

Senate File 364 - Reprinted

SENATE FILE 364
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 226)

(As Amended and Passed by the Senate March 14, 2011)

A BILL FOR

1 An Act relating to the licensure of orthotists, prosthetists,
2 and pedorthists and providing for fees and penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.1, subsections 3 and 6, Code 2011,
2 are amended to read as follows:

3 3. "*Licensed*" or "*certified*", when applied to a physician
4 and surgeon, podiatric physician, osteopathic physician and
5 surgeon, physician assistant, psychologist, chiropractor,
6 nurse, dentist, dental hygienist, dental assistant,
7 optometrist, speech pathologist, audiologist, pharmacist,
8 physical therapist, physical therapist assistant, occupational
9 therapist, occupational therapy assistant, orthotist,
10 prosthetist, pedorthist, respiratory care practitioner,
11 practitioner of cosmetology arts and sciences, practitioner
12 of barbering, funeral director, dietitian, marital and
13 family therapist, mental health counselor, social worker,
14 massage therapist, athletic trainer, acupuncturist, nursing
15 home administrator, hearing aid dispenser, or sign language
16 interpreter or transliterator means a person licensed under
17 this subtitle.

18 6. "*Profession*" means medicine and surgery, podiatry,
19 osteopathic medicine and surgery, practice as a physician
20 assistant, psychology, chiropractic, nursing, dentistry,
21 dental hygiene, dental assisting, optometry, speech pathology,
22 audiology, pharmacy, physical therapy, physical therapist
23 assisting, occupational therapy, occupational therapy
24 assisting, respiratory care, cosmetology arts and sciences,
25 barbering, mortuary science, marital and family therapy, mental
26 health counseling, social work, dietetics, massage therapy,
27 athletic training, acupuncture, nursing home administration,
28 hearing aid dispensing, ~~or~~ sign language interpreting or
29 transliterating, orthotics, prosthetics, or pedorthics.

30 Sec. 2. Section 147.2, subsection 1, Code 2011, is amended
31 to read as follows:

32 1. A person shall not engage in the practice of medicine
33 and surgery, podiatry, osteopathic medicine and surgery,
34 psychology, chiropractic, physical therapy, physical
35 therapist assisting, nursing, dentistry, dental hygiene,

1 dental assisting, optometry, speech pathology, audiology,
2 occupational therapy, occupational therapy assisting,
3 orthotics, prosthetics, pedorthics, respiratory care,
4 pharmacy, cosmetology arts and sciences, barbering, social
5 work, dietetics, marital and family therapy or mental health
6 counseling, massage therapy, mortuary science, athletic
7 training, acupuncture, nursing home administration, hearing aid
8 dispensing, or sign language interpreting or transliterating,
9 or shall not practice as a physician assistant, unless the
10 person has obtained a license for that purpose from the board
11 for the profession.

12 Sec. 3. Section 147.13, Code 2011, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 24. For orthotics, prosthetics, and
15 pedorthics, the board of podiatry.

16 Sec. 4. Section 147.14, subsection 1, paragraph s, Code
17 2011, is amended to read as follows:

18 s. For podiatry, five members licensed to practice podiatry,
19 two members licensed to practice orthotics, prosthetics, or
20 pedorthics, and two members who are not so licensed to practice
21 podiatry and who shall represent the general public.

22 Sec. 5. Section 147.74, Code 2011, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 24. a. An orthotist licensed under chapter
25 148F may use the words "licensed orthotist" after the person's
26 name or signify the same by the use of the letters "L.O." after
27 the person's name.

28 b. A pedorthist licensed under chapter 148F may use the
29 words "licensed pedorthist" after the person's name or signify
30 the same by the use of the letters "L.ped." after the person's
31 name.

32 c. A prosthetist licensed under chapter 148F may use the
33 words "licensed prosthetist" after the person's name or signify
34 the same by the use of the letters "L.P." after the person's
35 name.

1 Sec. 6. NEW SECTION. 148F.1 **Title and purpose.**

2 1. This chapter may be cited and referred to as the
3 *"Orthotics, Prosthetics, and Pedorthics Practice Act"*.

4 2. The purpose of this chapter is to provide for the
5 regulation of persons offering orthotic, prosthetic, and
6 pedorthic services to the public in order to safeguard the
7 public health, safety, and welfare.

8 Sec. 7. NEW SECTION. 148F.2 **Definitions.**

9 As used in this chapter:

10 1. *"Board"* means the board of podiatry.

11 2. *"Orthosis"* means a custom-fabricated or custom-fitted
12 brace or support designed to provide for alignment, correction,
13 or prevention of neuromuscular or musculoskeletal dysfunction,
14 disease, injury, or deformity. *"Orthosis"* does not include
15 fabric or elastic supports, corsets, arch supports, low
16 temperature plastic splints, trusses, elastic hoses, canes,
17 crutches, soft cervical collars, dental appliances, or other
18 similar devices carried in stock and sold as "over-the-counter"
19 items by a drug store, department store, corset shop, or
20 surgical supply facility.

