

Orthotic & Prosthetic Licensure: A Comprehensive Guide

As the pre-eminent professional organization in orthotics and prosthetics, it is the mission of the American Academy of Orthotists and Prosthetists (AAOP) to promote professionalism and advance the standards of patient care through education, literature, research, advocacy, and collaboration. In keeping with this mission, the Academy is supportive of the highest standards for providers to ensure quality comprehensive orthotic and prosthetic services for patients. The Academy believes: **Licensure requirements benefit the patient** requiring orthotic or prosthetic services by demanding established criteria for minimum education essentials and experiential requirements. **Licensure requirements are in the best interests of the profession** in that they give official status to the practice of the profession, establish a recognized scope of practice for Orthotists and Prosthetists, and will be recognized by other healthcare practitioners in the crossover of patient care responsibilities.

Therefore, the Academy endorses state licensure of Orthotists and Prosthetists as the preferred method of establishing patient protection mechanisms through legislated state standards, provided those standards are equivalent to those developed by the National Commission on Orthotic and Prosthetic Education and recognized by the Commission on Accreditation of Allied Health Education Programs.

To aid individual states in their efforts toward licensing Orthotists and Prosthetists, the Academy has recognized the need to provide comprehensive and up to date information as well as a “blue print” for state licensure initiatives.

Changes in healthcare are occurring at an ever increasing pace as information and technology provide us with the means to address the healthcare needs of our patients in exciting and creative ways. This very same technology, however, allows those in need of care to become seduced by providers with little or no qualifications, all eager to serve the needs of a growing patient population. Current standards developed by third party payers and accrediting organizations have limited protections for the consumer of orthotic and prosthetic services.

Strategies to deal with these changes and the increased number of providers do not always originate from within our profession and the consequences of potentially poor legislative decisions are often borne by the consumers of our services. There are currently 10 organizations that have been chosen by the Centers for Medicare & Medicaid Services (CMS) to accredit suppliers of orthotics and prosthetics, many of which have little or no experience with O&P, creating a scenario where uneducated and inexperienced providers can be recognized by an official accrediting body, at the expense of the patients we should be protecting.

While licensure can improve competency standards, professional validation, a defined scope of practice, reduction of fraud and abuse, a greater voice in state policy, professional accountability, increased quality, and improved economics, the overriding

reason for states to license the orthotic and prosthetic profession is *consumer protection*.

The goal of this document is to aid orthotists and prosthetists considering licensure and provide the tools and information necessary to obtain a well written and patient protective licensure act. In preparation for this document, the Academy assembled a group of clinical experts from each of the states with existing licensure acts to delineate the licensure process. The Committee focused on the following six priorities for development of a licensure initiative.

- Developing an Organizational Structure
- Identifying Potential Friends and Foes
- Selecting a Sponsor and/or Lobbyist
- Developing the Message
- Fundraising
- Developing the actual legislation

Embarking on a licensure initiative requires planning and a clear understanding of the process and expectations for success. Significant monetary and time commitments are often the norm. The process requires skill and vision in dealing with potential opposition and the ability to develop strategic alliances with groups who may support licensure, even while protecting or expanding their own scope of practice. Preparation, planning, and perseverance can produce legislation that is effective. The goal is to create a lasting organizational structure at the state level that can monitor encroachment attempts on the license and other legislative changes and initiatives that may affect the profession. A well written licensure act will lead to an organization that continues to serve O&P professionals in the state and consumers well into the future. Most importantly, consumers will be assured of safe and effective treatment from properly qualified and credentialed professionals.

Organizational Structure

The states that currently have licensure demonstrate that both large and small groups of dedicated professionals can successfully introduce legislation and achieve passage of the law. Unfortunately, there have also been states that lack an organizational structure, prolonging the process needlessly and increasing the costs of the initiative dramatically. Consider that legislation was introduced in Tennessee and within one year it was signed by the Governor even though there were less than six practitioners working directly on the initiative. The total cost was considerably less than \$50,000.

Illinois, on the other hand, mobilized practitioners across the state and was forced to introduce its legislation repeatedly over a number of years at a considerable premium that exceeded \$110,000 over four years. It should be noted that Illinois was one of the first states to enact licensure and therefore they did not have the benefit of a template and the assistance of those who preceded them.

To be successful your organization must bring together several key elements:

Effective Communication

O&P is fortunate in that we can readily visually demonstrate the effectiveness of our work in ways that others cannot. This is a benefit over other groups as we move toward licensure. We can truly claim that the services we provide create positive changes for both individuals and society at large. We can demonstrate our ability to help persons reclaim a productive life and once again become productive members of society rather than someone society must support. This is the perspective from which we have to present our profession to legislators and state regulators. As we prepare to present our case we should be familiar with the demographics of care and be sure to stress how many more people will require our services in the coming years as society deals with the twin epidemics of obesity and diabetes in an aging population. War, as horrific as it is, creates a unique awareness of the importance of prosthetists especially, and it is always prudent for legislators to support the military. Emphasizing the importance of having *only* qualified and licensed professionals provide these services to our veterans and citizens at-large is a good strategy. We make these points most effectively by partnering with our patients, veterans, and civilians alike, who can compel the state to want only the most qualified practitioners, with an appropriate education, to be able to practice and serve the public.

Effective communication includes but is not limited to the ability to respond to legislators and others with questions or issues immediately. This is usually achieved by designating an articulate O&P professional leader or leaders who will speak for the initiative as well as an articulate consumer spokesperson or persons, and a focused plan of action.

Effective communication can take many forms. These include cell phone “trees” that insure contact within the organization in less than an hour if necessary. A small organization can effectively communicate with only one well-connected individual focused on and having access to the legislature and a laptop with an e-mail list at his/her disposal. The key is to know what means of communication is going to work best for your particular group, commit to it, and employ it effectively.

The ability to respond to questions from legislators, provide testimony or counter any opposition is essential. Once a bill reaches committee, timely responses can mean the difference between a “yes” or a “no” vote. Legislative hearings do not always happen on schedule. Having articulate professionals on call and in close proximity who are willing to speak to the legislature and testify with little notice is an asset. Many state organizations have very effectively employed patients who are willing to testify as consumers on behalf of licensure. Fortunately many of our patients are capable of compelling testimony. Having an articulate patient who makes the right impression can be invaluable.

Precious time can be saved if participants are honest in assessing their skills and ability to perform the tasks they are assigned. These tasks are assigned according to the individual's talents, availability, and willingness to give of their time and/or money. Honesty and self-assessment are truly important here.

For example: you have agreed on what the acceptable minimum education standards are for a licensed professional will be in your bill. Your spokespeople must adopt the standard with passion and stick to that guideline. Your organization must speak with one voice and collectively agree on which areas in the bill you are willing to compromise and what your fall-back positions will be. This strategy sets the tone for all the work to follow on the licensure effort and frames your presentations, discussions, and justifications. Be aggressive in your efforts to include **all** of your state's O&P professionals in your initiative. There is plenty of work to go around. Those who cannot afford to donate funds may call legislators, stuff envelopes, write editorials, or even make a public service announcement (PSA). A busy practitioner may introduce a patient with a compelling story to tell as an alternative to donating his/her time. Regardless of the size or composition of your group, a cohesive and focused organization is the prerequisite for continuing down the path to producing legislation.

