

House Bill 828

By: Representative Parham of the 122nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
2 physicians, so as to provide for the licensing of the practice of orthotics, prosthetics, and
3 pedorthics; to provide for a short title; to provide for legislative intent; to provide for
4 definitions; to provide for the Board of Orthotics, Prosthetics, and Pedorthics and its
5 qualifications, terms, compensation, vacancies, organization, immunity, powers, and duties;
6 to prohibit the practice of orthotics, prosthetics, and pedorthics except by certain licensed
7 persons; to provide for exceptions; to provide for licensing standards; to provide for
8 examinations and fees; to provide for assistants and technicians; to provide for transitional
9 authorization to practice; to provide for penalties; to limit the provision of services; to
10 provide for license renewal and restoration; to provide for continuing education; to provide
11 for sanctions for certain conduct and actions; to provide for effective dates; to repeal
12 conflicting laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, is
16 amended by adding at the end thereof a new article to read as follows:

17 **"ARTICLE 7**

18 43-34-160.

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

21 43-34-161.

22 The General Assembly finds that the practice of orthotics and prosthetics in this state is an
23 allied health profession recognized by the American Medical Association, with educational

1 standards established by the Commission on Accreditation of Allied Health Education
2 Programs. The General Assembly further finds that the practice of pedorthics in this state
3 is an allied health profession recognized by the American Academy of Orthopaedic
4 Surgeons, with educational standards established by the Board for Certification in
5 Pedorthics. The increasing population of elderly and physically challenged individuals who
6 need orthotic, prosthetic, and pedorthic services requires that the orthotic, prosthetic, and
7 pedorthic professions be regulated to ensure the provision of high-quality services and
8 devices. The people of this state deserve the best care available and will benefit from the
9 assurance of initial and ongoing professional competence of the orthotists, prosthetists, and
10 pedorthists practicing in this state. The practice of orthotics, prosthetics, and pedorthics
11 serves to improve and enhance the lives of individuals with disabilities by enabling them
12 to resume productive lives following serious illness, injury, or trauma. Unregulated
13 dispensing of orthotic, prosthetic, and pedorthic care does not adequately meet the needs
14 or serve the interests of the public. In keeping with requirements imposed on similar health
15 disciplines, licensure of the orthotic, prosthetic, and pedorthic professions will help ensure
16 the health and safety of consumers, as well as maximize their functional abilities and
17 productivity levels. This article shall be liberally construed to best carry out these subjects
18 and purposes.

19 43-34-162.

20 As used in this article, the term:

21 (1) 'Assistant' means a person who assists an orthotist, prosthetist, or prosthetist/orthotist
22 with patient care services and fabrication of orthoses or prostheses under the supervision
23 of a licensed orthotist or prosthetist.

24 (2) 'Board' means the Board of Orthotics, Prosthetics, and Pedorthics created by Code
25 Section 43-34-164.

26 (3) 'Custom fabricated and fitted device' means that an orthosis, prosthesis, or pedorthic
27 device is fabricated to original measurements or a mold, or both, for use by a patient in
28 accordance with a prescription and which requires substantial clinical and technical
29 judgment in its design and fitting.

30 (4) 'Custom fitted device' means a prefabricated orthosis, prosthesis, or pedorthic device
31 sized, or modified, or both, for use by a patient in accordance with a prescription and
32 which requires substantial clinical judgment and substantive alteration for appropriate
33 use.

34 (5) 'Division' means the professional licensing boards division.

35 (6) 'Division director' means the individual appointed by the Secretary of State as
36 director of the division.

1 (7) 'Facility' means the business location where orthotic, prosthetic, or pedorthic care is
2 provided. In the case of an orthotic or prosthetic facility, it has the appropriate clinical
3 and laboratory space and equipment to provide comprehensive orthotic or prosthetic care;
4 and, in the case of a pedorthic facility, it has the appropriate clinical space and equipment
5 to provide pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be
6 available to either provide care or supervise the provision of care by nonlicensed staff.

