

1 SB457
2 126954-2
3 By Senator Blackwell
4 RFD: Small Business
5 First Read: 27-APR-11

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8 SYNOPSIS: This bill would amend the Prosthetics and
9 Orthotics Act to redefine certain terms, to further
10 provide for certain requirements for application
11 for licensure or registration, to update the duties
12 of the Alabama State Board of Prosthetists and
13 Orthotists, and to authorize the maximum fees
14 provided for to be exceeded when a late renewal fee
15 is authorized or imposed by the board.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Sections 34-25A-3, 34-25A-5, as last
22 amended by Act 2010-145 of the 2010 Regular Session (Acts
23 2010, p. 206), 34-25A-7, and 34-25A-12 of the Code of Alabama
24 1975, relating to the Prosthetics and Orthotics Act; to
25 redefine certain terms; to further provide for certain
26 requirements for application for licensure or registration; to

1 update the duties of the board; and to authorize the maximum
2 fees provided for to be exceeded under certain conditions.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 34-25A-3, 34-25A-5, as last
5 amended by Act 2010-145 of the 2010 Regular Session (Acts
6 2010, p. 206), 34-25A-7, and 34-25A-12 of the Code of Alabama
7 1975, are amended to read as follows:

8 "§34-25A-3.

9 "As used in this chapter, the following terms shall
10 have the following meanings:

11 "(1) ACCREDITED FACILITY. A facility where
12 prosthetic, orthotic, prosthetic and orthotic, or pedorthic
13 care is provided to patients needing such care and has met the
14 requirements of the board for such designation. The board
15 shall require that all accredited facilities meet the
16 requirements of a national certifying board, recognized by the
17 state board in prosthetics, orthotics, and pedorthics
18 accredited by the National Commission for Certifying Agencies
19 (NCCA) in the discipline or disciplines for which the
20 application is made. ~~The board shall allow existing facilities
21 to become accredited until July 1, 2004. During this allowed
22 period, facilities may be the site of activity covered by this
23 chapter. If an existing facility is not accredited under this
24 chapter by July 1, 2004, all prosthetic and orthotic care in
25 that facility must cease.~~

26 "(2) ACCREDITED PEDORTHIC FACILITY. A facility where
27 pedorthic care may be provided that has met the requirements

1 of the board for such designation. An accredited pedorthic
2 facility shall contain a site that includes at least the
3 following equipment: Sanding/grinding equipment suitable for
4 use, an oven for plastics and foams used in the fabrication of
5 pedorthic devices, and a vacuum device for forming pedorthic
6 devices.

7 "(3) AUTHORIZED HEALTH CARE PRACTITIONER. A
8 physician licensed to practice medicine or a person licensed
9 or authorized to practice podiatry pursuant to Article 6
10 (commencing with Section 34-24-230) of Chapter 24.

11 "(4) BOARD. The Alabama State Board of Prosthetists
12 and Orthotists.

13 "(5) CHIROPRACTOR. A person licensed and acting
14 within the definition as found in Section 34-24-120.

15 "(6) MASTECTOMY FITTER. A health care professional
16 who is specifically educated and trained in the provision of
17 breast prostheses and post-mastectomy services, including
18 patient assessment, formulation of a treatment plan,
19 implementation of the treatment plan, and follow-up and
20 practice management, which is consistent with nationally
21 recognized programs which are accredited by the National
22 Commission for Certifying Agencies (NCCA).

23 "(7) OCCUPATIONAL THERAPIST/OCCUPATIONAL THERAPIST
24 ASSISTANT/OCCUPATIONAL THERAPIST AIDE. A person who is
25 licensed as an occupational therapist, or occupational
26 therapist assistant, or occupational therapist aide as defined
27 in Section 34-39-3.