Money

Lobbyists cost money. Whether or not you need a lobbyist really depends on how connected the members of the state organization are to the political process in the state. If you have a champion in the legislature who will carry your bill for you and do your lobbying with other members of the legislature the need for a lobbyist is diminished. If you do not possess that access, a well-funded initiative that hires a professional lobbyist is likely required. Your lobbyist is someone who can respond to opportunities that grant access to key legislators whether attending a luncheon, or providing advice on sending members of the organizing committee to a fund raiser. Whether you hire a lobbyist or not a key member of any state licensure team may be a single member (typically a practitioner) of the licensure team available when the opportunity for access to legislature or other organizations presents itself.

A lobbyist or others who have gone through this process can help estimate potential costs and help develop a timeline for success.

Identifying Friends and Foes

Efforts to achieve state licensure will depend, in part, upon recognizing the various "players" in this political action. These "players" include (but are not limited to):

- Legislators
- The governor
- Local politicians
- Special-interest groups
- Other medical professionals
- Consumer advocate groups
- Individuals or organizations with various agendas

A state organization's ability to reach out to various groups and harvest support before introducing legislation is often a good barometer of success. In a simple analogy, more support equals more votes. Do not limit yourself to traditional allies. There are many

constituencies in the public domain that have a vested interest in protecting the consumer. Do not assume that your goals are not attractive to other constituencies until you ask. Groups such as the United Cerebral Palsy Association, the Muscular Dystrophy Association, the Spina Bifida Association, and the March of Dimes seem like straightforward matches, but organizations such as the AARP, Physical Medicine and Rehabilitation Physicians, Traumatic Brain Injury Survivors, various groups who advocate for the physically challenged, and your local news station's consumer advocate may develop into vocal and effective supporters.

Identifying potential opposition groups and initiating contact *before* introducing your legislation is just as important as generating supporters. One well connected opponent can force a bill to die in committee, despite broad support at introduction. Be prepared; striking a compromise in your scope of practice may be the requirement for success. But the decision on what compromises are acceptable must be made collectively.

Groups that may monitor your legislation and who should be considered for initial contact may be podiatrists, pharmacists, athletic trainers, rehabilitation technologists, practitioners certified by the Board for Orthotist/Prosthetist Certification, certified pedorthists, chiropractors, occupational and physical therapists, and certainly the state medical society. Representatives of orthopedic manufacturers have become increasingly vocal, well financed, and connected opponents of orthotic and prosthetic licensure initiatives. It is always important to find out which legislators have relationships with and are sensitive to these groups. Have a range of people from your group make contact in support of your legislation. Several perspectives on the same initiative might sway an opinion in a manner that two opposing forces cannot.

Since no licensure legislation will be retro-active, those practicing O&P in your state currently will want to ensure that they are grandfathered under the new legislation even if they could not be licensed as a new practitioner under the legislation. The political reality is **no legislator will support legislation that would cost a citizen a livelihood they have been accustomed to**. Use this reality to your advantage and bring those that will be grandfathered into your fold, gaining their support for your legislation. It may not be possible to obtain licensure without exempting certain physician groups and perhaps others from the provisions. Many physician groups, when made aware of the exemptions, will support licensure for orthotists and prosthetists and have proved to be powerful allies.

Historically one of the more contentious groups opposing licensure efforts can be the state's physical therapy association and the American Physical Therapy Association (APTA). During hearings in New Jersey, the New Jersey chapter of the APTA testified to the New Jersey State Legislature that they "were fully competent, by education and training, to provide full and comprehensive prosthetic and orthotic services" to the citizens of New Jersey. Ten years elapsed before a compromise scope of practice was agreed upon. In the end, physical therapists were allowed to continue providing the splints and devices they routinely provided during the course of their treatment, but were prohibited from providing comprehensive orthotic and prosthetic services. A

realistic understanding of the way orthotic and prosthetic services are delivered in your state, and an accurate assessment of the impact of this delivery on the patient population and state expenditures is essential and may yield the information necessary to establish a reasonable compromise with groups such as the APTA that could otherwise forestall licensure from being enacted. If a model APTA Practice Act is in force in your state, the interpretation of physical therapists ability to provide *comprehensive* orthotic and prosthetic care may already be established. Since this precedes your bill, limiting those privileges constitutes a change in their *established* scope of practice. This act will be met with considerable opposition and frankly is not worth the fight. Far better to know the established scope of practice for physical therapists and other allied health professionals before defining yours and be prepared to offer the exemptions mentioned above in exchange for support or even a promise not to oppose. In states where the physical therapy model practice act is not in force, there exists an opportunity to define your scope of practice and limit unqualified practitioners from providing comprehensive orthotic and prosthetic care.

Choosing a Sponsor and Lobbyist

The most effective way to get a bill through your state legislature is by getting to know your legislators and getting them to trust you. This of course is easier said than done but in most cases not impossible. If no one in your organization is politically connected or willing to take the time to do this you can hire a lobbyist to make the initial contacts. Over the course of a licensure initiative this may or may not prove to be the best way to proceed.

Once your organization decides that it is in the best interest of both the public and the profession in your state to have licensure, you will need to have legislation to that effect introduced. In some states registered lobbyists write and perform the bulk of the work to get the legislation introduced, but having effective relationships with key legislators can result in having a model bill (or a similar bill from another state) modified and introduced for your organization by a legislator. To do that you will need to find a legislator, or a legislative **sponsor** to take the lead for you. A good sponsor is someone who not only will introduce your legislation merely as a favor to you, but someone who will really care enough to put their name on it and feel a responsibility to see that it gets passed. In a majority of legislatures, hundreds or even thousands of pieces of legislation get introduced each year with most never seeing the light of day after introduction. A lobbyist may get your bill introduced, but a passionate legislator who cares about the people represented by the legislation, can get it passed.

The next step is to find a legislative sponsor and discuss with him/her the advocacy groups you identified earlier, as well as the likely opponents to the legislation. Your sponsor may have more information regarding supporters or opponents. Your sponsor is an important member of the team and will help develop your strategy to deal with friends and foes. Now is the time to become active with your plan and find one or more partners who will be strong advocates for the legislation. Often, the best possible choice

to sponsor your legislation is the Chair of the Health Committee or the committee through which your bill will pass. Perhaps a member of the committee has a personal attachment to your cause, either through using your services themselves or maybe because a family member or close friend has required the services of an orthotist or prosthetist. These individuals can be an excellent choice for sponsor as well.

Often opponents and naïve legislators will assume that you are pursuing licensure for selfish or economic reasons. But when a patient/consumer speaks out for licensure they are not viewed as self-serving. They are seen as wanting to ensure that good services from a qualified practitioner will be available to them and everyone in the state who needs these services now or in the future. Forming coalitions with an advocacy group often helps to convey your message.

Assuming you have found a sponsor it is now time to decide whether or not you will need a lobbyist. If you haven't found a sponsor, a lobbyist can help in this area. But if you have a sponsor it is often beneficial to sit down with the sponsor and discuss strategy for getting the bill passed. Your sponsor will convey what he or she believes the chances are for passage and which legislators you need to work on to get additional support for the bill. If you, your members, or the other groups you are working with do not have connections to the individuals whose support you require, it is now time to look for a lobbyist with the contacts to get to these members and convince them to support your bill.