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

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

12 (10) 'Licensed pedorthist' means a person licensed under this article to practice
13 pedorthics and who represents himself or herself to the public by the title or description
14 of services that include the term 'pedorthic,' 'pedorthist,' or a similar title or description
15 of services.

16 (11) 'Licensed physician' means a person licensed to practice medicine under Article 2
17 of Chapter 34 of this title.

18 (12) 'Licensed podiatrist' means a person licensed to practice podiatry under Chapter 35
19 of this title, the "Georgia Podiatry Practice Act."

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

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

31 (15) 'Orthotic and prosthetic education program' means a course of instruction accredited
32 by the Commission on Accreditation of Allied Health Education Programs consisting of:

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

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

36 (i) Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic
37 or orthotic components and materials, training and functional capabilities, prosthetic

1 or orthotic performance evaluation, prescription considerations, etiology of
2 amputations and disease processes necessitating prosthetic or orthotic use, and
3 medical management;

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

5 (iii) Instruction in acute care techniques, such as immediate and early postsurgical
6 prosthetics and fracture bracing techniques; and

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

10 (16) 'Orthotic and prosthetic scope of practice' means a list that includes the role played
11 by an occupant of a particular 'level of competence,' what he or she can be expected to
12 do and not to do, and his or her relation to others in the field. These should be based on
13 internationally accepted standards of orthotic and prosthetic care as outlined by the
14 International Society of Prosthetics and Orthotics' professional profile for Category I
15 orthotic and prosthetic personnel.

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

20 (18) 'Orthotist' means an allied health professional who is specifically trained and
21 educated to provide or manage the provision of a custom designed, fabricated, or
22 modified and fitted external orthosis to an orthotic patient based on a clinical assessment
23 and a physician's prescription, to restore physiological function or cosmesis or both.

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

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

31 (21) 'Pedorthic device' means therapeutic footwear, foot orthoses for use at the ankle or
32 below, and modified footwear made for therapeutic purposes. 'Pedorthic device' does not
33 include nontherapeutic accommodative inlays or nontherapeutic accommodative
34 footwear, regardless of method of manufacture; shoe modifications made for
35 nontherapeutic purposes; unmodified, over-the-counter shoes; or prefabricated foot care
36 products.

1 (22) 'Pedorthic education program' means a course of instruction accredited by the Board
2 for Certification in Pedorthics consisting of:

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

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

12 (23) 'Pedorthic scope of practice' means a list of tasks with relative weight given to such
13 factors as importance, criticality, and frequency based on nationally accepted standards
14 of pedorthic care as outlined by the Board for Certification in Pedorthics' comprehensive
15 analysis with an empirical validation study of the profession performed by an
16 independent testing company.

17 (24) 'Pedorthics' means the science and practice of evaluating, measuring, designing,
18 fabricating, assembling, fitting, adjusting, or servicing a pedorthic device under an order
19 from a licensed physician or podiatrist for the correction or alleviation of neuromuscular
20 or musculoskeletal dysfunction, disease, injury, or deformity.

21 (25) 'Pedorthist' means a person who measures, designs, fabricates, fits, or services
22 pedorthic devices and assists in the formulation of the order of pedorthic devices as
23 ordered by a licensed physician for the support or correction of disabilities caused by
24 neuromusculoskeletal diseases, injuries, or deformities.

25 (26) 'Person' means a natural person.

26 (27) 'Prosthesis' means a custom designed, fabricated, fitted, modified, or fitted and
27 modified device to replace an absent external limb for purposes of restoring physiological
28 function or cosmesis or both. 'Prosthesis' does not include artificial eyes, ears, fingers or
29 toes, dental appliances, cosmetic devices such as artificial breasts, eyelashes, or wigs, or
30 other devices that do not have a significant impact on the musculoskeletal functions of
31 the body.