1 "(8) ORTHOSIS. A custom-fabricated, definitive brace
2 or support that is designed for long-term use.
3 Custom-fabricated orthoses, also known as custom-made
4 orthoses, are devices designed and made from raw materials or
5 commercially available components for a specific patient and
6 require the generation of an image, form, or mold that
7 replicates the patient's body or body segment and involves the
8 rectification of dimensions, contours, and volumes to achieve
9 proper fit, comfort, and function for that specific patient.
10 Except for the treatment of scoliosis, orthosis does not
11 include prefabricated or direct-formed orthotic devices, as
12 defined in this subdivision and does not include any of the
13 following items: Commercially available knee orthoses used
14 following injury or surgery; upper extremity adaptive
15 equipment; finger splints; leather wrist gauntlets; face masks
16 used following burns; wheelchair seating that is an integral
17 part of the wheelchair and not worn by the patient independent
18 of the wheelchair; fabric or elastic supports; corsets; arch
19 supports, also known as non-custom or prefabricated orthotics;
20 low-temperature formed plastic splints; trusses; elastic hose;
21 canes; crutches; cervical collars; dental appliances, and
22 other similar devices as determined by the board, such as
23 those commonly carried in stock by a pharmacy, hospital,
24 rehabilitation facility, department store, corset shop, or
25 surgical supply facility. Prefabricated orthoses, also known
26 as custom-fitted or off-the-shelf, are devices that are
27 manufactured as commercially available items for no particular

1 patient. Direct-formed orthoses are devices formed or shaped
2 during the molding process directly on the patient's body or
3 body segment.

4 "(9) ORTHOTICS. The science and practice of
5 evaluating, measuring, designing, fabricating, assembling,
6 fitting, adjusting, or servicing, as well as providing the
7 initial training necessary to accomplish the fitting of, an
8 orthosis for the support, correction, or alleviation of
9 neuromuscular or musculoskeletal dysfunction, disease, injury,
10 or deformity. The practice of orthotics encompasses
11 evaluations and consultation and continuing care, with basic
12 observational gait and posture analysis. Orthotists assess the
13 need for and measure, design, manufacture, and fit orthoses to
14 maximize function and provide not only the support but the
15 alignment necessary to either prevent or correct deformity or
16 to improve the safety and efficiency of mobility or
17 locomotion, or both. Orthotic practice includes periodic
18 evaluation and consultation to assess its effect on the
19 patient's tissue and assure proper fit and function of the
20 orthotic device.

21 "(10) ORTHOTIC SUPPLIER. A person ~~registered~~
22 licensed with the board who is employed by or has a
23 contractual relationship with a manufacturer of orthoses or
24 orthosis components and who has complied with the registration
25 requirements of the board.

26 "(11) ORTHOTIST. A person licensed to practice
27 orthotics under this chapter.

1 "(12) ORTHOTIST ASSISTANT. A person licensed under
2 terms to be defined by the board and employed by the same
3 agency as his or her licensed referring evaluator.

4 "(13) PEDORTHIC DEVICE. Custom therapeutic shoes,
5 diabetic shoes if prescribed by an authorized health care
6 practitioner for the treatment of partial or complete
7 amputation of the foot, foot ulceration, pre-ulcerative
8 callous, or foot deformity, shoe modifications made for
9 therapeutic purposes, partial foot prostheses, and foot
10 orthoses and orthoses for use from the knee and below used for
11 the treatment or alleviation, or both, of a condition that has
12 its origin in the foot. A pedorthic device addresses a medical
13 condition of the foot below the ankle and is prescribed by an
14 authorized health care practitioner.

15 "(14) PEDORTHICS. The design, manufacture,
16 modification, or fit of custom shoes, orthoses, and pedorthic
17 devices to prevent or alleviate foot problems caused by
18 disease, congenital defect, overuse, or injury.

19 "(15) PEDORTHIST. A person who is licensed to
20 practice pedorthics under this chapter.

21 "(16) PHYSICAL THERAPIST/PHYSICAL THERAPIST
22 ASSISTANT/PHYSICAL THERAPIST TECHNICIAN. A person who is
23 licensed to practice as defined in Section 34-24-191.

24 "(17) PHYSICIAN. A person who is a doctor of
25 medicine or a doctor of osteopathy licensed to practice.

26 "(18) PODIATRIST. A person licensed or authorized to
27 practice podiatry pursuant to Article 6 of Chapter 24.