21 3. *"Orthotic and prosthetic education program"* means a
22 course of instruction accredited by the national commission on
23 accreditation of allied health education programs, consisting
24 of both of the following:

25 a. A basic curriculum of college level instruction in math,
26 physics, biology, chemistry, and psychology.

27 b. A specific curriculum in orthotic or prosthetic courses,
28 including but not limited to:

29 (1) Lectures covering pertinent anatomy, biomechanics,
30 pathomechanics, prosthetic-orthotic components and materials,
31 training and functional capabilities, prosthetic or orthotic
32 performance evaluation, prescription considerations, etiology
33 of amputations and disease processes necessitating prosthetic
34 or orthotic use, and medical management.

35 (2) Subject matter related to pediatric and geriatric

1 problems.

2 (3) Instruction in acute care techniques, such as immediate
3 and early post-surgical prosthetics and fracture bracing
4 techniques.

5 (4) Lectures, demonstrations, and laboratory experiences
6 related to the entire process of measuring, casting, fitting,
7 fabricating, aligning, and completing prostheses or orthoses.

8 4. "*Orthotic and prosthetic scope of practice*" means a
9 list of tasks, with relative weight given to such factors as
10 importance, criticality, and frequency, based on nationally
11 accepted standards of orthotic and prosthetic care as
12 outlined by the American board for certification in orthotics,
13 prosthetics, and pedorthics.

14 5. "*Orthotics*" means the science and practice of evaluating,
15 measuring, designing, fabricating, assembling, fitting,
16 adjusting, or servicing an orthosis under an order from a
17 licensed physician or podiatric physician for the correction or
18 alleviation of neuromuscular or musculoskeletal dysfunction,
19 disease, injury, or deformity.

20 6. "*Orthotist*" means a health care professional,
21 specifically educated and trained in orthotic patient care,
22 who measures, designs, fabricates, fits, or services orthoses
23 and may assist in the formulation of the order and treatment
24 plan of orthoses for the support or correction of disabilities
25 caused by neuromusculoskeletal diseases, injuries, or
26 deformities.

27 7. "*Pedorthic device*" means therapeutic shoes, such as
28 diabetic shoes and inserts, shoe modifications made for
29 therapeutic purposes, below-the-ankle partial foot prostheses,
30 and foot orthoses for use at the ankle or below. The term also
31 includes subtalar-control foot orthoses designed to manage the
32 function of the anatomy by controlling the range of motion of
33 the subtalar joint. Excluding pedorthic devices which are
34 footwear, the proximal height of a custom pedorthic device
35 does not extend beyond the junction of the gastrocnemius and

1 the Achilles tendon. "*Pedorthic device*" does not include
2 nontherapeutic inlays or footwear regardless of method of
3 manufacture; unmodified, nontherapeutic over-the-counter shoes;
4 or prefabricated foot care products.

5 8. "*Pedorthic education program*" means an educational
6 program accredited by the American board for certification in
7 orthotics, prosthetics, and pedorthics consisting of all of the
8 following:

9 a. A basic curriculum of instruction in foot-related
10 pathology of diseases, anatomy, and biomechanics.

11 b. A specific curriculum in pedorthic courses, including
12 lectures covering shoes, foot orthoses, and shoe modifications,
13 pedorthic components and materials, training and functional
14 capabilities, pedorthic performance evaluation, prescription
15 considerations, etiology of disease processes necessitating
16 use of pedorthic devices, medical management, subject matter
17 related to pediatric and geriatric problems, and lectures,
18 demonstrations, and laboratory experiences related to the
19 entire process of measuring and casting, fitting, fabricating,
20 aligning, and completing pedorthic devices.

21 9. "*Pedorthic scope of practice*" means a list of tasks
22 with relative weight given to such factors as importance,
23 criticality, and frequency based on nationally accepted
24 standards of pedorthic care as outlined by the American board
25 for certification in orthotics, prosthetics and pedorthics.

26 10. "*Pedorthics*" means the science and practice of
27 evaluating, measuring, designing, fabricating, assembling,
28 fitting, adjusting, or servicing a pedorthic device under an
29 order from a licensed physician or podiatric physician for the
30 correction or alleviation of neuromuscular or musculoskeletal
31 dysfunction, disease, injury, or deformity.

32 11. "*Pedorthist*" means a health care professional,
33 specifically educated and trained in pedorthic patient
34 care, who measures, designs, fabricates, fits, or services
35 pedorthic devices and may assist in the formulation of the

1 order and treatment plan of pedorthic devices for the support
2 or correction of disabilities caused by neuromusculoskeletal
3 diseases, injuries, or deformities.

