

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1410

Short Title: Pedorthist Licensure.

(Public)

Sponsors: Senator Hartsell.

Referred to: Finance.

March 26, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE PEDORTHIST LICENSURE ACT.

3 The General Assembly of North Carolina enacts:

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

6 "Article 12B.

7 "Pedorthist Licensure Act.

8 **"§ 90-202.20. Short title.**

9 This Article shall be known and may be cited as the 'Pedorthist Licensure Act'.

10 **"§ 90-202.21. Legislative findings.**

11 The General Assembly finds that the practice of pedorthics is an area of health care
12 that is continually evolving to include more sophisticated and demanding patient care
13 activities. The General Assembly further finds that the practice of pedorthics by
14 unauthorized, unqualified, unprofessional, and incompetent persons is a threat to public
15 health, safety, and welfare, and therefore it is necessary to establish minimum standards
16 of education, training, and competency for persons engaged in the practice of
17 pedorthics.

18 **"§ 90-202.22. Definitions.**

19 The following definitions apply in this Article:

20 (1) 'Board' means the North Carolina Pedorthist Licensure Board.

21 (2) 'License' means a certificate issued by the Board recognizing the
22 person named therein as having met the requirements to practice art
23 therapy as defined in this Article.

24 (3) 'Licensee' means a person who had been issued a license under this
25 Article.

26 (4) 'Orthosis' means a custom-fabricated, definitive brace or support that is
27 designed for long-term use.

28 (5) 'Orthotics' means the science and practice of evaluating, measuring,
29 designing, fabricating, assembling, fitting, adjusting, or servicing, as

1 well as the provision of initial training necessary to accomplish the
2 fitting of, an orthosis for the support, correction, or alleviation of
3 neuromuscular or musculoskeletal dysfunction, disease, injury, or
4 deformity.

5 (6) 'Pedorthist' means a person who is licensed to practice pedorthics
6 under this Article.

7 (7) 'Practice of pedorthics' means the design, manufacture, modification,
8 or fit of custom shoes, orthoses, and pedorthic devices to prevent or
9 alleviate foot problems caused by disease, congenital defect, overuse,
10 or injury pursuant to a licensed physician's prescription.

11 (8) 'Person' means an individual, corporation, partnership, association, unit
12 of government, or other legal entity.

13 **"§ 90-202.23. License required.**

14 On or after January 1, 2008, no person shall practice or offer to practice pedorthics,
15 as defined in this Article, use the title 'Licensed Pedorthist', use the letters 'LP', or
16 otherwise indicate or imply that the person is a licensed pedorthist unless that person is
17 currently licensed as provided in this Article.

18 **"§ 90-202.24. The North Carolina Pedorthist Licensure Board.**

19 (a) Composition and Terms. – The North Carolina Pedorthist Licensure Board is
20 created. The Board shall consist of seven members who shall serve staggered terms. The
21 initial Board members shall be appointed on or before October 1, 2007, as follows:

22 (1) The General Assembly, upon the recommendation of the President Pro
23 Tempore of the Senate, shall appoint two licensed pedorthists, one of
24 whom shall serve a term of three years and one of whom shall serve a
25 term of two years.

26 (2) The General Assembly, upon the recommendation of the Speaker of
27 the House of Representatives, shall appoint two licensed pedorthists,
28 one of whom shall serve a term of two years and one of whom shall
29 serve a one-year term.

30 (3) The General Assembly, upon the recommendation of the President Pro
31 Tempore of the Senate, shall appoint one podiatrist who is licensed
32 under Article 12A of Chapter 90 of the General Statutes, who shall
33 serve a one-year term.

34 (4) The General Assembly, upon the recommendation of the Speaker of
35 the House of Representatives, shall appoint one podiatrist who is
36 licensed under Article 12A of Chapter 90 of the General Statutes, who
37 shall serve a two-year term.

38 (5) The Governor shall appoint one public member who shall serve a
39 three-year term.

40 Upon the expiration of the terms of the initial Board members, members shall be
41 appointed by the appointing authorities designated in subdivisions (1) through (4) of this
42 subsection for a term of three years and shall serve until a successor is appointed. No
43 member may serve more than two consecutive full terms.