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

35 (29) 'Prosthetist' means an allied health professional who is specifically trained and
36 educated to provide or manage the provision of a custom designed, fabricated, modified,

1 and fitted external limb prosthesis to a prosthetic patient based on a clinical assessment
2 and a physician's prescription, to restore physiological function or cosmesis or both.

3 (30) 'Prosthetist/orthotist' means a person who practices both disciplines of prosthetics
4 and orthotics and who represents himself or herself to the public by title or by description
5 of services.

6 (31) 'Resident' means a person who has completed an education program in either
7 orthotics or prosthetics and is continuing his or her clinical education in a residency
8 accredited by the National Commission on Orthotic and Prosthetic Education.

9 (32) 'Technician' means a person who assists an orthotist, prosthetist,
10 prosthetist/orthotist, or pedorthist with fabrication of orthoses, prostheses, or pedorthic
11 devices but does not provide direct patient care.

12 43-34-163.

13 This article shall not be construed to prohibit:

14 (1) A licensed physician from engaging in the practice for which he or she is licensed;

15 (2) A person licensed in this state under any other law from engaging in the practice for
16 which he or she is licensed;

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

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

21 (A) A student enrolled in a school of orthotics, prosthetics, or pedorthics;

22 (B) A resident continuing his or her clinical education in a residency accredited by the
23 National Commission on Orthotic and Prosthetic Education; or

24 (C) A student in a qualified work experience program or internship in pedorthics;

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

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

31 (B) The withdrawal of the application; or

32 (C) The denial of the application by the division;

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

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

1 43-34-164.

2 (a) There is created a Board of Orthotics, Prosthetics, and Pedorthics, which shall consist
3 of five voting members to be appointed by the Governor and approved by the Senate. One
4 member shall be a practicing licensed orthotist, one member shall be a practicing licensed
5 prosthetist, and one member shall be a practicing pedorthist. These members may be
6 licensed in more than one discipline. One member shall be a member of the public who
7 has no professional connection with any practice licensed under this article. One member
8 shall be a licensed physician. Those members of the board required to be licensed under
9 this article and who are first appointed to the board shall be persons who are practicing in
10 the profession which they represent on the board at the time of appointment and who must
11 be licensed therein as required within 12 months following their appointment.

12 (b) Each member of the board shall serve a term of three years, except that, of the initial
13 appointments to the board, one member shall be appointed for one year, two members
14 shall be appointed for two years, and two members shall be appointed for three years. Each
15 member shall hold office and execute his or her responsibilities until the expiration of that
16 member's term of office and until the appointment and qualification of his or her successor.
17 No member of the board shall serve more than eight consecutive years or two full terms,
18 whichever is greater. Vacancies on the board shall be filled in the same manner as the
19 original appointment for the remainder of the unexpired term.

20 (c) Members of the board shall receive as compensation only such allowances authorized
21 by subsection (f) of Code Section 43-1-2. The board shall be a professional licensing board
22 and have those powers and duties provided to professional licensing boards under Chapter
23 1 of this title.

24 43-34-165.

25 (a) Members of the board shall be immune from suit in any action based upon any
26 disciplinary proceeding or other activities performed in good faith as members of the
27 board.

28 (b) The board shall annually elect a chairperson and vice chairperson who is required to
29 be licensed under this article.

30 43-34-166.

31 An application for an original license shall be made to the board in writing on a form
32 prescribed by the division director and shall be accompanied by the required fee, which
33 shall not be refundable. An application shall require information that in the judgment of the
34 board will enable it to determine the qualifications of the applicant for a license.

1 43-34-167.

