounds for probation, revocation, or suspension of license or registration, reinstatement provisions,

e. fees, and

f. all other matters which may pertain to the practice of orthotics or prosthetics.

2. The Committee shall review and make recommendations to the Board on all applications for licensure and registration.

3. The Committee shall assist and advise the Board in all hearings related to the enforcement of the Orthotics and Prosthetics Practice Act.

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. The State Board of Medical Licensure and Supervision, with the assistance of the Advisory Committee on Orthotics and Prosthetics, shall establish qualifications for licensure and registration under the Orthotics and Prosthetics Practice Act. Until November 1, 2004, the Board shall provide, as set forth herein, an alternative qualification licensure opportunity for current practitioners in this state who are unable to meet standard qualifications. Persons meeting the qualifications of more than one discipline may be licensed in more than one discipline.

B. To be licensed to practice orthotics or prosthetics according to standard qualifications, a person shall:

1. Possess a baccalaureate degree from an institution of higher education accredited by a general accrediting agency recognized by the Oklahoma State Regents for Higher Education;

2. Have completed an orthotic or prosthetic education program that meets or exceeds the requirements, including clinical practice, of the Commission on Accreditation of Allied Health Education Programs;

3. Have completed a clinical residency in the professional area for which the license is sought that meets or exceeds the standards,

guidelines, and procedures for residencies of the National Commission on Orthotic and Prosthetic Education or of any other such group that is recognized by the State Board of Medical Licensure and Supervision; and

4. Demonstrate attainment of internationally accepted standards of orthotic and prosthetic care as outlined by the International Society of Prosthetics and Orthotics professional profile for Category I orthotic and prosthetic personnel.

C. To be licensed to practice orthotics or prosthetics under alternative qualification requirements, a person shall:

1. Pass an examination in the area of licensure, which may be an available examination designated by the State Board of Medical Licensure and Supervision or an examination developed by the Board; and

2. Execute an alternative qualification contract with the State Board of Medical Licensure and Supervision the conditions of which shall be based on the Board's evaluation of the applicant's experience and the Board's determination of further experience needed or other requirements to be met, which contract shall specify a period of time not to exceed ten (10) years for completion of the further experience or requirements.

D. Upon execution of the alternative qualification contract, the Board shall issue a license and shall renew the license subject to the licensee's making satisfactory progress as required by the contract. Persons who satisfactorily complete the alternative qualification contract shall be thereafter considered as having met the qualifications necessary for license renewal.

E. No person shall be permitted to enter into an alternative qualification contract after October 31, 2004. A person who has not done so by October 31, 2004, shall not be issued a license to practice orthotics or prosthetics without meeting standard qualifications.

F. Notwithstanding any other provision of this section, a person who has practiced full time during the three-year period preceding the effective date of this act in a prosthetic or orthotic facility as a prosthetist or orthotist and has a high school diploma or equivalent, or who has practiced as an assistant or technician, may file an application with the Board within ninety (90) days from the effective date of this act for permission to continue to practice at his or her identified level of practice. The Board, after verifying the applicant's work history and receiving payment of the application fee as established pursuant to this act, shall, without examination of the applicant, issue the applicant a license or certificate of registration. To make the investigations necessary to verify the applicant’s work history, the Board may require that the applicant complete a questionnaire regarding the work history and scope of practice. The Board shall take no more than six (6) months to verify the work history. Applicants applying after the ninety-day application period of this subsection has expired shall meet the qualifications elsewhere set forth for

standard or alternative qualification for licensure or for registration 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. A licensed orthotist may only provide care or services pursuant to a prescription from a licensed physician. A licensed prosthetist may only provide care or services pursuant to a prescription from a licensed physician.

B. Effective July 1, 2002, any person who holds himself or herself out as an orthotist or prosthetist or uses the titles Orthotist, Prosthetist, Orthotist/Prosthetist, or common variants of those titles without holding an appropriate license issued by the State Board of Medical Licensure and Supervision, or who, without being registered by the Board, represents himself or herself to be a prosthetic/orthotic technician, or prosthetist/orthotist assistant, or who is in violation of any provision of the Orthotics and Prosthetics Practice Act shall be subject to an administrative fine for each day found to be in violation. The amount of any fine shall be determined by the Board within limits set by the Board pursuant to rules adopted and promulgated by the Board and may be in addition to any other penalty provided by the Board or otherwise provided by law.

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 State Board of Medical Licensure and Supervision shall maintain a current roster of the names and addresses of all persons licensed or registered pursuant to the Orthotics and Prosthetics Practice Act and of all persons whose licenses or registrations have been suspended or revoked. This roster shall be a public document available pursuant to the Oklahoma Open Records Act.

SECTION 9. This act shall become effective November 1, 2001.

Passed the Senate the 24th day of April, 2001.

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Presiding Officer of the Senate

Passed the House of Representatives the 19th day of April, 2001.

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Presiding Officer of the House
of Representatives