In choosing your lobbyist you want to insure that he or she will care about your bill and not just your retainer. Again, it helps if your lobbyist has a personal interest or connection to the O&P profession. Perhaps your lobbyist is already working for one of the advocacy groups that you have partnered with or has a connection that can be used to your benefit. Your sponsor may also suggest a lobbyist as well.

Armed with several suggested lobbyists, you will want to interview them to determine their qualifications, their fees, how much time they will devote to your bill, and for whom else they lobby. Be particularly careful about conflicts of interest. A lobbyist may lobby for many other organizations, and you will need to be certain none would oppose your bill. Knowing their fee structure is helpful. If you are paying less than other clients, you may receive less service.

Once you decide on a lobbyist you should draft an agreement which defines the scope of service they will provide for you. What services they will perform and how they will communicate with you are important considerations.

Now is the time to determine your group's participation level in the legislative meetings that occur on your bill. Determine who the important players are and how you can get to know them. This interaction is of critical importance as you move forward on the legislation. You will also need a single permanent liaison to the lobbyist to streamline the communication with your group. If possible, this individual should be in close proximity to the State Capitol, to facilitate attendance at meetings on short notice and

participate actively in discussions. This person must be intimately familiar with your strategy and the issues if quick decisions are necessary.

Adopt a legislator

To help this process along, your organization should consider two very important actions: Adopt-a-legislator and messaging. First, set up an adopt-a-legislator program and then set up a legislative phone tree. Adopt-a-legislator programs involve each member of your organization, in every legislative district in your state. The member contacts their legislator, gets to know him or her, and establishes a running conversation with them. They might offer to sit on their health care advisory committee or set one up if they don't have one. They ultimately should become someone in the district that the legislator is comfortable calling when they need questions answered. You can work on their campaigns, try to raise campaign funds for them, and in general become someone they trust. This not only helps with your current legislation but lays the groundwork for future connections and political access.

A legislative phone tree is set up for quick action. Each member makes one phone call to a fellow practitioner who then is responsible for making three more, and so on down the line. This structure can be used to generate letters and calls to legislators around the state at crucial times in the bill's progress through the legislature. It can also be used to discuss or to confirm potential concessions or changes in the bill as it moves through the legislative process so that everyone stays on the same page. This organizational structure allows fast communication and fast action. Establishing these kinds of initiatives builds a base of support for future efforts, including responding to regulations once the bill is passed, or threats to the profession in the future. The need for the structure to deal with ongoing threats is best demonstrated by this experience from the state of Tennessee. Shortly after passing their licensure bill, and before they had completed writing the rules for the bill, Tennessee O&P professionals were caught off guard by a small but crucial addition to the Podiatrist Practice Act that prohibited the fitting, adjustment, or delivery of custom foot orthoses without a written prescription from a licensed podiatrist. Ironically, the board that regulates the O&P Licensure Law is the Board of Podiatry. Because there really was no structure to facilitate legislative watch for the orthotic and prosthetic profession in Tennessee, this addition to the Podiatry practice act passed without comment.

Messaging

Messaging is simply "telling and selling" your story to as many people around the state as you can. Use as many free assets as possible. News stories, Public Service Announcements (PSAs), and rallies all are inexpensive ways to develop awareness of your plans and the reasons behind your efforts. Columns and fliers with simple and straightforward understandable text are best. Use bullet points in the text to simplify the information and leave a lasting impact. Columns and fliers with simple and straightforward, understandable text are best. Use bullet points in the text to simplify the information and leave a lasting impact. These columns and fliers can be sent to all interested constituents or handed out at public venues and meetings.

Getting your message out is crucial. Along with fundraising it is the most important role that many of the members of your organization will have. Because the O&P profession is usually a small player in terms of members and resources, creativity is at a premium. Utilize your patient population and enlist them to write personal letters supporting your legislation to their legislators; editorials in newspapers can be effective in building support and shaping public opinion as well. Nothing gets a legislator's attention like a letter or call from one of their constituents so encourage both your members and your patients to contact their legislators.

Visiting your legislator with a patient is another excellent way to get the message out. Getting an appointment is usually not difficult, but keep in mind that your visit will be short and you need to be prepared to make your points in a clear and concise manner. Do not be afraid to come right out and ask whether the legislator will give you their support. You want to leave the meeting knowing whether you have their support or not, and if not what they need from you to change their minds.

As was discussed before, teaming up with other organizations is also an important way to reach a different cadre of people and increase your effectiveness. Remember those partner organizations that may be willing to support your cause? Early in your initiative is the time to leverage those relationships. Ideally these groups will have access to legislators that you do not have contacts with and whose support you desire.

The most important thing to remember about messaging is that it requires a constant effort. As long as the fight for your legislation goes on you will need to be driving your message home and delivering your story to as many people as possible. If you message well for the first six months and then fall silent when the legislation is in committee, you've lost momentum. No news, no message, implies that no action is required. Given the sheer number of bills that pass through a legislature in a given session, lawmakers subconsciously look for reasons to let bills die without consideration. If you're not creating excitement about your bill, neither will they.

Fundraising

Your ability to be creative and leverage your contacts and relationships will impact the amount of money you need. The smaller your organization, the less your potential impact and the more money you'll need to buy access and get your lobbyist out in front of legislators. Clearly there are exceptions to this rule. If one of your small groups has a patient that is a family member of the Chair of the Health Committee or for that matter any member of the legislature, you can save thousands of dollars and hours of time.

There is no set amount of money it will take to get a licensure bill. The amount will vary from state to state. Some groups have found that they want to raise \$50,000 before they begin to tackle a licensure initiative. But in reality some licensure initiatives can take a number of years and provide ample time for additional fundraising as your progress is communicated to your membership. Many licensure initiatives represent the first effort to create a political action committee for the O&P profession in your state. This effort will establish the profession's presence within the state capitol on a more permanent basis,

and you should consider any money you raise for a licensure initiative as the beginning of an ongoing infrastructure for the profession to respond and communicate in the future.

The first and perhaps quickest way to raise money is to solicit funds from active members of the state organization and business owners. In a small state with few businesses you might ask that the existing facilities pledge to share the cost equally on an ongoing basis as the bills materialize. Some state organizations have set a minimum contribution level at their organizational meetings and simply collected the money through invoicing. Others have held special fundraising events which have included golf tournaments, skeet shoots, and outings of various kinds. When doing a special event it is important to do it right. Small touches like hand written invitations are more personal and may raise the expectation of attendees eliciting higher contributions. Wine tastings and events that include your patients and other constituents can also be successful. Do not begin the process without preparing a baseline budget, and knowing, at least in theory, from where the money will come. The last thing you want to happen is to have your legislation introduced and then not have the resources to promote it.

When analyzing where your support will come from remember that some institutions, (hospitals, etc.) may not offer direct financial support, but sometimes have the ability to host your fundraising events at their facilities which enhances the publicity and the eventual income you generate from the event. For example: Shriners Hospital in Tampa supported the Florida state efforts by allowing the organization to host several fundraisers at their facility, providing a high profile venue for news coverage that created a favorable reaction from the community at-large. The Shriners also facilitated the messaging by getting it out to over 10,000 patients and their families. Hearings and interviews with legislators were also held and filmed at the hospital.

Another fundraising tool is placing check-off boxes on your state chapter dues renewal forms providing individual members with a convenient way to make contributions. Promoting an on-going lobbying effort can often attract larger contributions from businesses, as they may perceive that they would have a more effective voice in the state legislature regarding future regulation and funding. This perception creates the ability for monthly assessments to each member business in return for access to legislators.