4 12. "*Prosthesis*" means an artificial medical device that
5 is not surgically implanted and that is used to replace a
6 missing limb, appendage, or any other external human body part
7 including an artificial limb, hand, or foot.

8 13. "*Prosthetics*" means the science and practice of
9 evaluating, measuring, designing, fabricating, assembling,
10 fitting, adjusting, or servicing a prosthesis under an order
11 from a licensed physician.

12 14. "*Prosthetist*" means a health care professional,
13 specifically educated and trained in prosthetic patient care,
14 who measures, designs, fabricates, fits, or services prostheses
15 and may assist in the formulation of the order and treatment
16 plan of prostheses for the replacement of external parts of the
17 human body lost due to amputation or congenital deformities or
18 absences.

19 15. "*Resident*" means a person who has completed an education
20 program in either orthotics or prosthetics and is continuing
21 the person's clinical education in a residency accredited by
22 the American board for certification in orthotics, prosthetics
23 and pedorthics.

24 16. "*Residency*" means an approved supervised program of
25 a minimum duration of one year to acquire practical clinical
26 training in orthotics or prosthetics in a patient care setting.

27 Sec. 8. NEW SECTION. 148F.3 Duties of the board.

28 The board shall administer this chapter. The board's duties
29 shall include but are not limited to the following:

30 1. Adoption of rules to administer and interpret this
31 chapter, chapter 147, and chapter 272C with respect to the
32 education and licensing of orthotists, prosthetists, and
33 pedorthists.

34 2. Adoption of rules to establish accepted standards of
35 orthotic and prosthetic scope of practice, including the

1 classification of devices and supervision of nonlicensed
2 caregivers.

3 3. Adoption of rules relating to professional conduct and
4 licensing and the establishment of ethical and professional
5 standards of practice.

6 4. Acting on matters concerning licensure and the process
7 of applying for, granting, suspending, imposing supervisory
8 or probationary conditions upon, reinstating, revoking, or
9 renewing a license.

10 5. Establishing and collecting licensure fees as provided
11 in section 147.80.

12 6. Developing continuing education requirements as a
13 condition of license renewal.

14 7. Evaluating requirements for licensure in other states to
15 determine if reciprocity may be granted.

16 8. Adoption of rules providing temporary licensing for
17 persons providing orthotic, prosthetic, and pedorthic care
18 in this state prior to the effective date of this Act. A
19 temporary license is good for no more than one year.

20 Sec. 9. NEW SECTION. 148F.4 Persons and practices not
21 affected.

22 This chapter does not prevent or restrict the practice,
23 services, or activities of any of the following:

24 1. A person licensed in this state by any other law from
25 engaging in the profession or occupation for which the person
26 is licensed, including but not limited to persons set out in
27 section 147.1, subsections 3 and 6.

28 2. A person employed as an orthotics, prosthetics, or
29 pedorthics practitioner by the government of the United States
30 if that person practices solely under the direction or control
31 of the organization by which the person is employed.

32 3. A person pursuing a course of study leading to a degree
33 or certificate in orthotics, prosthetics, or pedorthics in an
34 educational program accredited or approved according to rules
35 adopted by the board, if the activities and services constitute

1 a part of a supervised course of study and the person is
2 designated by a title which clearly indicates the person's
3 status as a student, resident, or trainee.

4 Sec. 10. NEW SECTION. 148F.5 **Qualifications for licensure**
5 **as orthotist, prosthetist, or pedorthist.**

6 1. To qualify for a license to practice orthotics or
7 prosthetics, a person shall meet the following requirements:

8 a. Possess a baccalaureate degree from a college or
9 university.

10 b. Have completed the amount of formal training, including
11 but not limited to an orthotic and prosthetic education
12 program, and clinical practice established and approved by the
13 board.

14 c. Complete a clinical residency in the professional area
15 for which a license is sought in accordance with standards,
16 guidelines, or procedures for residencies established and
17 approved by the board. The majority of training must be
18 devoted to services performed under the supervision of a
19 licensed practitioner of orthotics or prosthetics or a person
20 certified as a certified orthotist, certified prosthetist,
21 or certified prosthetist orthotist whose practice is located
22 outside the state.

23 d. Pass all written, practical, and oral examinations that
24 are required and approved by the board.

25 e. Be qualified to practice in accordance with accepted
26 standards of orthotic and prosthetic care as established by the
27 board.

28 2. To qualify for a license to practice pedorthics, a person
29 shall meet the following requirements:

30 a. Submit proof of a high school diploma or its equivalent.

31 b. Have completed the amount of formal training, including
32 but not limited to a pedorthic education program, and clinical
33 practice established and approved by the board.