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

3 (1) Possess a baccalaureate degree from a college or university;

4 (2) Have completed the amount of formal training, including, but not limited to, any
5 hours of classroom education and clinical practice established and approved by the board;

6 (3) Complete a clinical residency in the professional area for which a license is sought
7 in accordance with standards, guidelines, or procedures for residencies inside or outside
8 this state established and approved by the board. The majority of training must be
9 devoted to services performed under the supervision of a licensed practitioner of orthotics
10 or prosthetics or a person certified as a Certified Orthotist, Certified Prosthetist, or
11 Certified Prosthetist Orthotist whose certification was obtained before July 1, 2002;

12 (4) Pass all written, practical, and oral examinations that are required and approved by
13 the board; and

14 (5) Be qualified to practice in accordance with internationally accepted standards of
15 orthotic and prosthetic care.

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

17 (1) Possess a high school diploma or its equivalent;

18 (2) Have completed the amount of formal training, including, but not limited to, any
19 hours of classroom education and clinical practice established and approved by the board;

20 (3) Pass all examinations that are required and approved by the board; and

21 (4) Be qualified to practice in accordance with nationally accepted standards of pedorthic
22 care.

23 (c) The standards and requirements for licensure established by the board shall be
24 substantially equal to or in excess of standards commonly accepted in the profession of
25 orthotics, prosthetics, or pedorthics. The board shall adopt rules as necessary to set the
26 standards and requirements.

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

28 43-34-168.

29 (a) The board may authorize examinations of applicants as orthotists, prosthetists, or
30 pedorthists at times and places as the division director may determine. The examination
31 of applicants shall be of a character to fairly test the qualifications of the applicant to
32 practice orthotics, prosthetics, or pedorthics.

33 (b) Applicants for examination as orthotists, prosthetists, and pedorthists shall be required
34 to pay a fee covering the cost of providing the examination. Failure to appear for the
35 examination on the scheduled date at the time and place specified after the applicant's

1 application for examination has been received and acknowledged by the board or the
2 designated testing service shall result in the forfeiture of the examination fee.

3 (c) If an applicant neglects, fails, or refuses to take an examination or fails to pass an
4 examination for a license under this article within three years after filing his or her
5 application, the application shall be denied. All fees are nonrefundable. The applicant may
6 make a new application for examination accompanied by the required fee and must furnish
7 proof of meeting qualifications for licensure in effect at the time of the new application.

8 (d) The board shall set by rule the maximum number of attempts that an applicant may
9 make to pass the examination within a specified period of time. The board shall also
10 determine any further training required before a reexamination.

11 (e) The board may employ consultants for the purpose of preparing and conducting
12 examinations.

13 43-34-169.

14 (a) No person shall work as an assistant to an orthotist, prosthetist, or prosthetist/orthotist
15 and provide patient care services or fabrication of orthoses or prostheses unless he or she
16 is doing the work under the supervision of a licensed orthotist, prosthetist or
17 prosthetist/orthotist.

18 (b) No person shall work as a technician unless the work is performed under the
19 supervision of a person licensed under this article.

20 43-34-170.

21 (a) Until July 1, 2004, a person certified as a Certified Orthotist, Certified Prosthetist, or
22 Certified Prosthetist Orthotist by the American Board for Certification in Orthotics and
23 Prosthetics, Incorporated, or holding similar certifications from other accrediting bodies
24 with equivalent educational requirements and examination standards, may apply for and
25 shall be granted orthotic or prosthetic licensure under this article upon payment of the
26 required fee. After that date, any applicant for licensure as an orthotist or a prosthetist shall
27 meet the requirements of subsection (a) of Code Section 43-34-167.

28 (b) Until July 1, 2004, a person certified as a Certified Pedorthist by the Board of
29 Certification in Pedorthics or a person certified as a Certified Orthotist or Certified
30 Prosthetist Orthotist by the American Board for Certification in Orthotics and Prosthetics,
31 Incorporated, or holding similar certifications from other accrediting bodies with equivalent
32 educational requirements and examination standards, may apply for and shall be granted
33 pedorthic licensure under this article upon payment of the required fee. After that date, any
34 applicant for licensure as a pedorthist shall meet the requirements of subsection (b) of Code
35 Section 43-34-167.