State associations have successfully sponsored educational programs to raise money for licensure initiatives. In some states the fundraising efforts begin simultaneously with the organization's formation. In each of these instances, there emerged natural leadership in the fundraising area. Accept that some people are just better at asking for money than others.

You also should invest the funds you raise in advance of incurred costs as they can then earn interest. Every dollar counts.

Producing Meaningful Legislation

Regardless of who introduces a licensure bill in your state, and who writes it, the orthotic and prosthetic profession should be comfortable with the bill as introduced. Through requirements for appropriate education and certification your legislation protects the public. The American Board for Certification in Orthotics, Prosthetics & Pedorthics has had a Model Practice Act on their website for several years. That model bill is a good starting point and is reprinted below to illustrate a format and some of the necessary components of a comprehensive legislative document (APPENDIX 1). In addition we have provided the following link to the ABC website. [ABC Model Licensure Act](#) Additionally, we have attached links to existing practice acts so that you may review and determine if there are existing documents that help meet your goals and expectations (APPENDIX 2).

The crucial components for any bill are:

- List of relevant terms
- Definitions of relevant terms
- The scope of practice for each specific title
- The minimum education and/or examination requirements for licensure
- The requirements for maintenance of licensure
- The rules for practice
- How to establish a governing body or board
- The composition of governing board
- How to establish the authority of governing board
- The exceptions and exemptions to the rules
- How complaints are filed
- Parameters for hearing complaints
- The governing board's ability to seek remedy
- The cause for revocation of license
- The conditions for reinstatement of license
- Definition of reciprocal policy
- License renewal fees
- The parameters for appointment to the governing body

As discussed earlier, each individual state organization must determine the specific parameters of licensure for practitioners practicing within its borders, establish minimal education requirements for future licensure, and determine the governing body that will grant and enforce licensure.

Consensus within your organization will require a full understanding of the consequences of these decisions and their effect on the recipients of the services and those practicing orthotics and prosthetics in your state.

The Academy believes that in the future, individual state licensure will become the single most important guarantor of consumer protection and public safety with respect to the provision of comprehensive orthotic and prosthetic services.

APPENDIX 1

*American Board for Certification in Orthotics,
Prosthetics and Pedorthics, Inc.*

MODEL ORTHOTICS, PROSTHETICS AND PEDORTHICS PRACTICE ACT

AN ACT to create License Requirements for the Practice of Orthotics, Prosthetics and Pedorthics.

Be it enacted by the People of the State of (State name), represented in the General Assembly:

Section 1. Short title.

This Act may be cited as the Orthotics, Prosthetics and Pedorthics Practice Act.

Section 5. Declaration of public policy.

The practice of orthotics and prosthetics in the State of (State name) is an allied health profession with educational standards established by the Commission on Accreditation of Allied Health Education Programs (CAAHEP), or its successor. The practice of pedorthics in the State of (State name) is an allied health profession with educational standards established by the National Commission on Orthotic and Prosthetic Education (NCOPE), or its successor. The American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc., (ABC) is the national credentialing body for the orthotic, prosthetic and pedorthic individuals and facilities in the profession. The increasing population of elderly and physically challenged individuals who need orthotic, prosthetic and pedorthic services requires that the orthotic, prosthetic and pedorthic professions be regulated to ensure the provision of safe, effective and appropriate patient care services.

The people of (State name) deserve the best care available and will benefit from the assurance of initial and ongoing professional competence of the orthotists, prosthetists and pedorthists practicing in this State. The practice of orthotics, prosthetics and pedorthics serves to improve and enhance the lives of individuals with disabilities and diseases by enabling them to resume productive lives following serious illness, injury, trauma or congenital anomalies. Unregulated provision of orthotic, prosthetic and pedorthic care does not adequately meet the needs or serve the interests of the public.

In keeping with State requirements imposed on similar healthcare disciplines, licensure of the orthotic, prosthetic and pedorthic professions will help ensure the health and safety of consumers, as well as maximize their functional abilities and productivity levels. This Act shall be liberally construed to best carry out these subjects and purposes.

Section 10. Definitions.

As used in this Act:

- (1) "Assistant" means a person who is educated and trained to participate in comprehensive orthotic and/or prosthetic care while under the supervision of a licensed orthotist and/or licensed prosthetist. Assistants may perform orthotic and/or prosthetic procedures and related tasks in the management of patient care. The assistant may also fabricate, repair and maintain orthoses and prostheses.
- (2) "Board" means the Board of Orthotics, Prosthetics and Pedorthics.
- (3) "Custom fabricated device" means an orthosis, prosthesis or pedorthic device fabricated to comprehensive measurements and/or a mold or patient model for use by a patient in accordance with a prescription and which requires clinical and technical judgment in its design, fabrication and fitting.
- (4) "Custom fitted device" means an orthosis or pedorthic device made to patient measurements, sized or modified for use by the patient in accordance with a prescription and which requires clinical and technical judgment and substantive alteration in its design.
- (5) "Department" means the Department of Professional Regulation.
- (6) "Director" means the Director of Professional Regulation.
- (7) "Facility" means the physical location where orthotic, prosthetic and/or pedorthic care is provided. In the case of an orthotic, prosthetic and/or pedorthic facility, it has the appropriate clinical and laboratory space and equipment to support the level of comprehensive orthotic, prosthetic or pedorthic care provided. Licensed orthotists, prosthetists and/or pedorthists must be available to either provide care or supervise the provision of care.
- (8) "Licensed assistant" means a person licensed under this Act to perform duties as described by the Board.
- (9) "Licensed orthotic fitter" means a person licensed under this Act to perform duties as described by the Board.
- (10) "Licensed orthotist" means a person licensed under this Act to practice orthotics and who represents himself or herself to the public by title or description of services that includes the term "orthosis," "orthotist," "brace" or a similar title or description of services.
- (11) "Licensed mastectomy fitter" means a person licensed under this Act to perform duties as described by the Board.

(12) "Licensed pedorthist" means a person licensed under this Act to practice pedorthics and who represents himself or herself to the public by the title or description of services that include the term "pedorthic device," "pedorthist" or a similar title or description of services.

(13) "Licensed physician" means a person licensed under the state Medical Practice Act.

(14) "Licensed podiatrist" means a person licensed under the state Podiatric Medical Practice Act.

(15) "Licensed prosthetist" means a person licensed under this Act to practice prosthetics and who represents himself or herself to the public by title or description of services that includes the term "prosthesis," "prosthetist," "artificial limb" or a similar title or description of services.

(16) "Licensed technician" means a person licensed under this Act to perform duties as described by the Board.

(17) "Licensed therapeutic shoe fitter" means a person licensed under this Act to perform duties as described by the Board.

(18) "Mastectomy fitter" means a healthcare professional who is specifically educated and trained in the provision of breast prostheses and post-mastectomy services. This includes patient assessment, formulation of a treatment plan, implementation of the treatment plan, follow-up and practice management.

(19) "Orthosis" means a custom designed, custom fabricated, custom fitted, prefabricated and/or modified device to treat a neuromusculoskeletal disorder or acquired condition. "Orthosis" does not include items that are sold as "over-the-counter" items as defined in this section.