1 "(19) PROSTHESIS. A definitive artificial limb that
2 is alignable or articulated or, in lower extremity
3 applications, capable of bearing weight. Prosthesis means an
4 artificial medical device that is not surgically implanted and
5 that is used to replace a missing limb, appendage, or other
6 external human body part and that includes an artificial limb,
7 hand, or foot. The term does not include artificial eyes,
8 ears, dental appliances, ostomy products, devices such as
9 artificial breasts or eyelashes, wigs, or other devices as
10 determined by the board that do not have a significant impact
11 on the musculoskeletal functions of the body.

12 "(20) PROSTHETICS. The science and practice of
13 evaluating, measuring, designing, fabricating, assembling,
14 fitting, aligning, adjusting, or servicing, as well as
15 providing the initial education necessary to accomplish the
16 wearing and use of a prosthesis, through the replacement of
17 external parts of a human body lost due to amputation or
18 congenital deformities or absences. The practice of
19 prosthetics also includes the generation of an image, form, or
20 mold that replicates the patient's body or body segment and
21 that requires rectification of dimensions, contours, and
22 volumes for use in the design and fabrication of a socket to
23 accept a residual limb to create an artificial appendage that
24 is designed either to support body weight or to improve or
25 restore function or cosmesis, or both. Involved in the
26 practice of prosthetics is observational gait analysis and
27 clinical assessment of the requirements necessary to refine

1 and mechanically fix the relative position of various parts of
2 the prosthesis to maximize the function, stability, and safety
3 of the patient. The practice of prosthetics includes
4 evaluation, consultation, and providing continuing patient
5 care in order to assess the effect of the prosthetic device on
6 the patient's tissues and to assure proper fit and function of
7 the prosthetic device.

8 "(21) PROSTHETIST. A person who is licensed to
9 practice prosthetics under this chapter.

10 "(22) PROSTHETIST ASSISTANT. A person licensed under
11 terms to be defined by the board and employed by the same
12 agency as his or her licensed referring evaluator.

13 "(23) PROSTHETIST/ORTHOTIST. A person licensed to
14 practice prosthetics and orthotics under this chapter.

15 "(24) THERAPEUTIC SHOE FITTER. A health care
16 professional who is specifically educated and trained to
17 provide non-custom therapeutic shoes and non-custom
18 multi-density inserts. This includes patient assessment,
19 formulation of a treatment plan, implementation of the
20 treatment plan, follow-up, and practice management.

21 "§34-25A-5.

22 "(a) Except as provided in subsection (h) or (i), no
23 person shall administer prosthetic, orthotic, or pedorthic
24 care in this state unless licensed or registered to do so in
25 accordance with this chapter. The board shall issue approved
26 forms for application prior to January 1, 2003.

1 "(b) In order to obtain a license as a prosthetist,
2 orthotist, ~~pedorthist~~, or prosthetist/orthotist in this state,
3 an applicant shall be a citizen of the United States or, if
4 not a citizen of the United States, a person who is legally
5 present in the United States with appropriate documentation
6 from the federal government, and shall do the following:

7 "(1) File a written application on forms to be
8 developed and approved by the board. The applicant shall meet
9 at least one of the following requirements after a one-year
10 grandfather period:

11 "a. The applicant shall possess a baccalaureate
12 degree in orthotics and prosthetics from a college or
13 university accredited by a regional accrediting agency and
14 complete 1,900 hours per discipline sought of directed
15 employment under the supervision of a certified/licensed
16 prosthetist, a certified/licensed orthotist or a
17 certified/licensed prosthetist/orthotist in an accredited
18 facility, and be certified as a prosthetist, orthotist, or
19 prosthetist/orthotist by a nationally recognized certifying
20 board in orthotics and prosthetics accredited by the National
21 Commission for Certifying Agencies (NCCA), or such other
22 national agency as approved by the board, in the discipline or
23 disciplines for which the application is made.

24 "b. The applicant shall possess a baccalaureate
25 degree from a regionally accredited college or university and
26 have successfully completed a post-baccalaureate certificate
27 course approved by the board and completed 1,900 hours of

1 directed employment per discipline in which license is sought
2 under the supervision of a certified/licensed prosthetist, a
3 certified/licensed orthotist, or a certified/licensed
4 prosthetist/orthotist in an accredited facility, and be
5 certified by a nationally recognized certifying board in
6 prosthetics or orthotics accredited by the National Commission
7 for Certifying Agencies (NCCA), or such other national agency
8 as approved by the board, in the discipline or disciplines for
9 which application is made.

