

Article 12A.

Podiatrists.

§ 90-202.2. "Podiatry" defined.

(a) Podiatry as defined by this Article is the surgical, medical, or mechanical treatment of all ailments of the human foot and ankle, and their related soft tissue structures to the level of the myotendinous junction. Excluded from the definition of podiatry is the amputation of the entire foot, the administration of an anesthetic other than local, and the surgical correction of clubfoot of an infant two years of age or less.

(b) Except for procedures for bone spurs and simple soft tissue procedures, any surgery on the ankle or on the soft tissue structures related to the ankle, any amputations, and any surgical correction of clubfoot shall be performed by a podiatrist only in a hospital licensed under Article 5 of Chapter 131E of the General Statutes or in a multispecialty ambulatory surgical facility that is not a licensed office setting, and that is licensed under Part D of Article 6 of Chapter 131E of the General Statutes. Before performing any of the surgeries referred to in this subsection in a multispecialty ambulatory surgical facility, the podiatrist shall have applied for and been granted privileges to perform this surgery in the multispecialty ambulatory surgical facility. The granting of these privileges shall be based upon the same criteria for granting hospital privileges under G.S. 131E-85.

(c) The North Carolina Board of Podiatry Examiners shall maintain a list of podiatrists qualified to perform the surgeries listed in subsection (b) of this section, along with specific information on the surgical training successfully completed by each licensee. (1919, c. 78, s. 2; C.S., s. 6763; 1945, c. 126; 1963, c. 1195, s. 2; 1971, c. 1211; 1975, c. 672, s. 1; 1995, c. 248, s. 1.)

§ 90-202.3. Unlawful to practice unless registered.

No person shall practice podiatry unless he shall have been first licensed and registered so to do in the manner provided in this Article, and if any person shall practice podiatry without being duly licensed and registered, as provided in this Article, he shall not be allowed to maintain any action to collect any fee for such services. Any person who engages in the practice of podiatry unless licensed and registered as hereinabove defined, or who attempts to do so, or who professes to do so, shall be guilty of a Class 1 misdemeanor. Each act of such unlawful practice shall constitute a separate offense. (1919, c. 78, s. 1; C.S., s. 6764; 1963, c. 1195, s. 2; 1967, c. 1217, s. 2; 1975, c. 672, s. 1; 1993, c. 539, s. 637; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 90-202.4. Board of Podiatry Examiners; terms of office; powers; duties.

(a) There shall be established a Board of Podiatry Examiners for the State of North Carolina. This Board shall consist of four members appointed by the Governor. Three of the members shall be licensed podiatrists who have practiced podiatry in North Carolina for not less than seven years immediately preceding their election and who are elected and nominated to the Governor as hereinafter provided. The other member shall be a person chosen by the Governor to represent the public at large. The public member shall not be a health care provider nor may he or she be the spouse of a health care provider. For purposes of Board membership, "health care provider" means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care

provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

(b) All Board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed to the Board on or after July 1, 1981, shall serve more than two complete consecutive three-year terms, except that each member shall serve until his successor is chosen and qualified.

(c) Podiatrist members chosen as provided for in subsection (d) shall be selected upon the expiration of the respective terms of the members of the present Board of Podiatry Examiners. Membership on the Board resulting from appointment before July 1, 1981, shall not be considered in determining the permissible length of service under subsection (b). The Governor shall appoint the public member not later than July 1, 1981.

(d) The Governor shall appoint podiatrist members of the Board from a list provided by the Board of Podiatry Examiners. For each vacancy, the Board shall submit at least two names to the Governor. All nominations of podiatrist members of the Board shall be conducted by the Board of Podiatry Examiners, which is hereby constituted a Board of Podiatry Elections. Every podiatrist with a current North Carolina license residing in this State shall be eligible to vote in all elections. The list of licensed podiatrists shall constitute the registration list for elections. The Board of Podiatry Elections is authorized to make rules relative to the conduct of these elections, provided such rules are not in conflict with the provisions of this section and provided that notice shall be given to all licensed podiatrists residing in North Carolina. All such rules shall be adopted subject to the procedures of Chapter 150B of the General Statutes of North Carolina. From any decision of the Board of Podiatry Elections relative to the conduct of such elections, appeal may be taken to the courts in the manner provided by Chapter 150B of the General Statutes.