1 **(b) Qualifications.** – Members of the Board shall be citizens of the United States
2 and residents of this State. The pedorthist members shall hold current licenses from the
3 Board and shall remain in good standing with the Board during their terms. Public
4 members of the Board shall not be: (i) trained or experienced in the practice of
5 pedorthics, (ii) an agent or employee of a person engaged in the practice of pedorthics,
6 (iii) a health care professional licensed under this Chapter or a person enrolled in a
7 program to become a licensed health care professional, (iv) an agent or employee of a
8 health care institution, a health care insurer, or a health care professional school, (v) a
9 member of an allied health profession or a person enrolled in a program to become a
10 member of an allied health profession, or (vi) a spouse of an individual who may not
11 serve as a public member of the Board.

12 **(c) Vacancies.** – Any vacancy shall be filled by the authority originally filling
13 that position. Appointees to fill vacancies shall serve the remainder of the unexpired
14 term and until their successors have been duly appointed and qualified.

15 **(d) Removal.** – The Board may remove any of its members for neglect of duty,
16 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
17 in his or her capacity as a licensed pedorthist shall be disqualified from participating in
18 the official business of the Board until the charges have been resolved.

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

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

25 **(g) Meetings.** – The Board shall hold its first meeting within 30 days after the
26 appointment of its members and shall hold at least two meetings each year to conduct
27 business and to review the standards and rules previously adopted by the Board. The
28 Board shall establish the procedures for calling, holding, and conducting regular and
29 special meetings. A majority of Board members constitutes a quorum.

30 **"§ 90-202.25. Powers and duties of the Board.**

31 The Board shall have the power and duty to:

- 32 (1) Administer this Article.
- 33 (2) Issue interpretations of this Article.
- 34 (3) Adopt, amend, or repeal rules as may be necessary to carry out the
35 provisions of this Article.
- 36 (4) Employ and fix the compensation of personnel that the Board
37 determines is necessary to carry into effect the provisions of this
38 Article and incur other expenses necessary to effectuate this Article.
- 39 (5) Determine the qualifications and fitness of applicants for licensure,
40 licensure renewal, and reciprocal licensure.
- 41 (6) Issue, renew, deny, suspend, or revoke licenses, order probation, issue
42 reprimands, and carry out any other disciplinary actions authorized by
43 this Article.

- 1 (7) Set fees for licensure, reciprocal licensure, licensure renewal, and
2 other services deemed necessary to carry out the purposes of this
3 Article.
4 (8) Establish continuing education requirements for licensees.
5 (9) Establish a code of ethics for licensees.
6 (10) Maintain a current list of all persons who have been licensed under this
7 Article.
8 (11) Conduct investigations for the purpose of determining whether
9 violations of this Article or grounds for disciplining licensees exist.
10 (12) Maintain a record of all proceedings and make available to all
11 licensees and other concerned parties an annual report of all Board
12 action.
13 (13) Adopt a seal containing the name of the Board for use on all official
14 documents and reports issued by the Board.

15 **"§ 90-202.26. Qualifications for licensure.**

16 An applicant shall be licensed to practice pedorthics if the applicant meets all of the
17 following qualifications:

- 18 (1) Is at least 18 years old.
19 (2) Is of good moral character.
20 (3) Possesses a high school diploma or its equivalent.
21 (4) Completes an application on a form provided by the Board.
22 (5) Is certified as a pedorthist by the Board for Certification in Pedorthics
23 (BCP).
24 (6) Pays the required fee under G.S. 90-202.28.

25 **"§ 90-202.27. Reciprocity.**

26 The Board may grant, upon application and the payment of proper fees, a license to
27 a person who, at the time of application holds a valid license, certificate, or registration
28 as a pedorthist issued by another state if, in the Board's determination, the requirements
29 for that license, certificate, or registration are substantially the same as the requirements
30 for licensure under this Article.

