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# **BOC Model Licensure Act**

Supporting State Licensure for O&P Practitioners



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# Model Licensure Act

## **An Act:**

To provide for the licensing of the practice of orthotics, prosthetics and pedorthics; to provide for a short title; to provide for legislative intent; to provide for definitions; to prohibit the practice of orthotics, prosthetics and pedorthics except by certain licensed persons; to provide for exceptions; to provide for licensing standards; to provide for examinations and fees; to provide for orthotic fitters; to provide for transitional authorization to practice; to provide for penalties; to limit the provision of services; to provide for license renewal and restoration; to provide for continuing education; to provide for sanctions for certain conduct and actions; to provide for an advisory committee; to provide for effective dates; to repeal conflicting laws; and for other purposes.

## **BE IT ENACTED BY THE GENERAL ASSEMBLY OF (Insert STATE):**

### **Section 1 Short Title**

This article shall be known and may be cited as the 'Orthotics, Prosthetics, and Pedorthics Practice Act.'

### **Section 2 Legislative Intent**

The General Assembly finds that the practice of orthotics and prosthetics in this state is an allied health profession recognized by the American Medical Association, with educational standards established by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organization. The increasing population of elderly and physically-challenged individuals who need orthotic, prosthetic, and pedorthic services requires that the orthotic, prosthetic, and pedorthic professions are regulated to ensure the provision of high quality services and devices. The people of this state deserve the best care available and will benefit from the assurance of initial and ongoing professional competence of the orthotists, prosthetists, pedorthists, and orthotic fitters practicing in this state. The practice of orthotics, prosthetics, and pedorthics serves to improve and enhance the lives of individuals with disabilities by enabling them to resume productive lives following serious illness, injury, or trauma. Unregulated dispensing of orthotic, prosthetic, and pedorthic care does not adequately meet the needs or serve the interests of the public. In keeping with requirements

imposed on similar health 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 article shall be liberally construed to carry out these subjects and purposes best.

### **Section 3 Definitions**

As used in this article, the term:

- (1) 'Advisory Committee/Panel' means the expert committee comprised of licensed orthotists, prosthetists, and/or pedorthists. It shall provide professional and technical recommendations to the Board/Department.
- (2) 'Board' means the \_\_\_\_\_ (state) \_\_\_\_\_ Orthotic, Prosthetic, and Pedorthic Licensure Board
- (3) 'Certifying agency' means national credentialing boards that provide certification for orthotics, prosthetics, and pedorthics.
- (4) 'Custom fabricated and fitted device' means that an orthosis or prosthesis is fabricated to original measurements or a mold, or both, for use by a patient in accordance with a prescription and that requires substantial clinical and technical judgment in its design and fitting.
- (5) 'Custom fitted device' means a prefabricated orthosis sized, or modified, or both, for use by a patient in accordance with a prescription and which requires substantial clinical judgment and substantive alteration for appropriate use.
- (6) 'Department' means the state agency that will administer the Act.
- (7) 'Director/Secretary' means the administrative head of the state agency who will administer the Act.
- (8) 'Facility' means the business location where orthotic, prosthetic, or pedorthic care is provided and has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic, prosthetic, or pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be available to either provide care or supervise the provision of care by non-licensed staff.
- (9) 'Facility accreditation' or 'accredited facility' means any entity (i.e. facility) that is accredited by the American Board for Certification in Orthotics and Prosthetics, Inc. (or its successor) or the Board of Certification/Accreditation (or its successor).

(10) 'Level of competence' means a hierarchical position that an individual occupies within a field or profession relative to other practitioners in the profession.

(11) 'Licensed orthotist or LO' means a person licensed under this article to practice orthotics and who represents himself or herself to the public by title and description of services that includes the term 'orthotic,' 'orthotist,' 'brace,' or a similar title or description of services.

(12) 'Licensed orthotic fitter or LOF' means a person who is a healthcare professional who is specifically educated and trained in the provision of 'non-custom fabricated and fitted' 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', and 'off-the-shelf' orthoses.