(e) Any initial or regular member of the Board may be removed from office by the Governor for good cause shown. Any vacancy in the initial or regular podiatrist membership of the Board shall be filled for the period of the unexpired term by the Governor from a list of at least two names submitted by the podiatrist members of the Board. Any vacancy in the public membership of the Board shall be filled by the Governor for the unexpired term.

(f) The Board is authorized to elect its own presiding and other officers.

(g) The Board, in carrying out its responsibilities, shall have authority to employ personnel, full-time or part-time, as shall be determined to be necessary in the work of the Board. The Board shall have authority to pay compensation to the member of the Board holding the position of secretary-treasurer on a basis to be determined by the Board; Provided that in the event the positions of secretary and treasurer are not combined but are held by different members of the Board, the Board shall have authority to pay compensation to the member holding the position of secretary and to the member holding the position of treasurer, if the Board so chooses, on a basis to be determined by the Board. The Board is required to keep proper and complete records with respect to all of its activities, financial and otherwise, and shall on or before January 30 of each year submit a written report to the Governor and to such other officials and/or agencies as other sections of the General Statutes may require, said report covering the activities of the Board during the previous calendar year, which report shall include a verified financial statement. The Board is authorized to adopt rules and regulations governing its proceedings and the practice of podiatry in this State, not inconsistent with the provisions of this Article. The Board shall maintain at all times an up-to-date list of the names and addresses of each licensed podiatrist in North Carolina, which list shall be available for inspection and which shall be included in the annual report referred to

above. (1919, c. 78, s. 3; C.S., s. 6765; 1963, c. 1195, s. 2; 1967, c. 1217, s. 3; 1975, c. 672, s. 1; 1981, c. 659, s. 1; 1983, c. 217, ss. 1-4; 1987, c. 827, s. 1.)

§ 90-202.5. Applicants to be examined; examination fee; requirements; temporary licenses.

(a) Any person not heretofore authorized to practice podiatry in this State shall file with the Board of Podiatry Examiners an application for examination accompanied by a fee not to exceed three hundred fifty dollars (\$350.00), together with proof that the applicant is of good moral character, and has obtained a preliminary education equivalent to four years of instruction in a high school and three years of instruction in a college or university approved by the American Association of Colleges and Universities. Before taking the examination, the applicant must be a graduate of a college of podiatric medicine accredited by the National Council on Education of the American Podiatry Association.

Effective January 1, 1992, every applicant, as a prerequisite for licensure under this Article, shall complete one year of clinical residency or other equivalent postgraduate clinical program approved by the North Carolina Board of Podiatry Examiners and, before taking the North Carolina podiatry licensure examination, shall present evidence to the Board that he has passed the National Board Examination.

Any person licensed to practice podiatry on or before January 1, 1992, who is actively involved in a postgraduate clinical program approved by the Board shall be permitted to practice podiatry in the approved program pending its completion.

(b) Effective January 1, 1992, the Board may issue a temporary license to practice podiatry to any applicant for licensure, for a period and under conditions established by the Board, while the person resides in North Carolina and is participating in a clinical residency or other equivalent postgraduate clinical program approved by the Board. A temporary license is valid only while the licensee is actively participating in the program and may not be extended beyond the determined length of training set by the Board. (1919, c. 78, s. 9; C.S., s. 6766; 1963, c. 1195, ss. 1, 2; 1967, c. 1217, s. 4; 1975, c. 672, s. 1; 1981, c. 659, s. 2; 1983, c. 217, s. 5; 1989, c. 214; 1991, c. 457, s. 1.)

§ 90-202.6. Examinations; subjects; certificates.

(a) The Board of Podiatry Examiners shall hold at least one examination annually for the purpose of examining applicants under this Article. The examination shall be at such time and place as the Board may see fit. The Board may make such rules and regulations as it may deem necessary to conduct its examinations and meetings. It shall provide, preserve and keep a complete record of all its transactions. Examinations for registration under this Article shall be in the English language and shall be written, oral, or clinical, or a combination of written, oral or clinical, as the Board may determine, and may include the following subjects: anatomy, physiology, bacteriology, chemistry, dermatology, podiatry, surgery, materia medica, pharmacology and pathology. No applicant shall be granted a license certificate by the Board unless he obtains a general average of 75 or over, and not less than fifty percent (50%) in any one subject. After such examination the Board shall without unnecessary delay, act on same and issue license certificates to the successful candidates signed by each member of the Board; and the Board of Podiatry Examiners shall report annually to each licensed podiatrist in the State of North Carolina.