1 (c) On and after July 1, 2004, no person shall practice orthotics, prosthetics, or pedorthics
2 in this state or hold himself or herself out as being able to practice such professions unless
3 he or she is licensed in accordance with this Code section or Code Section 43-34-167 or
4 is exempt from such licensing. A person who violates this subsection shall, upon
5 conviction thereof, be guilty of a misdemeanor.

6 (d) Notwithstanding any other provision of this Code section, on July 1, 2003, a person
7 who has practiced full time for a minimum of the past seven years in a prosthetic/orthotic
8 facility as an orthotist or prosthetist or in a pedorthic facility as a pedorthist may file an
9 application with the board within 60 days thereafter in order to continue to practice
10 orthotics, prosthetics, or pedorthics. The applicant shall be issued a license to practice
11 orthotics, prosthetics, or pedorthics under the provisions of this article without examination
12 upon receipt by the board of payment of the licensing fee required under this article and
13 after the board has completed an investigation of the applicant's work history. The board
14 shall complete its investigation for the purposes of this Code section within six months of
15 the date of the application. The investigation may include, but is not limited to, completion
16 by the applicant of a questionnaire regarding the applicant's work history and scope of
17 practice.

18 43-34-171.

19 A licensed orthotist or pedorthist may provide care or services only if the care or services
20 are provided pursuant to an order from a licensed physician or podiatrist. A licensed
21 prosthetist may provide care or services only if the care or services are provided pursuant
22 to an order from a licensed physician.

23 43-34-172.

24 (a) The expiration date and renewal period for each license issued under this article shall
25 be set by the division director. The board shall establish continuing education requirements
26 for the renewal of a license. These requirements shall be based on established standards of
27 competence.

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

30 (1) Making application to the board;

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

34 (3) Paying the required restoration fee.

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

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

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

8 (2) In training or education under the supervision of the United States preliminary to
 9 induction into military service

10 may have his or her license renewed or restored without paying a lapsed renewal fee if,
 11 within two years after termination from the service, training, or education except under
 12 conditions other than honorable, he or she furnished the division director with satisfactory
 13 evidence that he or she has been so engaged and that his or her service, training, or
 14 education has been terminated.

15 43-34-173.

16 A person who notifies the board in writing on forms prescribed by the division director
 17 may elect to place his or her license on an inactive status and shall, subject to rules of the
 18 board, be excused from payment of renewal fees until he or she notifies the board in
 19 writing of his or her desire to resume active status. A person requesting restoration from
 20 inactive status shall be required to pay the current renewal fee and shall be required to
 21 restore his or her license as provided in Code Section 43-34-172. An orthotist, prosthetist,
 22 or pedorthist whose license is on inactive status shall not practice orthotics, prosthetics, or
 23 pedorthics in this state.

24 43-34-174.

25 The board may, at its discretion, license as an orthotist, prosthetist, or pedorthist, without
 26 examination and on payment of the required fee, an applicant who is an orthotist,
 27 prosthetist, or pedorthist who is:

28 (1) Licensed under the laws of another state, territory, or country, if the requirements for
 29 licensure in that state, territory, or country in which the applicant is licensed were, at the
 30 date of his or her licensure, substantially equal to the requirements in force in this state
 31 on that date; or

32 (2) Certified by a national certification organization with educational and testing
 33 standards equal to or more stringent than the licensing requirements of this state.

1 43-34-175.

2 The board may impose any sanction authorized under Code Section 43-1-19 upon a finding
3 of any conduct specified in subsection (a) of Code Section 43-1-19 and such action shall
4 be governed by Code Section 43-1-19."

5 **SECTION 2.**

6 This Act shall become effective on July 1, 2002, for purposes of appointing and
7 compensating members of the Board of Orthotics, Prosthetics, and Pedorthics and for
8 purposes of promulgating rules and regulations to carry out this Act . For all other purposes,
9 this Act shall become effective July 1, 2003.

10 **SECTION 3.**

11 All laws and parts of laws in conflict with this Act are repealed.