(13) 'Licensed pedorthist or LPed' 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 or her education.

(14) 'Licensed pharmacist' means a person licensed to practice pharmacy (RPh, PharmD) and dispenses pharmaceuticals, over-the-counter products, medical devices including therapeutic shoes, and other products and services as described under current state regulation and scope of practice for pharmacist license.

(15) 'Licensed physician' means a person licensed to practice medicine under current state regulation for medical license.

(16) 'Licensed podiatrist' means a person licensed to practice podiatry under current state regulation for podiatric license.

(17) 'Licensed prosthetist or LP' means a person licensed under this article to practice prosthetics and who represents himself or herself to the public by title and description of services that includes the term 'prosthetic,' 'prosthetist,' 'artificial limb,' or a similar title or description of services.

(18) 'Licensed prosthetist orthotist or LPO' means a person who is licensed in both disciplines of prosthetics and orthotics and who represents himself or herself to the public by such title as providing prosthetic and orthotic services.

(19) 'Off-the-shelf device' means a prefabricated prosthesis or orthosis sized or modified, or both, for use by a patient in accordance with a prescription that does not require substantial clinical judgment and substantive alteration for appropriate use.

(20) 'Orthosis' means a custom designed, fabricated, fitted, modified, or fitted and modified device to correct, support, or compensate for a neuromusculoskeletal disorder or acquired condition. For the purpose of this legislation, orthosis does not include fabric or elastic supports, corsets, arch supports, low temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices that are carried in stock and sold as over the counter items by a drug store, department store, corset shop, or surgical supply facility.

(21) 'Orthotic and prosthetic education program' means a course of instruction in orthotics and prosthetics accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP), or its successor organization.

(22) 'Orthotic scope of practice,' 'prosthetic scope of practice,' and 'pedorthic scope of practice' means a list that includes the role played by an occupant of a particular level of competence, what he or she can be expected to do and not to do, and his or her relation to others in the field. These should be based on nationally-accepted standards of orthotic and prosthetic practice.

(23) 'Orthotics' means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis under an order from a licensed physician or podiatrist for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

(24) 'Orthotist' means an allied health professional who is specifically trained and educated to provide or manage the provision of a custom-designed, fabricated, or modified and fitted external orthosis to an orthotic patient based on a clinical assessment and a physician's or podiatrist's prescription, to restore physiological

function or cosmesis or both, and represents himself or herself to the public by such title as providing orthotic services.

(25) 'Over-the-counter device' means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgment in either size selection or use and, for the purpose of this legislation, includes fabric or elastic supports, corsets, generic arch supports, and elastic hoses.

(26) '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 or disabling conditions of the foot and ankle.

(27) 'Pedorthic education program' means a course of instruction in pedorthics accredited by the National Commission on Orthotic and Prosthetic Education (NCOPE) (or its successor organization).

(28) 'Person' means a natural person.

(29) 'Prosthesis' means a custom-designed, fabricated, fitted, modified, or fitted and modified device to replace an absent external limb for purposes of restoring physiological function or cosmesis or both. For the purpose of this legislation, prosthesis does not include artificial eyes, ears, fingers, or toes, dental appliances, mastectomy prostheses, prosthetic implants, cosmetic devices such as eyelashes or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body.

(30) 'Prosthetics' means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis under an order from a licensed physician or podiatrist.

(31) 'Prosthetist' means an allied health professional who is specifically trained and educated to provide or manage the provision of a custom-designed, fabricated, modified, and fitted external limb prosthesis to a prosthetic patient based on a clinical assessment and a physician's or podiatrist's prescription, to restore

physiological function or cosmesis or both, and represents himself or herself to the public by such title as providing prosthetic services.

(32) 'Prosthetist orthotist' means a person who practices both disciplines of prosthetics and orthotics and who represents himself or herself to the public by such title as providing prosthetic and orthotic services.

(33) 'Resident' means a person who has completed an education program in either orthotics or prosthetics and is continuing his or her clinical education in a O & P facility accredited by the National Commission on Orthotic and Prosthetic Education (NCOPE) (or its successor organization).