(20) "Orthotic fitter" means a healthcare professional who is specifically educated and trained in the provision of certain orthoses. This includes patient assessment, formulation of a treatment plan, implementation of the treatment plan, follow-up and practice management. An orthotic fitter is competent to practice orthotics within a scope of practice that is specific to fitting certain custom fitted, prefabricated and off-the-shelf orthoses as described below:

(A) Cervical orthoses, except those used to treat an unstable cervical condition;

(B) Prefabricated orthoses for the upper and lower extremities, except those used in the initial and/or acute treatment of long bone fractures and dislocations, therapeutic (diabetic) shoes/inserts and functional electrical stimulation orthoses (e.g. myo-orthosis, neuroprosthesis);

(C) Prefabricated spinal orthoses, except those used in the treatment of scoliosis or unstable spinal conditions, including halo cervical orthoses;

(D) Pressure gradient garments; and

(E) Trusses.

(21) "Orthotic and prosthetic education program" means an educational program accredited by CAAHEP, consisting of:

(A) A basic curriculum of college level instruction in math, physics, biology, chemistry and psychology; and

(B) A specific curriculum in orthotic and/or prosthetic courses, including:

(i) Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials; gait training; functional assessment; prosthetic or orthotic performance evaluation; prescription considerations; etiology of amputations and disease processes necessitating prosthetic and/or orthotic use; and medical management;

(ii) Subject matter related to pediatric, adult and geriatric problems;

(iii) Instruction in acute care techniques, such as immediate and early post-surgical prosthetics and fracture management techniques; and

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

(22) "Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting or servicing an orthosis or pedorthic device under an order from a prescribing healthcare professional for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury or deformity.

(23) "Orthotist" means a healthcare professional who is specifically educated and trained to manage comprehensive orthotic patient care. This includes patient assessment, formulation of a treatment plan, implementation of the treatment plan, follow-up and practice management.

(24) "Over-the-counter item" means a prefabricated, mass-produced item that is prepackaged and requires no professional advice or judgment in either size selection or use.

(25) "Off-the-shelf device" means a prefabricated device sized and/or modified for use by the patient in accordance with a prescription and which does not require substantial clinical judgment and substantive alteration for appropriate use.

(26) "Pedorthic device" means therapeutic shoes, shoe modifications made for therapeutic purposes, below the ankle partial foot prostheses and foot orthoses. It 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 footwear, the proximal height of a custom pedorthic

device does not extend beyond the junction of the gastrocnemius and the Achilles tendon. Pedorthic devices do not include non-therapeutic inlays or footwear regardless of method of manufacture; unmodified, non-therapeutic over-the-counter shoes; or prefabricated foot care products. Therapeutic devices address a medical condition, diagnosed by a prescribing medical professional, while non-therapeutic devices do not address a medical condition.

(27) "Pedorthic education program" means an educational program approved by NCOPE consisting of:

(A) A basic curriculum of instruction in foot-related pathology of diseases, anatomy and biomechanics; and

(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.

(28) "Pedorthics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting or servicing a pedorthic device under an order from a prescribing healthcare professional for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury or deformity. The profession of pedorthics is the provision of patient care and services by or under the direction and supervision of a licensed pedorthist to provide the application of a pedorthic device for the prevention or amelioration of painful and/or disabling conditions of the foot and ankle. A prescription is required for any pedorthic device, modification and/or prefabricated below the knee orthosis addressing a medical condition that originates at the ankle or below.

(29) "Pedorthist" means a healthcare professional who is specifically educated and trained to manage comprehensive pedorthic patient care. This includes patient assessment, formulation of a treatment plan, implementation of the treatment plan, follow-up and practice management. A pedorthist fits, fabricates, adjusts or modifies devices which reflect his/her education.

(30) "Person" means a natural person.

(31) "Prosthesis" means a custom designed, fabricated, fitted and/or modified device to treat partial or total limb loss for purposes of restoring physiological function and/or cosmesis. Prosthesis does not include artificial eyes, ears, fingers or toes; dental appliances; and cosmetic devices that do not have a significant impact on the musculoskeletal functions of the body.

(32) "Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting or servicing a prosthesis under an order from a prescribing healthcare professional.

(33) "Prosthetist" means a healthcare professional who is specifically educated and trained to manage comprehensive prosthetic patient care. This includes patient assessment, formulation of a treatment plan, implementation of the treatment plan, follow-up and practice management.

(34) "Prosthetist/Orthotist" means a person who practices both disciplines of prosthetics and orthotics and who represents himself or herself to the public by title or by description of services.

(35) "Resident" means a person who has completed a CAAHEP accredited education program in orthotics and/or prosthetics and is obtaining his or her clinical training in a residency accredited by NCOPE.

(36) "Residency" means a minimum of a one-year NCOPE accredited program to acquire practical clinical training in orthotics and/or prosthetics in a patient care setting.

(37) "Scope of practice" means the procedures, actions and processes that are permitted for the licensed individual. The scope of practice is that which the profession or law allows, related to specific education, experience and demonstrated competency.

(38) "Supervision" means the act of critical observing and directing the work or tasks of another who may lack full knowledge of the concept at hand.

(39) "Supervisor" means the licensed orthotist, prosthetist, orthotist/prosthetist and/or pedorthist who oversees and is responsible for the delivery of appropriate, effective, ethical and safe orthotic, prosthetic and/or pedorthic patient care.

(40) "Technician" means a person who assists an orthotist, prosthetist, or prosthetist/orthotist by providing technical support. The technician fabricates, repairs and maintains orthoses and prostheses. The technician is proficient with current fabricating techniques, familiar with material properties and skilled in the use of appropriate equipment.

(41) "Therapeutic shoe fitter" means a healthcare professional who is specifically educated and trained to provide non-custom therapeutic shoes and non-custom multi-density inserts. This includes patient assessment, formulation of a treatment plan, implementation of the treatment plan, follow-up and practice management.

Section 15. Exceptions.

This Act shall not be construed to prohibit:

(a) A physician licensed in this State from engaging in the practice for which he or she is licensed;

(b) A person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;

(c) The practice of orthotics, prosthetics or pedorthics by a person who is employed by the federal government or any bureau, division or agency of the federal government while in the discharge of the employee's official duties;

(d) The practice of orthotics, prosthetics or pedorthics by:

(1) A student enrolled in an accredited/approved orthotics, prosthetics or pedorthics educational program;

(2) A resident enrolled in a NCOPE accredited residency program;

(3) A person working in a qualified, supervised work experience or internship who is obtaining the clinical experience necessary for licensure, as defined by the Board.

(e) The practice of orthotics, prosthetics or pedorthics by one who is an orthotist, prosthetist, pedorthist, assistant, fitter or technician licensed under the laws of another state or territory of the United States or another country whose licensure requirements are equal to or higher than those defined in this Act and has applied in writing to the Department, in a form and substance satisfactory to the Department, for a license as orthotist, prosthetist, pedorthist, assistant, fitter or technician and who is qualified to receive the license under Section 40 or 45 until:

(1) The expiration of six months after the filing of the written application;

(2) The withdrawal of the application; or

(3) The denial of the application by the Department.

Section 20. Powers and Duties of the Department.

(a) The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of (State name) for the administration of licensure Acts and shall exercise other powers and duties necessary for effectuating the purposes of this Act.