(b) The Board may waive the administration of a written examination prepared by it for all initial applicants who have successfully completed the National Board of Podiatry Examination. The Board may administer to such applicants and require them to complete successfully an examination to test clinical competency in the practice of podiatry.

(c) Any applicant who fails to pass his examination shall within one year be entitled to reexamination upon the payment of an amount not to exceed three hundred fifty dollars (\$350.00), but not more than two reexaminations shall be allowed any one applicant prior to filing a new application. Should he fail to pass his third examination, he shall file a new application before he can again be examined. (1919, c. 78, s. 4; C.S., s. 6767; 1963, c. 1195, s. 2; 1967, c. 1217, s. 5; 1975, c. 672, s. 1; 1981, c. 659, ss. 3, 4; 1983, c. 217, s. 6; 1991, c. 457, s. 2.)

§ 90-202.7. Applicants licensed in other states.

If an applicant for licensure is already licensed in another state to practice podiatry, the Board shall issue a license to practice podiatry to the applicant upon evidence that:

- (1) The applicant is currently an active, competent practitioner in good standing; and
- (2) The applicant has practiced at least five years immediately preceding his or her application with at least three of those five years being in a state that grants similar reciprocity to North Carolina podiatrists; and
- (3) The applicant currently holds a valid license in another state; and
- (4) No disciplinary proceeding or unresolved complaint is pending anywhere at the time a license is to be issued by this State; and
- (5) The licensure requirements in the other state are equivalent to or higher than those required by this State, and the licensure requirements of that other state grant similar reciprocity to podiatrists licensed in North Carolina.

Any license issued upon the application of any podiatrist from any other state shall be subject to all of the provisions of this Article with reference to the license issued by the North Carolina State Board of Podiatry Examiners upon examination of applicants, and the rights and privileges to practice the profession of podiatry under any license so issued shall be subject to the same duties, obligations, restrictions and conditions as imposed by this Article on podiatrists originally examined by the North Carolina State Board of Podiatry Examiners. (1919, c. 78, s. 6; C.S., s. 6768; 1967, c. 1217, s. 6; 1975, c. 672, s. 1; 1981, c. 659, s. 5; 1983, c. 217, s. 7; 1991, c. 457, s. 3.)

§ 90-202.8. Revocation of certificate; grounds for; suspension of certificate.

(a) The North Carolina State Board of Podiatry Examiners, in accordance with Chapter 150B (Administrative Procedure Act) of the General Statutes, shall have the power and authority to: (i) refuse to issue a license to practice podiatry; (ii) refuse to issue a certificate of renewal of a license to practice podiatry; (iii) revoke or suspend a license to practice podiatry; and (iv) invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper;

in any instance or instances in which the Board is satisfied that such applicant or licensee:

- (1) Has engaged in any act or acts of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal thereof;
- (2) Is a chronic or persistent user of alcohol intoxicants or habit-forming drugs or narcotics to the extent that the same impairs his ability to practice podiatry;
- (3) Has been convicted of any of the criminal provisions of this Article or has entered a plea of guilty or nolo contendere to any charge or charges arising therefrom;
- (4) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;