31 **"§ 90-202.28. Expenses; fees.**

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

35 (b) All salaries, compensation, and expenses incurred or allowed to carry out the
36 purposes of this Article shall be paid by the Board exclusively out of the fees received
37 by the Board as authorized by this Article or funds received from other sources. In no
38 case shall any salary, expense, or other obligation authorized by this Article be charged
39 against the State treasury.

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

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|---|-----------------|
| 41 (1) <u>License application</u> | <u>\$350.00</u> |
| 42 (2) <u>Biennial renewal of license</u> | <u>\$350.00</u> |
| 43 (3) <u>Late renewal of license</u> | <u>\$100.00</u> |
| 44 (4) <u>Copies of rules</u> | <u>Cost.</u> |

"§ 90-202.29. License renewal.

(a) All licenses to practice pedorthics shall expire two years after the date they were issued. The Board shall send a notice of expiration to each licensee at his or her last known address at least 30 days before the expiration of his or her license. All applications for renewal of unexpired licenses shall be filed with the Board and accompanied by proof satisfactory to the Board that the applicant has completed any continuing education requirements established by the Board and the renewal fee as required by G.S. 90-202.28.

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

"§ 90-202.31. Disciplinary action by the Board.

(a) The Board may deny, refuse to renew, suspend, or revoke an application or license or order probation or issue a reprimand if the applicant or licensee:

- (1) Gives false information or withholds material information from the Board in procuring or attempting to procure a license.
- (2) Gives false information or withholds material information from the Board during the course of an investigation conducted by the Board.
- (3) Has been convicted of or pled guilty or no contest to a crime that indicates the person is unfit or incompetent to practice pedorthics as defined in this Article or that indicates the person has deceived, defrauded, or endangered the public.
- (4) Has a habitual substance abuse or mental impairment that interferes with his or her ability to provide appropriate care as established by this Article or rules adopted by the Board.
- (5) Has demonstrated gross negligence, incompetency, or misconduct in the practice of pedorthics as defined in this Article.
- (6) Has had an application for licensure, certification, or registration as a pedorthist or a license, certificate, or registration to practice pedorthics in another jurisdiction denied, suspended, or revoked for reasons that would be grounds for similar action in this State.
- (7) Has willfully violated any provision of this Article or rules adopted by the Board.

(b) The taking of any action authorized under subsection (a) of this section may be ordered by the Board after a hearing is held in accordance with Article 3A of Chapter 150B of the General Statutes. The Board may reinstate a revoked license if it finds that the reasons for revocation no longer exist and that the person can reasonably be expected to perform the services authorized under this Article in a safe manner.

"§ 90-202.32. Violations of this Article; injunctive relief.

1 (a) Any person who violates any provision of this Article shall be guilty of a
2 Class 1 misdemeanor and may be subject to a civil penalty of not more than one
3 thousand dollars (\$1,000) for each violation of this Article.

4 (b) The Board may apply to the superior court for an order enjoining violations
5 of this Article, and upon a showing by the Board that any person has violated or is about
6 to violate this Article, the court may grant an injunction or restraining order or take
7 other appropriate action."

8 **SECTION 2.** Any person who submits proof to the Board that the person
9 has been actively engaged in business as a pedorthist in this State for at least three
10 consecutive years before the effective date of this act and pays the required fee for the
11 issuance of a license shall be licensed without having to satisfy the requirements of
12 G.S. 90-202.26, enacted by Section 1 of this act. All persons who do not make
13 application to the Board within one year of the effective date of this act shall be required
14 to complete all requirements prescribed by the Board and to otherwise comply with the
15 provisions of G.S. 90-202.26.

16 **SECTION 3.** Notwithstanding G.S. 90-202.24(a)(1) and (2), as enacted by
17 Section 1 of this act, the initial pedorthists appointed to the North Carolina Pedorthist
18 Licensure Board do not have to meet the licensure qualifications established under
19 G.S. 90-202.26, as enacted by Section 1 of this act. The appointees must be pedorthists
20 certified by the Board for Certification in Pedorthics and must apply for and obtain a
21 license from the Board within 90 days after the Board begins issuing licenses.

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