10 "c. The applicant shall possess an associate's
11 degree from a regionally accredited college or university,
12 junior college, or community college and have successfully
13 completed postsecondary coursework in anatomy, physiology,
14 physics, biology, chemistry, algebra, and calculus and have
15 worked under the supervision of a certified/licensed
16 prosthetist, a certified/licensed orthotist, or a
17 certified/licensed prosthetist/orthotist for not less than
18 four consecutive years of the past six years in an accredited
19 facility, and be certified by a nationally recognized
20 certifying board in prosthetics or orthotics accredited by the
21 National Commission for Certifying Agencies (NCCA), or such
22 other national agency as may be approved by the board.

23 "d. The applicant shall have successfully completed
24 postsecondary coursework in anatomy, physiology, physics,
25 biology, chemistry, algebra, and calculus and have worked
26 under the supervision of a certified/licensed prosthetist, a
27 certified/licensed orthotist, or a certified/licensed

1 prosthetist/orthotist for not less than eight years of the
2 last 12 years and be certified as a prosthetist, orthotist, or
3 prosthetist/orthotist by a nationally recognized board
4 accredited by the National Commission for Certifying Agencies
5 (NCCA), or such national agency as may be approved by the
6 board, in the discipline or disciplines for which application
7 is made.

8 "(2) Any applicant after the first year following
9 the board's issuance of applications shall meet the
10 requirements of paragraph a., b., or d. of subdivision (1) of
11 subsection (b) prior to receiving a license as a prosthetist,
12 an orthotist, or a prosthetist/orthotist.

13 "(c) In order to obtain a license as a pedorthist in
14 this state, an applicant shall be a citizen of the United
15 States or, if not a citizen of the United States, a person who
16 is legally present in the United States with appropriate
17 documentation from the federal government, and shall ~~do all of~~
18 ~~the following:~~

19 "~~(1) File~~ file a written application on forms to be
20 developed and approved by the board. Applicants, ~~after a~~
21 ~~one-year grandfather period from April 4, 2006,~~ shall be in
22 good standing as a certified pedorthist with ~~the Board for~~
23 ~~Certification in Pedorthics~~ an entity accredited by the
24 National Commission for Certifying Agencies.

25 "~~(2) During the one-year grandfather period, an~~
26 ~~applicant shall meet one of the following requirements:~~

1 ~~"a. Possess current credentials as a certified~~
2 ~~pedorthist in good standing with the Board for Certification~~
3 ~~in Pedorthics.~~

4 ~~"b. Provide confirmation of the practice of~~
5 ~~pedorthics for a period of five of the last six years on forms~~
6 ~~provided by the board and attested to by persons designated by~~
7 ~~the board.~~

8 "(d) In order to obtain registration as an orthotic
9 supplier, an applicant shall be a citizen of the United States
10 or, if not a citizen of the United States, a person who is
11 legally present in the United States with appropriate
12 documentation from the federal government, and shall do the
13 following:

14 "(1) File a written application on forms to be
15 developed and approved by the board. Such forms shall require
16 personal information such as full name, current address,
17 educational status and history, and work history for the last
18 five years of employment.

19 "(2) The application forms shall be accompanied,
20 when submitted, by attestation of employment by or contractual
21 relationship with a manufacturer of orthoses or orthosis
22 components whether registered with the United States Food and
23 Drug Administration or not. Attestation shall be by notarized
24 statement signed by the president, chief operating officer, or
25 other designated corporate official of the employing company.

