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Chapter No. 340

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HOUSE BILL NO. 1151

Originated in House



Clerk

HOUSE BILL NO. 1151

AN ACT TO AMEND SECTION 73-22-3, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ORTHOTIST/PROSTHETIST CERTIFICATION LAW DOES NOT PROHIBIT OR RESTRICT THE PRACTICE OF PHARMACY BY A LICENSED PHARMACIST AND DOES NOT PREVENT OR RESTRICT THE PRACTICE OF PROVIDING THERAPEUTIC DIABETIC SHOES AND INSERTS BY AN APPROPRIATELY TRAINED PHARMACIST; TO AMEND SECTION 73-22-1, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-22-3, Mississippi Code of 1972, is amended as follows:

73-22-3. (1) No person shall practice orthotics or prosthetics in the state unless he or she is certified as an orthotist, prosthetist, or both, by the American Board for Certification in Orthotics and Prosthetics or the Board for Orthotist/Prosthetist Certification. However, nothing in this chapter shall be construed to:

(a) Prevent any person licensed, registered or certified in this state from engaging in the profession or occupation for which he is licensed, registered or certified, as long as he does not represent himself as an orthotist or prosthetist * * *;

(b) Prevent any physician licensed in this state from performing any activities included within the definition of orthotics or prosthetics in the normal course of his practice as a physician, as long as he does not represent himself as an orthotist or prosthetist;

(c) Prevent the practice of orthotics or prosthetics by any person who has engaged in the practice of orthotics or

prosthetics for a period of twenty-five (25) or more consecutive years before July 1, 1991, and is engaged in the practice of orthotics or prosthetics on July 1, 1991;

(d) Prohibit or restrict the practice of pharmacy by a licensed pharmacist under Section 73-21-71 et seq., or to prohibit or restrict the operation of a pharmacy or its employees and technicians; or

(e) Prevent or restrict the practice of providing therapeutic diabetic shoes and inserts by an appropriately trained pharmacist or any of the appropriately trained pharmacist's or appropriately trained pharmacy's employees acting under the supervision of a pharmacist.

(2) It is unlawful for any orthotist or prosthetist, or any person on behalf of an orthotist or prosthetist, to solicit the patronage of individual patients for the orthotist or prosthetist by direct contact with a potential customer outside of the place of business of the orthotist or prosthetist.

(3) Whenever any person employs or utilizes the services of an orthotist or prosthetist in connection with the person's business, the measuring, fitting, adjusting and approval of any orthotic or prosthetic device furnished to a patient shall be performed only under the direct supervision of a board certified orthotist, in the case of orthotic patients, or under the direct supervision of a board certified prosthetist, in the case of prosthetic patients. "Direct supervision" means involvement by the certified practitioner in each and every case.

(4) Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00), and may be imprisoned in the county jail for not more than six (6) months. In addition, any person sustaining damages as a result of a violation of any provision of this section may recover the amount of those damages,

plus a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00) per incident, in any court of competent jurisdiction.

SECTION 2. Section 73-22-1, Mississippi Code of 1972, is amended as follows:

73-22-1. As used in this chapter:

(a) "Appropriately trained" means the satisfactory completion of a course of study that covers fitting and patient management of therapeutic diabetic shoes and inserts that is approved by the National Commission for Orthotic and Prosthetic Education (N.C.O.P.E.), or a course of study offered by a manufacturer.

(b) "Orthotic device" means a brace or support, but does not include fabric and elastic supports, corsets, arch supports, trusses, elastic hose, canes, crutches, cervical collars, dental appliances or other similar devices carried in stock and sold by drug stores, department stores, corset shops or surgical supply facilities.

(c) "Orthotics" means the science or practice of measuring, designing, constructing, assembling, fitting, adjusting or servicing orthotic devices for the support, correction or alleviation of musculoskeletal diseases, injuries, disabilities or deformities as permitted by prescriptions from a licensed doctor of medicine.

(d) "Orthotist" means a person who is certified by the American Board for Certification in Orthotics and Prosthetics or the Board for Orthotist/Prosthetist Certification as a certified orthotist.

(e) "Person" means any individual, corporation, partnership, association or other organization.

(f) "Prosthetic device" means any artificial device that is not surgically implanted and that is used to replace a missing limb, appendage or any other external human body part, including devices such as artificial limbs, hands, fingers, feet,

toes, but excluding artificial eyes or appliances for the eyes, dental plates, and largely cosmetic devices such as wigs, artificial breasts, eyelashes, ears and noses or other devices which could not by their use have a significantly detrimental impact upon the musculoskeletal functions of the body.

(g) "Prosthetics" means the science or practice of measuring, designing, constructing, assembling, fitting, adjusting or servicing prosthetic devices as permitted by prescriptions from a licensed doctor of medicine.

(h) "Prosthetist" means a person who is certified by the American Board for Certification in Orthotics and Prosthetics or the Board for Orthotist/Prosthetist Certification as a certified prosthetist.

SECTION 3. This act shall take effect and be in force from and after July 1, 2012.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 13, 2012



SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 4, 2012



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

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