

CHAPTER 1101

REGULATION OF OCCUPATIONAL THERAPY SERVICES PROVIDERS, ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

S.F. 364

AN ACT relating to the licensure and regulation of persons offering occupational therapy services, and orthotists, prosthetists, and pedorthists, providing exceptions for persons practicing within the scope of their professions, and providing for fees and penalties.

Be It Enacted by the General Assembly of the State of Iowa:

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

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

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

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

1. A person shall not engage in the practice of medicine and surgery, podiatry, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, physical therapist assisting, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, occupational therapy, occupational therapy assisting, orthotics, prosthetics, pedorthics, respiratory care, pharmacy, cosmetology arts and sciences, barbering, social work, dietetics, marital and family therapy or mental health counseling, massage therapy, mortuary science, athletic training, acupuncture, nursing home administration, hearing aid dispensing, or sign language interpreting or transliterating, or shall not practice as a physician assistant, unless the person has obtained a license for that purpose from the board for the profession.

Sec. 3. Section 147.13, Code 2011, is amended by adding the following new subsection:
NEW SUBSECTION. 24. For orthotics, prosthetics, and pedorthics, the board of podiatry.

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

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

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

NEW SUBSECTION. 24. a. An orthotist licensed under chapter 148F may use the words “licensed orthotist” after the person’s name or signify the same by the use of the letters “L.O.” after the person’s name.

b. A pedorthist licensed under chapter 148F may use the words “licensed pedorthist” after the person’s name or signify the same by the use of the letters “L.ped.” after the person’s name.

c. A prosthetist licensed under chapter 148F may use the words “licensed prosthetist” after the person’s name or signify the same by the use of the letters “L.P.” after the person’s name.

Sec. 6. Section 148B.2, subsection 2, Code 2011, is amended to read as follows:

2. “Occupational therapy” means the therapeutic application of specific tasks used for the purpose of evaluation and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorder, congenital or developmental disability, or the aging process in order to achieve optimum function, for maintenance of health and prevention of disability use of occupations, including everyday life activities with individuals, groups, populations, or organizations to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life. “Occupational therapy” includes but is not limited to providing assessment, design, fabrication, application, and fitting of selected orthotic devices and training in the use of prosthetic devices.

Sec. 7. Section 148B.3, subsection 5, Code 2011, is amended by striking the subsection.

Sec. 8. Section 148B.3, subsection 6, Code 2011, is amended to read as follows:

6. A nonresident performing occupational therapy services in the state who is not licensed under this chapter, if the services are performed for not more than ~~ninety~~ thirty days in a calendar year in association with an occupational therapist licensed under this chapter, and the nonresident meets either of the following requirements:

a. The nonresident is licensed under the law of another state which has licensure requirements at least as stringent as the requirements of this chapter, ~~or.~~

b. The nonresident meets the requirements for certification as an occupational therapist registered (O.T.R.), or a certified occupational therapy assistant (C.O.T.A.) established by the ~~American national board for certification in occupational therapy association.~~

Sec. 9. Section 148B.4, Code 2011, is amended to read as follows:

148B.4 Limited permit.

1. ~~A limited permit to practice occupational therapy may be granted to persons a person who have has completed the education and experience academic and field work requirements of for occupational therapists under this chapter and has not yet taken or received the results of the entry-level certification examination. This permit shall A permit granted pursuant to this subsection shall be valid for a period of time as determined by the board by rule and shall allow the person to practice occupational therapy under the direction and appropriate supervision of a licensed an occupational therapist and shall be valid until the date on which the results of the next qualifying examination have been made public licensed under this chapter. This The permit shall expire when the person is issued a license under section 148B.5 or if the person is notified that the person did not pass the examination. The limited permit shall not be renewed if the applicant has failed the examination.~~

2. A limited permit to assist in the practice of occupational therapy may be granted to a person who has completed the academic and field work requirements for occupational therapy assistants under this chapter and has not yet taken or received the results of the entry-level certification examination. A permit granted pursuant to this subsection shall be valid for a period of time as determined by the board by rule and shall allow the person to assist in the practice of occupational therapy under the direction and appropriate supervision of an occupational therapist licensed under this chapter. The permit shall expire when the person is issued a license under section 148B.5 or if the person is notified that the person did not pass the examination. The limited permit shall not be renewed.

Sec. 10. Section 148B.6, Code 2011, is amended to read as follows:

148B.6 Waiver of requirements for licensing.

1. The board may waive the examination and grant a license:

1. ~~to~~ To a person certified prior to January 1, 1981, as an occupational therapist registered (O.T.R.) or a certified occupational therapy assistant (C.O.T.A.) by the American Occupational Therapy Association occupational therapy association.

2. ~~The board shall waive the education and experience requirements for licensure in section 148B.5, subsections 1 and 2, for applicants for a license who present evidence to the board that they have been engaged in the practice of occupational therapy on and prior to January 1, 1981. Proof of actual practice shall be presented to the board in a manner as it prescribes by rule. To obtain the benefit of this waiver, an applicant must successfully complete the examination within one year from January 1, 1981. However, the waiver is conditional upon the applicant satisfying the education and experience requirements of section 148B.5, subsections 1 and 2, within five years of the waiver being granted and if those requirements are not satisfied at the expiration of those five years the board shall revoke the license.~~

3. 2. ~~The board may waive the examination and grant a license to~~ To an applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure of this chapter.

Sec. 11. NEW SECTION. **148B.8 Unlawful practice.**

1. A person shall not practice occupational therapy or assist in the practice of occupational therapy, provide occupational therapy services, hold oneself out as an occupational therapist or occupational therapy assistant or as being able to practice occupational therapy or assist in the practice of occupational therapy, or provide occupational therapy services in this state unless the person is licensed under this chapter.