26 "(e) The board shall grant a license without an
27 examination for those qualified applicants who apply within

1 one year of the issuance of application forms by the board.
2 For purposes of this subsection, qualified applicants are
3 those ~~which meet either of the following requirements:~~ who

4 ~~"(1) The applicant shall possess current credentials~~
5 ~~as a Certified Prosthetist, Certified Orthotist, or Certified~~
6 ~~Prosthetist/Orthotist issued by the American Board for~~
7 ~~Certification in Orthotics and Prosthetics, Incorporated, or~~
8 ~~the Board for Orthotist/Prosthetist Certification as a~~
9 ~~prosthetist, orthotist, or prosthetist/orthotist.~~

10 ~~"(2) The applicant has practiced full time as a~~
11 ~~prosthetist, orthotist, or prosthetist/orthotist for five of~~
12 ~~the six years prior to July 1, 2002, and has provided~~
13 ~~comprehensive prosthetic, orthotic, or prosthetic/orthotic~~
14 ~~care, as defined by the board in a facility that meets the~~
15 ~~requirements of the board for accreditation.~~

16 "(f) The board may issue a 12-month temporary
17 license as a prosthetist, an orthotist, a pedorthist, or a
18 prosthetist/orthotist to persons who have applied for
19 licensure and are awaiting examination. The temporary license
20 is renewable once for a six-month period if the applicant
21 fails to pass the examination at the first sitting.

22 "(g) The board shall grant a license as a
23 prosthetist, an orthotist, a prosthetist/orthotist, or
24 pedorthist to an applicant in possession of a current license
25 as a prosthetist, orthotist, prosthetist/orthotist, or
26 pedorthist in another state or territory of the United States
27 without examination if the board determines that the

1 credentiaing standards set by the other state or territory
2 are substantially equivalent to the standards set by the board
3 for this state.

4 "(h) No person may represent himself or herself as a
5 licensed prosthetist, licensed orthotist, licensed
6 prosthetist/orthotist, or licensed pedorthist, use a title or
7 description of services, or engage in the practice of
8 prosthetics, orthotics, or pedorthics without applying for
9 licensure, meeting the required qualifications, and being
10 licensed by the board unless otherwise exempted by this
11 chapter. A person not licensed with the board may not
12 represent himself or herself as being so licensed and may not
13 use, in connection with his or her name, the words licensed
14 orthotist, orthotist, licensed prosthetist, prosthetist,
15 licensed prosthetist/orthotist, prosthetist/orthotist,
16 licensed pedorthist, ~~pedorthists~~ pedorthist, licensed orthotic
17 fitter, orthotic fitter, licensed mastectomy fitter,
18 mastectomy fitter, or letters "L.O.," "L.P.," "L.P.O.,"
19 "L.O.A.," "LPed," "L.P.A.," ~~or~~ "L.P.O.A.," "L.M.F.," "L.O.F.,"
20 or other letters, words, signs, numbers, or insignia
21 indicating or implying that he or she is either a licensed
22 prosthetist, a licensed orthotist, a licensed
23 prosthetist/orthotist, ~~or~~ a licensed pedorthist, a licensed
24 mastectomy fitter, or a licensed orthotic fitter in the State
25 of Alabama without first having a valid license. The license
26 shall be posted in a conspicuous location at the person's work
27 site.

1 "(i) Nothing in this chapter shall be construed to
2 prohibit or restrict the following:

3 "(1) The practice of prosthetics, orthotics, or
4 pedorthics by individuals authorized and performing services
5 within their authorized scopes of practice as adopted by the
6 State of Alabama Legislature including, but not limited to,
7 authorized health care practitioners, doctors of podiatry,
8 chiropractors, physical therapists, and occupational
9 therapists licensed in this state.

10 "(2) The practice of prosthetics, orthotics, or
11 pedorthics by an individual employed by, or in the service of
12 the government of the United States of America while engaged
13 in the performance of duties prescribed by the laws of the
14 United States of America.

15 "(3) The practice of prosthetics, orthotics, or
16 pedorthics by any person not licensed as a prosthetist,
17 orthotist, prosthetist/orthotist, or pedorthist in accordance
18 with this chapter who is employed in a diagnostic laboratory,
19 hospital, rehabilitation facility, or authorized health care
20 practitioner's office or as a medical lab technician or
21 technologist whose function is to administer treatment or
22 perform diagnostic procedures confined to that laboratory or
23 office under the direction of an authorized health care
24 practitioner.

25 "(4) The practice of prosthetics, orthotics, or
26 pedorthics by a person who is a regular or full-time student

1 in a prosthetic or orthotic educational program approved by
2 the board, and whose designated status is student or trainee.