(34) 'Supervision' means the direct or indirect oversight of non-licensed persons by licensed professionals during the provision of orthotic, prosthetic, or pedorthic care. There shall be an employer/employee or co-worker relationship between the supervisor and the non-licensed individual.

(35) 'Technician' means a person who assists an orthotist, prosthetist, or prosthetist orthotist with fabrication of orthoses or prostheses but does not provide direct patient care.

#### **Section 4 Exemptions**

This article shall not be construed to prohibit:

- (1) A licensed physician from engaging in the practice for which he or she is licensed;
- (2) A person licensed in this state under any other law from engaging in the practice for which he or she is licensed;
- (3) 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;
- (4) The practice of orthotics, prosthetics, or pedorthics by:
  - (A) A student enrolled in a school of orthotics, prosthetics, or pedorthics; or
  - (B) A resident continuing his or her clinical education in a residency as defined in Section 3 (31);

(5) The practice of orthotics, prosthetics, or pedorthics by a person who is an orthotist, prosthetist, pedorthist, or orthotic fitter licensed under the laws of another state or territory of the United States or another country and has applied in writing to the Department/Board, in a form and substance satisfactory to the Department/Board, for a license as an orthotist, prosthetist, pedorthist, or orthotic fitter and who is qualified to receive the license until:

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

(B) The withdrawal of the application; or

(C) The denial of the application by the board;

(6) A person licensed by this state as a physical therapist or occupational therapist from engaging in his or her profession;

(7) A licensed podiatrist from engaging in his or her profession;

(8) A licensed athletic trainer from engaging in his or her profession;

(9) A registered pharmacist from engaging in the practice by which he or she is registered;

(10) A licensed pharmacist from engaging in the practice for which he or she is licensed.

(11) A mastectomy fitter certified by the American Board for Certification in Orthotics, Prosthetics & Pedorthics (ABC) or Board of Certification/Accreditation (BOC) from engaging in his or her profession.

## **Section 5 Application and Fees**

An application for an original license shall be made to the Department/Board on a form prescribed thereby 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/Board, will enable it to determine the qualifications of the applicant for a license.

## **Section 6      Licensing Standards**

(1) To qualify for a license to practice orthotics or prosthetics, a person shall:

- (A) Complete an education program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) (or its successor organization),
- (B) Complete a residency approved by the National Commission on Orthotic and Prosthetic Education (NCOPE) (or its successor organization),
- (C) Hold a certification for the discipline for which the license is being sought that is established and approved by the Department/Board; and
- (D) Be qualified to practice in accordance with internationally accepted standards of orthotic and prosthetic care as established by the International Society of Prosthetics and Orthotics and the World Health Organization; and
- (D) Have met such other requirements as may be prescribed by the Department/Board.
  - (i) The standards and requirements for licensure established by the Department/Board shall be substantially equal to or in excess of standards commonly accepted in the profession of orthotics, prosthetics, or pedorthics. The Department/Board shall adopt rules as necessary to set the standards and requirements.
  - (ii) A person may be licensed in more than one discipline.

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

- (A) Successfully complete a pedorthic education program accredited by the National Commission on Orthotic and Prosthetic Education NCOPE (or its successor organization); and
- (B) A minimum of 1,000 hours of supervised, documented 'pedorthic' patient care; or
- (C) Hold current certification as a pedorthist from an approved 'certifying agency'.

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

- (A) Successfully complete an education program approved by a national certifying board; and
  - (B) Complete a minimum of 1,000 hours of documented 'custom fitted' and 'off-the-shelf' orthotic patient care; or
  - (C) Hold current certification as an Orthotic Fitter from an approved 'certifying agency'.
- (4) To qualify for a license to operate an orthotic, prosthetic, and/or pedorthic facility, a person shall:
- (A) Follow established requirements for the accreditation and renewal of an accreditation from a CMS-deemed accrediting organization in orthotics, prosthetics, and/or pedorthics.
  - (B) If a person owns more than one facility, the Board shall require applications for licensure of all of the person's facilities. Each orthotic, prosthetic, and pedorthic facility must meet requirements established by the Board.
  - (C) Employ an orthotist, prosthetist, and/or pedorthist licensed by the Board in the discipline for which a facility license is sought.