(b) The Department may adopt rules to administer and enforce this Act including, but not limited to, fees for original licensure and renewal and restoration of licenses and may prescribe forms to be issued to implement its rules. The Department shall exercise the powers and duties prescribed by this Act. At a minimum, the rules adopted by the Department shall include standards and criteria for licensure and for professional conduct and discipline. The Department shall consult with the Board in adopting rules. Notice of proposed rulemaking shall be transmitted to the Board, and the Department shall review the Board's response and any recommendations made in writing with proper explanation of deviations from the Board's recommendations and response.

(c) The Department at any time may seek the expert advice and knowledge of the Board on any matter relating to the enforcement of this Act.

Section 25. Board of Orthotics, Prosthetics and Pedorthics.

(a) There is established a Board of Orthotics, Prosthetics and Pedorthics, which shall consist of six voting members to be appointed by the Director. At least three members shall be practicing licensed orthotists, licensed prosthetists or licensed pedorthists. These members may be licensed in more than one discipline and their appointments must equally represent all three disciplines. At least two members shall be a member of the public who is a consumer of orthotic, prosthetic or pedorthic professional services.

(b) Each member of the Board shall serve a term of three years, except that of the initial appointments to the Board: two members shall be appointed for one year, two members shall be appointed for two years and two members shall be appointed for three years. Each member shall hold office and execute his or her Board responsibilities until the qualification and appointment of his or her successor. No member of the Board shall serve more than eight consecutive years or two full terms, whichever is greater.

(c) The Board shall annually elect a chairperson and vice chairperson who shall be licensed under this Act.

(d) Members of the Board shall receive as compensation a reasonable sum as determined by the Director for each day actually engaged in the duties of the office and shall be reimbursed for reasonable expenses incurred in performing the duties of the office.

(e) A quorum of the Board shall consist of a majority of Board members currently appointed.

(f) The Director may terminate the appointment of any member for cause which, in the opinion of the Director, reasonably justifies termination, which may include, but is not limited to, a Board member who does not attend two consecutive meetings.

(g) Membership of the Board should reasonably reflect representation from the geographic areas in this State.

Section 30. Board; immunity.

Members of the Board shall be immune from suit in any action based upon any disciplinary proceeding or other activities performed in good faith as members of the Board.

Section 35. Application for original license.

An application for an original license shall be made to the Department in writing on a form prescribed by the Department and shall be accompanied by the required fee, which shall not be refundable. An application shall require information that in the judgment of the Department will enable the Department to pass judgment on the qualifications of the applicant for a license.

Section 40. Qualifications for licensure as orthotist, prosthetist or pedorthist.

(a) To qualify for a license to practice as an orthotist or prosthetist, a person shall:

- (1) Possess a baccalaureate or higher degree from an accredited college or university;
- (2) Complete a CAAHEP accredited educational program in orthotics and/or prosthetics;
- (3) Complete a Residency as defined in this Act in the discipline for which a license is sought; and
- (4) Pass all examinations that are required and approved by the Board.

(b) To qualify for a license to practice pedorthics, a person shall:

- (1) Possess a high school diploma or GED;
- (2) Complete an NCOPE approved pedorthic education program;
- (3) Have a minimum of 1,000 hours of pedorthic patient care experience; and
- (4) Pass all examinations that are required and approved by the Board.

(c) A person may be licensed in more than one discipline.

Section 45. Qualifications for licensure as assistants, fitters and technicians.

(a) To qualify for a license to practice as an assistant a person shall:

- (1) Possess a high school diploma or GED;
- (2) Present evidence satisfactory to the Board that the applicant has completed an education program, including courses in the anatomical, biological and physical sciences as prescribed and adopted by the Board;
- (3) Complete 1,000 hours of experience in orthotics and/or prosthetics as approved by the Board; and
- (4) Pass all examinations that are required and approved by the Board.

(b) To qualify for a license to practice as an orthotic fitter a person shall:

- (1) Possess a high school diploma or GED;

- (2) Complete an NCOPE approved orthotic fitter course;
- (3) Complete 1,000 hours of experience in orthotic fitting as approved by the Board; and
- (4) Pass all examinations that are required and approved by the Board.

(c) To qualify for a license to practice as a mastectomy fitter a person shall:

- (1) Possess a high school diploma or GED;
- (2) Complete an NCOPE approved mastectomy fitter course;
- (3) Complete 500 hours of mastectomy fitting experience as approved by the Board; and
- (4) Pass all examinations that are required and approved by the Board.

(d) To qualify for a license to practice as a therapeutic shoe fitter a person shall:

- (1) Possess a high school diploma or GED;
- (2) Complete an NCOPE approved therapeutic shoe fitter course;
- (3) Complete 250 hours of therapeutic shoe fitting experience as approved by the Board; and
- (4) Pass all examinations that are required and approved by the Board.

(e) To qualify for a license to practice as an orthotic and/or prosthetic technician a person shall:

- (1) Possess a high school diploma or GED;
- (2) Either;
 - A) Complete an NCOPE approved orthotic and/or prosthetic technician program; or
 - B) Have two years of technician experience in the discipline seeking registration under the direct supervision of an ABC certified practitioner, or in the case of employment at an orthotic and/or prosthetic central fabrication facility, supervision by an ABC registered technician; and
- (4) Pass all examinations that are required and approved by the Board.

Section 50. Examination requirement.

- (a) The Department may authorize examinations of applicants as orthotists, prosthetists, pedorthists, assistants, fitters and technicians at times and places as it may determine. The examination of applicants shall assess the competency and the qualifications of the applicant to practice in their specific discipline of practice.
- (b) Applicants for examination as orthotists, prosthetists, pedorthists, assistants, fitters and technicians shall be required to pay, either to the Department or the designated examination service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date at the time and place specified after the applicant's application for examination has been received and acknowledged by the Department or the designated examination service shall result in the forfeiture of the examination fee.
- (c) If an applicant neglects, fails or refuses to take an examination or fails to pass an examination for a license under this Act within three years after filing his or her application, the application shall be denied. All fees are nonrefundable. The applicant may make a new application for examination accompanied by the required fee and must furnish proof of meeting qualifications for licensure in effect at the time of new application.
- (d) The Department shall set by rule the maximum number of attempts that an applicant may make to pass the examination within a specified period of time. The Department shall also determine any further training required before a re-examination.
- (e) The Department may use consultants for the purpose of preparing and conducting examinations.

Section 55. Transition period.

- (a) Until January 1, (two years after law is effective), a person certified as a Certified Orthotist (CO), Certified Prosthetist (CP) or Certified Prosthetist/Orthotist (CPO) by ABC or holding similar certifications from other certifying bodies with equivalent educational, residency requirements and examination standards may apply for and shall be granted orthotic or prosthetic licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as an orthotist or a prosthetist shall meet the requirements of subsection (a) of Section 40 of this Act.
- (b) Until January 1, (two years after law is effective), a person certified as a Certified Pedorthist (C.Ped.), a Certified Orthotist (CO) or Certified Prosthetist/Orthotist (CPO) by ABC or holding similar certifications from other certifying bodies with equivalent educational and experience requirements and examination standards may apply for and shall be granted pedorthic licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as a pedorthist shall meet the requirements of subsection (b) of Section 40 of this Act.