34 c. Complete a qualified work experience program or
35 internship in pedorthics that has a minimum of one thousand

1 hours of pedorthic patient care experience in accordance
2 with any standards, guidelines, or procedures established
3 and approved by the board. The majority of training must
4 be devoted to services performed under the supervision of a
5 licensed practitioner of pedorthics or a person certified as
6 a certified pedorthist whose practice is located outside the
7 state.

8 *d.* Pass all examinations that are required and approved by
9 the board.

10 *e.* Be qualified to practice in accordance with accepted
11 standards of pedorthic care as established by the board.

12 3. The standards and requirements for licensure established
13 by the board shall be substantially equal to or in excess of
14 standards commonly accepted in the professions of orthotics,
15 prosthetics, or pedorthics, as applicable. The board shall
16 adopt rules as necessary to set the standards and requirements.

17 4. A person may be licensed in more than one discipline.

18 Sec. 11. NEW SECTION. 148F.6 **Assistants and technicians.**

19 1. *a.* A person shall not work as an assistant to an
20 orthotist or prosthetist or provide patient care services or
21 fabrication of orthoses or prostheses, unless the work is
22 performed under the supervision of a licensed orthotist or
23 prosthetist.

24 *b.* An assistant may perform orthotic or prosthetic
25 procedures and related tasks in the management of patient care.
26 An assistant may also fabricate, repair, and maintain orthoses
27 and prostheses.

28 2. A technician may assist a person licensed under this
29 chapter with fabrication of orthoses, prostheses, or pedorthic
30 devices but shall not provide direct patient care.

31 Sec. 12. NEW SECTION. 148F.7 **Limitation on provision of**
32 **care and services.**

33 A licensed orthotist, prosthetist, or pedorthist may provide
34 care or services only if the care or services are provided
35 pursuant to an order from a licensed physician, a licensed

1 podiatric physician, an advanced registered nurse practitioner
 2 who has a written collaborative agreement with a collaborating
 3 physician or podiatric physician that specifically authorizes
 4 ordering the services of an orthotist, prosthetist, or
 5 pedorthist, an advanced registered nurse practitioner who
 6 practices in a hospital or ambulatory surgical treatment center
 7 and possesses clinical privileges to order services of an
 8 orthotist, prosthetist, or pedorthist, or a physician assistant
 9 who has been delegated the authority to order the services of
 10 an orthotist, prosthetist, or pedorthist by the assistant's
 11 supervising physician. A licensed podiatric physician or an
 12 advanced registered nurse practitioner collaborating with a
 13 podiatric physician may only order care or services concerning
 14 the foot from a licensed pedorthist or orthotist.

15 Sec. 13. NEW SECTION. 148F.8 **Penalties.**

16 1. If any person, company, or other entity violates a
 17 provision of this chapter, the attorney general may petition
 18 for an order enjoining the violation or for an order enforcing
 19 compliance with this chapter. Upon the filing of a verified
 20 petition in court, the court may issue a temporary restraining
 21 order, without notice or bond, and may preliminarily and
 22 permanently enjoin the violation. If it is established
 23 that the person, company, or other entity has violated or is
 24 violating the injunction, the court may punish the offender
 25 for contempt of court. Proceedings under this section shall
 26 be in addition to, and not in lieu of, all other remedies and
 27 penalties provided in this chapter.

28 2. If a person practices as an orthotist, prosthetist,
 29 or pedorthist or represents the person as such without being
 30 licensed under the provisions of this chapter, then any other
 31 licensed orthotist, pedorthist, or prosthetist, any interested
 32 party, or any person injured by the person may petition for
 33 relief as provided in subsection 1.

34 3. If a company or other entity holds itself out to provide
 35 orthotic, prosthetic, or pedorthic services without having

1 an orthotist, prosthetist, or pedorthist licensed under the
2 provisions of this chapter on its staff to provide those
3 services, then any other licensed orthotist, prosthetist,
4 or pedorthist or any interested party or injured person may
5 petition for relief as provided in subsection 1.

6 Sec. 14. FUNDING. There is appropriated from the general
7 fund of the state to the board of podiatry for the fiscal year
8 beginning July 1, 2011, and ending June 30, 2012, the following
9 amount, or so much thereof as is necessary, to be used for the
10 purposes designated:

11 For salaries, support, maintenance, and miscellaneous
12 purposes related to the licensure of persons offering orthotic,
13 prosthetic, or pedorthic services:

14 \$ 40,000

15 Notwithstanding section 8.33, moneys appropriated in this
16 section that remain unencumbered or unobligated at the close of
17 the fiscal year shall not revert but shall remain available for
18 expenditure for the purposes designated until the close of the
19 succeeding fiscal year.