## **Section 7 Duties of the Department/Board**

The Department/Board, in consultation with the Advisory Committee, shall have the power and responsibility to:

- (1) Determine the qualifications and fitness of applicants for licensure and renewal of licensure;
- (2) Adopt and revise rules consistent with the laws of this state that are necessary to conduct its business, carry out its duties, and administer this article;
- (3) Examine for, approve, issue, deny, revoke, suspend, sanction, and renew the licenses of applicants for licensure as licensed orthotists, prosthetists, pedorthists, and orthotic fitters and provisional licensed orthotists, prosthetists, pedorthists, and orthotic fitters under this article and conduct hearings in connection with these actions;
- (4) Conduct hearings on complaints concerning violations of this article and the rules adopted under this article and cause the prosecution and enjoinder of the violations;

- (5) Establish application, examination, and licensure fees;
- (6) Request and receive the assistance of state educational institutions or other state agencies and prepare information of consumer interest describing the regulatory functions of the Board and the procedures by which consumer complaints are filed with and resolved by the board. The Department/Board shall make the information available to the public and appropriate state agencies;
- (7) Establish education, examination, and continuing education requirements;
- (8) Establish rules for the supervision of non-licensed individuals providing orthotic, prosthetic, or pedorthic devices; and
- (9) Establish a classification system for 'custom fabricated and fitted', 'custom fitted', 'off-the-shelf', and 'over-the-counter' orthotic, prosthetic, and pedorthic devices.

### **Section 8 Initial Application of License**

- (1) Until one year after the date this article becomes effective, a person certified as an orthotist, prosthetist, prosthetist orthotist, pedorthist, or orthotic fitter by the American Board for Certification in Orthotics, Prosthetics, and Pedorthics, Incorporated (or its successor) or the Board of Certification/Accreditation (or its successor) or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted licensure under this article upon payment of the required fee. After that date, any applicant for licensure shall meet the requirements of subsection (1) of Section 6.
- (2) On and after one year after the date this article becomes effective, no person shall practice orthotics, prosthetics, or pedorthics in this state and hold himself or herself out as being able to practice such professions unless he or she is licensed in accordance with this article or is exempt from such licensing. A person who violates this subsection shall, upon conviction thereof, be guilty of a felony (or misdemeanor if that is the normal penalty for practicing without a license in other professions within the State) and shall pay any fines established by the Department/Board.

(3) Within \_\_\_\_\_ days after the date this article becomes effective, a person who has practiced full time for a minimum of the past seven years in a prosthetic, orthotic, or pedorthic facility as an orthotist, prosthetist, pedorthist, or orthotic fitter may file with the Department/Board an application and the license fee determined by the Department/Board in order to continue to practice orthotics, prosthetics, or pedorthics without satisfaction of the examination and education requirements.

(A) The Department/Board shall investigate the work history, qualifications, and fitness of the applicant. The investigation may include, but not be limited to, completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.

(B) The Department/Board shall complete its investigation for purposes of this Code section within six months of receipt of a fully-completed application.

(C) If, after receipt of the application fee, a fully completed application, and the completion of the investigation, the Department/Board determines that the applicant satisfied the work history requirements of this Code section and met all other qualifications for licensure, except the examination and education requirements, the Department/Board shall issue a license to practice orthotics, prosthetics, or pedorthics.

(D) A license issued to a person under this subsection shall not be renewed without compliance with any education, continuing education, and/or examination requirements established by the Department/Board.

### **Section 9 Requirement for Physician's Order**

A licensed orthotist, prosthetist, pedorthist, or orthotic fitter may provide care or services only if the care or services are provided pursuant to an order from a licensed physician or licensed podiatrist.