(c) Until January 1, (two years after law is effective), a person credentialed as a Registered Orthotic Assistant (ROA), a Registered Prosthetic Assistant (RPA) or a Registered Orthotic/Prosthetic Assistant (ROPA) by ABC or holding similar certifications from other certifying bodies with equivalent educational and experience requirements and examination standards may apply for and shall be granted orthotic or prosthetic assistant licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as an assistant shall meet the requirements of subsection (a) of Section 45 of this Act.

(d) Until January 1, (two years after law is effective), a person certified as a Certified Fitter-orthotics (CFo) by ABC or holding similar certifications from other certifying bodies with equivalent educational and experience requirements and examination standards may apply for and shall be granted orthotic fitter licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as an orthotic fitter shall meet the requirements of subsection (b) of Section 45 of this Act.

(e) Until January 1, (two years after law is effective), a person certified as a Certified Fitter-mastectomy (CFm) by ABC or holding similar certifications from other certifying bodies with equivalent educational and experience requirements and examination standards may apply for and shall be granted mastectomy fitter licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as a mastectomy fitter shall meet the requirements of subsection (c) of Section 45 of this Act.

(f) Until January 1, (two years after law is effective), a person certified as a Certified Fitter-therapeutic shoes (CFts) by ABC or holding similar certifications from other certifying bodies with equivalent educational and experience requirements and examination standards may apply for and shall be granted a therapeutic shoe fitter licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as a therapeutic shoe fitter shall meet the requirements of subsection (d) of Section 45 of this Act.

(g) Until January 1, (two years after law is effective), a person credentialed as a Registered Orthotic Technician (RTO), a Registered Prosthetic Technician (RTP) or a Registered Orthotic/Prosthetic Technician (RTPO) by ABC or holding similar certifications from other certifying bodies with equivalent educational and experience requirements and examination standards may apply for and shall be granted a technician licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as a technician shall meet the requirements of subsection (e) of Section 45 of this Act.

(h) On and after January 1, (two years after law is effective), no person shall practice orthotics, prosthetics or pedorthics in this State or hold himself or herself out as being able to practice in the profession, unless he or she is licensed in accordance with this Act.

Section 56. Enforcement.

The licensure requirements of Sections 40, 45 and 50 shall not be enforced until 24 months after the effective date this Act.

Section 57. Limitation on provision of care and services.

A licensed orthotist, prosthetist, pedorthist, assistant, fitter or technician may provide care or services only if the care or services are provided pursuant to an order from a licensed prescribing healthcare professional.

Section 58. Facility Accreditation.

(a) The Board by rule shall establish requirements for the accreditation and the renewal of an accreditation of an orthotic, prosthetic and/or pedorthic facility in which orthotics, prosthetics and/or pedorthics are conducted. The Board may issue an accreditation only to an orthotic, prosthetic and/or pedorthic facility.

(b) If a person owns more than one facility, the Board may require only one application for the accreditation of all of the person's facilities. Each orthotic, prosthetic and/or pedorthic facility must meet the requirements established by the Board.

(c) An orthotic, prosthetic and/or pedorthic facility must be under the on-site direction of an orthotist, prosthetist and or pedorthist licensed by the Board in the discipline for which accreditation is sought.

(d) The rules adopted under this section may not prohibit a licensed individual from practicing in an orthotic, prosthetic and/or pedorthic facility within the scope of the individual's license.

Section 60. Renewal; restoration; military service.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule of the Department. The Board shall establish continuing education requirements for the renewal of a license.

(b) A person who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by:

(1) Making application to the Department;

(2) Filing proof acceptable to the Department of his or her fitness to have his or her license restored including, but not limited to, sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department; and

(3) Paying the required restoration fee. If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Board shall determine, by an evaluation program established by rule, his or her fitness to resume active status and may

require the person to complete a period of evaluated clinical experience and may require successful completion of an examination.

(c) A person whose license expired while he or she was:

(1) In federal service on active duty within the armed forces of the United States or with the State militia called into service or training; or

(2) In training or education under the supervision of the United States preliminary to induction into military service may have his or her license renewed or restored without paying a lapsed renewal fee if, within two years after termination from the service, training or education except under conditions other than honorable, he or she furnished the Department with satisfactory evidence that he or she has been so engaged and that his or her service, training or education has been terminated.

Section 65. Elective inactive status.

(a) A person who notifies the Department in writing on forms prescribed by the Department may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

(b) A person requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to restore his or her license as provided in Section 60 of this Act.

(c) An orthotist, prosthetist, pedorthist, assistant, fitter or technician whose license is on inactive status shall not practice orthotics, prosthetics or pedorthics in this State.

Section 70. Endorsement.

(a) The Department may, at its discretion, license without examination and on payment of the required fee, an applicant who is an orthotist, prosthetist, pedorthist, assistant, fitter or technician who is:

(1) Licensed under the laws of another state, territory or country, if the requirements for licensure in that state, territory or country in which the applicant was licensed were, at the date of his or her licensure, equal or higher to the requirements in force in this State on that date; or

(2) Certified by ABC or a national certification organization with educational, experiential and testing standards equal to or more stringent than the licensing requirements of this State.

Section 75. Fees.

(a) The Department shall provide by rule for a schedule of fees to be paid for licenses or accreditations by all applicants. All fees are not refundable.

(b) The fees for the administration and enforcement of this Act including, but not limited to, original licensure renewal and restoration shall be set by rule by the Department.

(c) All fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

Section 80. Roster of licensees.

The Department shall maintain a current roster of the names and addresses of all licensees and all persons whose licenses have been suspended or revoked within the past five years. This roster shall be available upon written request and payment of the required fee.

Section 85. Practice by corporations.

Nothing in this Act shall restrict licensees from forming professional service corporations under the provisions of the Professional Service Corporation Act. No person may practice orthotics, prosthetics or pedorthics without a license in good standing.

Section 90. Grounds for discipline.

(a) The Department may refuse to issue or renew a license, may revoke or suspend a license, or may suspend, place on probation, censure or reprimand a licensee for one or any combination of the following:

(1) Making a material misstatement in furnishing information to the Department or the Board.

(2) Violations of or negligent or intentional disregard of this Act or its Rules.

(3) Conviction of any crime that under the laws of the United States or of a state or territory of the United States is a felony or a misdemeanor, an essential element of which is dishonesty, or of a crime that is directly related to the practice of the profession.

(4) Making a misrepresentation for the purpose of obtaining a license.

(5) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

- (6) Gross negligence under this Act.
 - (7) Aiding or assisting another person in violating a provision of this Act or its Rules.
 - (8) Failing to provide information within 60 days in response to a written request made by the Department.
 - (9) Engaging in dishonorable, unethical or unprofessional conduct or conduct of a character likely to deceive, defraud or harm the public.
 - (10) Habitual intoxication or addiction to the use of drugs.
 - (11) Discipline by another state or territory of the United States, the federal government or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to one set forth in this Section.
 - (12) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership or association a fee, commission, rebate or other form of compensation for professional services not actually or personally rendered.
 - (13) A finding by the Board that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.
 - (14) Abandonment of a patient or client.
 - (15) Willfully making or filing false records or reports in his or her practice including, but not limited to, false records filed with State agencies or departments.
 - (16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.
 - (17) Solicitation of professional services using false or misleading advertising.
- (b) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. The suspension will end only upon:
- (1) A finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of a court order so finding and discharging the patient; and
 - (2) The recommendation of the Board that the licensee be allowed to resume his or her practice.