2. It is unlawful for any person not licensed as an occupational therapist in this state or whose license is suspended or revoked to use in connection with the person's name or place of business in this state the words "occupational therapist", "licensed occupational therapist", or any word, title, letters, or designation that implies that the person is an occupational therapist.

3. It is unlawful for any person not licensed as an occupational therapy assistant in this state or whose license is suspended or revoked to use in connection with the person's name or place of business in this state, the words "occupational therapy assistant", "licensed occupational therapy assistant", or any word, title, letters, or designation that implies that the person is an occupational therapy assistant.

Sec. 12. NEW SECTION. **148B.9 False use of titles prohibited.**

A person or business entity, including the employees, agents, or representatives of the business entity, shall not use in connection with that person or business entity's business activity, the words "occupational therapy", "occupational therapist", "licensed occupational therapist", "doctor of occupational therapy", "occupational therapy assistant", "licensed occupational therapy assistant", or the letters "O.T.", "O.T./L.", "O.T.D.", "O.T.A.", "O.T.A./L.", or any words, abbreviations, or insignia indicating or implying that occupational therapy is provided or supplied unless such services are provided by or under the direction and supervision of an occupational therapist licensed pursuant to this chapter.

Sec. 13. NEW SECTION. **148F.1 Title and purpose.**

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

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

Sec. 14. NEW SECTION. **148F.2 Definitions.**

As used in this chapter:

1. "Board" means the board of podiatry.

2. “*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. “*Orthosis*” does not include fabric or elastic supports, corsets, arch supports, low temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices carried in stock and sold as “over-the-counter” items by a drug store, department store, corset shop, or surgical supply facility.

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

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

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

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

(2) Subject matter related to pediatric and geriatric problems.

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

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

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

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

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

7. “*Pedorthic device*” means therapeutic shoes, such as diabetic shoes and inserts, shoe modifications made for therapeutic purposes, below-the-ankle partial foot prostheses, and foot orthoses for use at the ankle or below. The term also includes subtalar-control foot orthoses designed to manage the function of the anatomy by controlling the range of motion of the subtalar joint. Excluding pedorthic devices which are footwear, the proximal height of a custom pedorthic device does not extend beyond the junction of the gastrocnemius and the Achilles tendon. “*Pedorthic device*” does not include nontherapeutic inlays or footwear regardless of method of manufacture; unmodified, nontherapeutic over-the-counter shoes; or prefabricated foot care products.

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

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

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

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

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

11. “*Pedorthist*” means a health care professional, specifically educated and trained in pedorthic patient care, who measures, designs, fabricates, fits, or services pedorthic devices and may assist in the formulation of the order and treatment plan of pedorthic devices for the support or correction of disabilities caused by neuromusculoskeletal diseases, injuries, or deformities.

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

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

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

15. “*Resident*” means a person who has completed an education program in either orthotics or prosthetics and is continuing the person’s clinical education in a residency accredited by the American board for certification in orthotics, prosthetics and pedorthics.

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

Sec. 15. NEW SECTION. 148F.3 Duties of the board.

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

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

2. Adoption of rules to establish accepted standards of orthotic and prosthetic scope of practice, including the classification of devices and supervision of nonlicensed caregivers. Any changes to the nationally accepted standards by the American board for certification in orthotics, prosthetics and pedorthics which impact scope of practice may be approved by the board along with the adoption of rules as required in this section.

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

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

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

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

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

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

Sec. 16. NEW SECTION. 148F.4 Persons and practices not affected.

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

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

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

3. A person pursuing a course of study leading to a degree or certificate in orthotics, prosthetics, or pedorthics in an educational program accredited or approved according to rules adopted by the board, if the activities and services constitute a part of a supervised course of study and the person is designated by a title which clearly indicates the person's status as a student, resident, or trainee.

Sec. 17. NEW SECTION. 148F.5 Qualifications for licensure as orthotist, prosthetist, or pedorthist.

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

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

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

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

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

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

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

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

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

c. Complete a qualified work experience program or internship in pedorthics that has a minimum of one thousand hours of pedorthic patient care experience in accordance with any standards, guidelines, or procedures established and approved by the board. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of pedorthics or a person certified as a certified pedorthist whose practice is located outside the state.

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

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

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

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

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

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

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

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

Sec. 19. NEW SECTION. 148F.7 Limitation on provision of care and services.

A licensed orthotist, prosthetist, or pedorthist may provide care or services only if the care or services are provided pursuant to an order from a licensed physician, a licensed podiatric physician, an advanced registered nurse practitioner who has a written collaborative agreement with a collaborating physician or podiatric physician that specifically authorizes ordering the services of an orthotist, prosthetist, or pedorthist, an advanced registered nurse practitioner who practices in a hospital or ambulatory surgical treatment center and possesses clinical privileges to order services of an orthotist, prosthetist, or pedorthist, or a physician assistant who has been delegated the authority to order the services of an orthotist, prosthetist, or pedorthist by the assistant's supervising physician. A licensed podiatric physician or an advanced registered nurse practitioner collaborating with a podiatric physician may only order care or services concerning the foot from a licensed pedorthist or orthotist.

Sec. 20. NEW SECTION. 148F.8 Penalties.

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

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

3. If a company or other entity holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this chapter on its staff to provide those services, then any other licensed orthotist, prosthetist, or pedorthist or any interested party or injured person may petition for relief as provided in subsection 1.

Approved April 27, 2012