## **Section 10 Renewal, Reinstatement of License**

(1) The expiration date and renewal period for each license issued under this article shall be set by the Department/Board. A license shall be valid for a period of up to two years and shall be renewed biennially as provided by rule of the Department/Board. The Department/Board shall establish continuing education requirements for the renewal of a license. These requirements shall be Department/Board-established standards of competence in the field of orthotics or prosthetics.

(2) 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:

(A) Making application to the Department/Board;

(B) Filing proof acceptable to the Department/Board 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/Board; and

(C) Paying the required restoration fee.

If the person has not maintained an active practice in another jurisdiction satisfactory to the Department/Board, the Department/Board shall determine, by an evaluation program established by rule, such person's fitness to resume active status and may require the person to complete a period of evaluated clinical experience and successful completion of an examination.

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

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

(B) 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/Board with satisfactory evidence that he or she has been so engaged and that his or her service, training, or education has been terminated.

### **Section 11 Inactive Status**

A person who notifies the Department/Board on forms prescribed thereby may elect to place his or her license on an inactive status and shall, subject to rules of the Department/Board, be excused from payment of renewal fees until he or she notifies the Department/Board of his or her desire to resume active status. 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 11. An orthotist, prosthetist, pedorthist, or orthotic fitter whose license is on inactive status shall not practice orthotics or prosthetics in this state.

### **Section 12 License without Examination; Reciprocity; Endorsement**

(1) The Department/Board may, at its discretion, license as an orthotist, prosthetist, pedorthist, or orthotic fitter without examination and on payment of the required fee, an applicant who is an orthotist, prosthetist, pedorthist, or orthotic fitter and is:

(A) 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 is licensed were, at the date of his or her licensure, equal to or more stringent than the requirements in force in this state on that date;

(B) Living in a state with licensure but is not licensed; or

(C) Is certified for two years time as an orthotist, prosthetist, pedorthist, or orthotic fitter by the American Board for Certification in Orthotics, Prosthetics, and Pedorthics, Incorporated (or its successor) or the Board of Certification/Accreditation (or its successor) or holds comparable certifications from other credentialing bodies with equivalent educational requirements and examination standards.

### **Section 13 Disciplinary Actions; Fines**

(1) The Department/Board, in consultation with the Advisory Committee, may:

- (A) Refuse to grant or renew a license to an applicant;
- (B) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;
- (C) Suspend any license for a definite period or for an indefinite period in connection with any condition that may be attached to the restoration of said license;
- (D) Limit or restrict any license as the Board deems necessary for the protection of the public;
- (E) Revoke any license;
- (F) Levy a fine; and
- (G) Condition any penalty or withhold formal disposition of any matter pending the applicant's or licensee's submission to such care, counseling, or treatment as the Board may direct.

(2) The Department/Board may take any action specified in subsection (1) of this Code section upon a finding by the Department/Board that the licensee or applicant has:

- (A) Failed to demonstrate the qualifications or standards for licensure contained in this article, or under the laws, rules, or regulations under which licensure is sought or held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the Department/Board that he or she meets all the requirements for issuance of a license, and, if the Department/Board is not satisfied as to the applicant's qualifications, it may deny a license without a prior hearing; provided, however, that the applicant shall be allowed to appear before the Department/Board if he or she so desires;
- (B) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a business or profession licensed under this title, or on any document connected therewith, practiced fraud or deceit or intentionally made any false statement in obtaining certification to practice a licensed business or profession, or made a false statement or deceptive registration with the Department/Board;

(C) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country, or in the courts of the United States. As used in this paragraph and paragraph (D) of this subsection, the term 'felony' shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

(D) Been arrested, charged, and sentenced for the commission of any felony or any crime involving moral turpitude where:

(i) A plea of nolo contendere was entered to the charge; or

(ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(iii) An adjudication or sentence was otherwise withheld or not entered on the charge, or other first-offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(E) Had his or her license under this article revoked, suspended, or annulled by any lawful authority other than the Department/Board; or had other disciplinary action taken against him or her by any such lawful authority other than the Department/Board; or was refused the renewal of a license by any such lawful authority other than the Department/Board, pursuant to disciplinary proceedings;