(c) In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physician shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license, or denial of his or her license, until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

(d) If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling or treatment by physicians approved or designated by the Department or Board, as a condition, term or restriction for continued, reinstated or renewed licensure to practice; or, in lieu of care, counseling or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions or restrictions and who fails to comply with such terms, conditions or restrictions, shall be referred to the Director for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

(e) In instances in which the Director immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

(f) An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

Section 95. Injunction; cease and desist order.

(a) If any person violates a provision of this Act, the Director may, in the name of the People of the State of (State name) and through the Attorney General of the State of (State name), petition for an order enjoining the violation or for an order enforcing compliance with this Act. 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 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 by this Act.

(b) If a person practices as an orthotist, prosthetist, pedorthist, assistant, fitter or technician or holds himself or herself out as an orthotist, prosthetist, pedorthist, assistant, fitter or technician without being licensed under the provisions of this Act, then any other licensed orthotist, prosthetist, pedorthist, assistant, fitter or technician or any interested party or any person injured by the person may, in addition to the Director, petition for relief as provided in subsection (a) of this Section.

(c) Whenever in the opinion of the Department a person violates a provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him or her. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of seven days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

Section 100. Investigations; notice and hearing.

The Department may investigate the actions of an applicant or of a person or persons holding or claiming to hold a license. Before refusing to issue or renew a license, the Department shall, at least ten days prior to the date set for the hearing, notify in writing the applicant for or holder of a license of the nature of the charges and that a hearing will be held on the date designated. The written notice may be served by personal delivery or by certified or registered mail to the respondent at the address disclosed on his or her last notification to the Department. At the time and place fixed in the notice, the Board shall proceed to hear the charges. The parties or their counsel shall be afforded ample opportunity to present statements, testimony, evidence and argument that may be pertinent to the charges or to the defense to the charges. The Board may continue the hearing from time to time.

Section 105. Transcript.

The Department, at its own expense, shall preserve a record of all proceedings at the formal hearing of a case involving the refusal to issue or renew a license. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board and orders of the Department shall be in the record of the proceeding.

Section 110. Compelling testimony.

A circuit court may, upon application of the Director or his or her designee or the applicant or licensee against whom proceedings under Section 100 of this Act are pending, enter an order

requiring the attendance of witnesses and their testimony and requiring the production of documents, papers, files, books and records in connection with a hearing or investigation. The court may compel obedience to its order through contempt proceedings.

Section 115. Board findings and recommendations.

At the conclusion of a hearing, the Board shall present to the Director a written report of its findings and recommendations. The report shall contain a finding of whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply and shall make its recommendations to the Director. The report of findings and recommendations of the Board shall be the basis for the Department's order for the refusal or for the granting of a license, unless the Director determines that the Board report is contrary to the manifest weight of the evidence, in which case the Director may issue an order in contravention to the Board report. A Board finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

Section 120. Motion for rehearing.

In any case involving the refusal to issue or renew a license or the discipline of a licensee, a copy of the Board report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after service, the respondent may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing the motion, or if a motion for rehearing is denied, upon the denial, the Director may enter an order in accordance with recommendations of the Board, except as provided in Section 115 of this Act. If the respondent orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which the motion may be filed shall commence upon the delivery of the transcript to the respondent.

Section 125. Rehearing on order of Director.

Whenever the Director is not satisfied that substantial justice has been done in the revocation, suspension or refusal to issue or renew a license the Director may order a rehearing by the same or other examiners.

Section 130. Appointment of hearing officer; arbitration.

(a) The Director shall have the authority to appoint an attorney licensed to practice law in the State of (State name) to serve as a hearing officer in an action for refusal to issue or renew a

license or to discipline a licensee. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings and recommendations to the Board and the Director. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law and recommendations to the Director. If the Board fails to present its report within the 60-day period, the Director shall issue an order based on the report of the hearing officer. If the Director determines that the Board's report is contrary to the manifest weight of the evidence, he or she may issue an order in contravention of the Board's report.

(b) Nothing in this act precludes the Board from appointing a private hearing officer or arbitrator from a list of knowledgeable impartial persons to adjudicate issues dealing with complaints regarding licensee competence. The Board will first order the staff to attempt to mediate the dispute before an arbitrator is appointed. The arbitrator's decision will be final to the extent permitted by law.

Section 135. Order or certified copy.

An order or a certified copy of an order, over the seal of the Department and purporting to be signed by the Director, shall be prima facie proof:

- (a) That the signature is the genuine signature of the Director;
- (b) That the Director is duly appointed and qualified; and
- (c) That the Board and its members are qualified to act.

Section 140. Restoration of suspended or revoked license.

At any time after the suspension or revocation of any license, the Department may restore the license to the accused person upon the written recommendation of the Board unless, after an investigation and a hearing, the Board determines that restoration is not in the public interest.

Section 145. Surrender of license.

Upon the revocation or suspension of a license, the licensee shall immediately surrender the license to the Department, and if the licensee fails to do so, the Department shall have the right to seize the license.

Section 150. Temporary suspension of a license.

The Director may temporarily suspend the license of an orthotist, prosthetist, pedorthist, assistant, fitter or technician without a hearing simultaneously with the institution of proceedings

for a hearing provided for in Section 100 of this Act if the Director finds that evidence in his or her possession indicates that a licensee's continuation in practice would constitute an imminent danger to the public. If the Director temporarily suspends a license without a hearing, a hearing by the Board must be held within 30 days after the suspension.

Section 155. Administrative Review Law and Venue.

All final administrative decisions of the Department are subject to judicial review pursuant to the provisions of the Administrative Review Law and its rules.

Section 160. Certifications of record; cost.

The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding unless there is filed in the court with the complaint a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record. Failure on the part of a plaintiff to file a receipt in court shall be grounds for dismissal of the action.

Section 165. Penalties.

A person who is found to have violated a provision of this Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class Four felony for a second or subsequent offense.

Section 170. (State name) Administrative Procedure Act.

The (State name) Administrative Procedure Act is hereby expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act.

Section 200. Sunset Act.

The Regulatory Sunset Act is amended by adding Section ____ as follows:

Sec. _____. Act repealed on (date). The following Act is repealed on (date):

The (State name) Orthotics, Prosthetics and Pedorthics Practice Act.

Section 300. Effective date.

This Act takes effect January 1, (year law effective).

APPENDIX 2

Existing State Licensure Acts and Pending Legislation

This section of the document provides links to current legislation from states with pending or current licensure acts.

Alabama

[Licensure Law](#)
[Administrative Code](#)

Arkansas

[Licensure Law](#)

Florida

[Licensure Law](#)

Georgia

[Licensure Law](#)
[Administrative Rules](#)

Illinois

[Licensure Law](#)
[Administrative Rules](#)

Kentucky

[Licensure Law](#)

Mississippi

[Mississippi Law 1972 plus HB0520IN](#)

New Jersey

[Licensure Law](#)
[Administrative Rules](#)

Ohio

[Licensure Law](#)
[Administrative Rules](#); [2007 Updates](#); [Administrative Hearings Update](#)

Oklahoma

[Licensure Law and Administrative Rules](#)

Rhode Island

[Licensure Law](#)

Tennessee

[Licensure Law](#)
[Administrative Rules](#)

Texas

[Licensure Law](#)
[Administrative Rules](#)

Washington

[Licensure Law](#)