3 "(5) A person fulfilling the supervised residency or
4 internship experience requirements described in this chapter.

5 "(6) A person who meets the qualifications listed in
6 paragraphs a, b, c, and d of subdivision (1) of subsection (b)
7 from performing prosthetic, orthotic, or pedorthic services in
8 this state, provided the services are not performed for more
9 than 60 days per 12-month period, after notification to the
10 board.

11 "§34-25A-7.

12 "The board shall perform all the following duties:

13 "(1) Establish and publish continuing education
14 requirements such that a licensed orthotist or a licensed
15 prosthetist or a licensed pedorthist is required to complete a
16 minimum of hours of continuing education and a licensed
17 prosthetist/orthotist is required to complete a minimum of
18 hours of continuing education in each year of a license
19 renewal period. The minimum hours provided in this subdivision
20 shall be established by a national recognized certifying board
21 accredited by the National Commission for Certifying Agencies
22 (NCCA), or such other national agency as approved by the
23 board.

24 "(2) Examine for, approve, deny, revoke, suspend,
25 reinstate, and renew licensure accreditation or registration
26 of duly qualified applicants and develop, promulgate, and

1 establish fines, penalties, and requirements for reinstatement
2 of licensure, accreditation, or registration.

3 "(3) Receive applications, issue licenses,
4 accreditations, or registrations to applicants who have met
5 the requirements for licensure, accreditation, or
6 registration, and deny licenses, accreditations, or
7 ~~registration~~ registrations to applicants who do not meet the
8 minimum qualifications.

9 "(4) Hire administrative, clerical, investigative,
10 and other staff as needed to implement this chapter and hire
11 individuals licensed under this chapter to serve as examiners
12 for any practical examinations required by the board either
13 within the state classified service or not within it.

14 "(5) Promulgate and publish rules and regulations in
15 accordance with the Administrative Procedure Act to administer
16 this chapter. Any rule or regulation defining the scope of
17 practice or permissible activities of a licensed orthotist,
18 licensed prosthetist, or a licensed prosthetist/orthotist or a
19 registered orthotic supplier shall be published jointly with
20 the State Board of Medical Examiners.

21 "(6) Develop and promulgate requirements and
22 establish fees for the licensure of mastectomy fitters,
23 orthotic assistants, prosthetic assistants, or
24 prosthetic/orthotic assistants. Such licenses shall be
25 regulated and issued by the board.

1 "(7) Prepare and administer, or approve the
2 preparation and administration of, examinations for applicants
3 for licensure.

4 "§34-25A-12.

5 "(a) The board shall promulgate rules and
6 regulations for all licensure fees, registration fees, renewal
7 fees, and accreditation fees. The application fee for
8 licensure as an orthotist, prosthetist, orthotist assistant,
9 prosthetist assistant, prosthetist/orthotist, or pedorthist
10 shall not exceed two hundred fifty dollars (\$250) and the
11 application fee for registration as an orthotic supplier shall
12 not exceed one hundred fifty dollars (\$150). The application
13 fee for accreditation shall not exceed three hundred fifty
14 dollars (\$350) per facility. The licensure fee shall not
15 exceed nine hundred fifty dollars (\$950) per discipline per
16 term of license. The accreditation fee shall not exceed nine
17 hundred fifty dollars (\$950) per term for each accredited
18 facility. Registration fees and renewal fees shall not exceed
19 three hundred fifty dollars (\$350) per term of registration or
20 renewal, and all other associated assistant fees shall not
21 exceed five hundred dollars (\$500) per term of license.

22 "(b) Maximum fees as defined in subsection (a) may
23 be exceeded when a late renewal fee is authorized or imposed
24 by the board.

25 "~~(b)~~ (c) The board may prescribe by rule that
26 individuals who due to age or physical disability are unable
27 to practice, who have retired from the practice, who are

1 licensed in the state but are practicing out of state, or who
2 are on temporary active duty with any of the Armed Forces of
3 the United States shall be allowed to pay a renewal fee in an
4 amount less than the amount paid by individuals in current
5 practice. The amount shall be established by the board."

6 Section 2. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.