(F) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this article, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession, but shows that the licensee or applicant has committed any act or omission that is indicative of bad moral character or untrustworthiness. Unprofessional conduct shall include any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing practice of the business or profession licensed under this article;

(G) Knowingly performed any act that in any way aids, assists, procures, advises, or encourages any unlicensed person or any licensee whose license has been suspended or revoked by the Department/Board to engage in any practice outside the scope of any disciplinary limitation placed upon the licensee by the Department/Board;

(H) Violated, without regard to whether the violation is criminally punishable, a statute, law, or any rule or regulation of this state, any other state, the professional licensing Department/Board regulating the business or profession licensed under this title, the United States, or any other lawful authority, which statute, law, or rule or regulation relates to or in part regulates the practice of a business or profession licensed under this article, when the licensee or applicant knows or should know that such action violates such statute, law, rule, or regulation; or violated a lawful order of the Department/Board previously entered by the Department/Board in a disciplinary hearing, consent decree, or license reinstatement;

(I) Been adjudged mentally incompetent by a court of competent jurisdiction inside or outside this state. Any such adjudication shall automatically suspend the license of any such person and shall prevent the reissuance of renewal of any license so suspended for as long as the adjudication of incompetence is in effect; or

(J) Displayed any inability to practice a business or profession licensed under this article with reasonable skill and safety to the public or has become unable to practice the licensed business or profession with reasonable skill and safety to the public by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material.

(3) The Department/Board may take any action specified in subsection (1) of this Code section upon a finding by the Department/Board that a company or corporation has held itself out to provide orthotic, prosthetic, or pedorthic services with or without having an orthotist, prosthetist, pedorthist, or orthotic fitter licensed under the provisions of this Act on its staff to provide those services.

(A) Any company or corporation that offers to practice, attempts to practice, or holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \_\_\_\_\_ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(B) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(C) If a company or corporation holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, pedorthist, or orthotic fitter licensed under the provisions of this Act on its staff to provide those services, then any other licensed orthotist, prosthetist, pedorthist, or orthotic fitter, or any interested party may, in addition to the Secretary, petition for relief as provided in subsection (a) of this Section.

(4) The Department/Board has the authority and power to investigate any and all unlicensed activity. Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice orthotics, prosthetics, or pedorthics or performs the functions and duties of orthotist, prosthetist, or pedorthist without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \_\_\_\_\_ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

## **Section 14 Appointment of Board or Advisory Committee**

The Director shall appoint the Board. The Board shall have equal representation from the certifying agencies as defined in section 3 (3) of this Act, be representative of a cross section of the cultural backgrounds of the licensed orthotists, prosthetists, pedorthists, or orthotic fitters licensed under this Act, and include such members as the Department in its discretion may determine. Members shall receive no compensation for service on the Board except reimbursement for reasonable expenses. The Board shall have such duties and responsibilities as the Department may determine. The initial members of the Board may include persons eligible for licensing under this article. Subsequent Board members must be licensed pursuant to this article. The Director shall appoint an additional consumer/public member to the Board that is not licensed under this Act.

or

The Director/Department/Board shall appoint the Advisory Committee. The Advisory Committee shall have equal representation from the certifying agencies as defined in section 3 (3) of this Act, be representative of a cross section of the cultural backgrounds of the licensed orthotists, prosthetists, pedorthists, or orthotic fitters licensed under this Act, and include such members as the Department/Board in its discretion may determine. Members shall receive no compensation for service on the committee except reimbursement for reasonable expenses. The committee shall have such advisory duties and responsibilities as the Department/Board may determine. The initial members of the Advisory Committee may include persons eligible for licensing under this article. Subsequent Advisory Committee members must be licensed pursuant to this article.

## **Section 15 Effective Date; Enforcement Date**

- (1) For purposes of promulgating rules and regulations, this Act shall become effective on (January 1, xxxx).
- (2) Enforcement of Section 6 and Section 9 of this Act shall begin one year after the promulgation of rules and regulations.