- (5) Has been convicted of or entered a plea of guilty or nolo contendere to any charge of violation of any state or federal narcotic or barbiturate law;
- (6) Has engaged in any act or practice violative of any of the provisions of this Article or violative of any of the rules and regulations promulgated and adopted by the Board, or has aided, abetted or assisted any other person or entity in the violation of the same;
- (7) Is mentally, emotionally, or physically unfit to practice podiatry or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of his patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice podiatry unless or until such person shall have been subsequently lawfully declared to be mentally competent;
- (8) Has advertised services in a false, deceptive, or misleading manner;
- (9) Has permitted the use of his name, diploma or license by another person either in the illegal practice of podiatry or in attempting to fraudulently obtain a license to practice podiatry;
- (10) Has engaged in such immoral conduct as to discredit the podiatry profession;
- (11) Has obtained or collected or attempted to obtain or collect any fee through fraud, misrepresentation, or deceit;
- (12) Has been negligent in the practice of podiatry;
- (13) Is not professionally competent in the practice of podiatry;
- (14) Has practiced any fraud, deceit or misrepresentation upon the public or upon any individual in an effort to acquire or retain any patient or patients;
- (15) Has made fraudulent or misleading statements pertaining to his skill, knowledge, or method of treatment or practice;
- (16) Has committed any fraudulent or misleading acts in the practice of podiatry;
- (17), (18) Repealed by Session Laws 1981, c. 659, s. 7.
- (19) Has wrongfully or fraudulently or falsely held himself out to be or represented himself to be qualified as a specialist in any branch of podiatry;
- (20) Has persistently maintained, in the practice of podiatry, unsanitary offices, practices, or techniques;
- (21) Is a menace to the public health by reason of having a serious communicable disease;
- (22) Has distributed or caused to be distributed any intoxicant, drug, or narcotic for any other than a lawful purpose; or
- (23) Has engaged in any unprofessional conduct as the same may be, from time to time, defined by the rules and regulations of the Board.

(a1) The Board shall establish a grievance committee to receive complaints concerning a practitioner's business or professional practices. The committee shall consider all complaints and determine whether there is probable cause. After its review, the committee may dismiss any complaint when it appears that probable cause of a violation cannot be established. Complaints which are not dismissed shall be referred to the Board.

(b) If any person engages in or attempts to engage in the practice of podiatry while his license is suspended, his license to practice podiatry in the State of North Carolina may be permanently revoked.

(c) Action of the Board shall be subject to judicial review as provided by Chapter 150B (Administrative Procedure Act). (1919, c. 78, ss. 12, 13; C.S., s. 6772; 1953, c. 1041, ss. 17, 18; 1963, c. 1195, s. 2; 1967, c. 691, s. 45; 1973, c. 1331, s. 3; 1975, c. 672, ss. 1, 2; 1981, c. 659, ss. 6-8; 1987, c. 827, s. 1; 1991, c. 636, s. 6; 1997-456, s. 27.)

§ 90-202.9. Fees for certificates and examinations; compensation of Board.

To provide a fund in order to carry out the provisions of this Article the Board shall charge not more than one hundred dollars (\$100.00) for each license issued and one hundred dollars (\$100.00) for each examination. From such funds the Board shall pay its members at the rate set out in G.S. 93B-5: Provided, that at no time shall the expenses exceed the cash balance on hand. (1919, c. 78, s. 14; C.S., s. 6773; 1967, c. 1217, s. 9; 1975, c. 672, s. 1.)

§ 90-202.10. Annual fee; cancellation or renewal of license.

On or before the first day of July of each year every podiatrist engaged in the practice of podiatry in this State shall transmit to the secretary-treasurer of the said North Carolina State Board of Podiatry Examiners his signature and post-office address, the date and year of his or her certificate, together with a fee to be set by the Board of Podiatry Examiners not to exceed two hundred dollars (\$200.00) and receive therefor a renewal certificate. Any license or certificate granted by said Board under or by virtue of this section shall automatically be cancelled and annulled if the holder thereof fails to secure the renewal herein provided for within a period of 30 days after the first day of July of each year, and such delinquent podiatrist shall pay a penalty for reinstatement of twenty-five dollars (\$25.00) for each succeeding month of delinquency until a six-month period of delinquency exists. After a six-month period of delinquency exists or after January 1 following the July 1 deadline, the said podiatrist must appear before the North Carolina Board of Podiatry Examiners and take a new examination before being allowed to practice podiatry in the State of North Carolina. (1931, c. 191; 1963, c. 1195, s. 2; 1967, c. 1217, s. 10; 1975, c. 672, s. 1; 1977, c. 621; 1991, c. 457, s. 4.)

§ 90-202.11. Continuing education courses required.

Beginning May 1, 1976, all registered podiatrists then or thereafter licensed in the State of North Carolina shall be required to take annual courses of study in subjects relating to the practice of the profession of podiatry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure expansive and comprehensive care to the public. The length of study shall be prescribed by the Board but shall not exceed 25 hours in any calendar year. Attendance must be at a course or courses approved by the Board. Attendance at any course or courses of study are to be certified to the Board upon a form provided by the Board and shall be submitted by each registered podiatrist at the time he makes application to the Board for the renewal of his license and payment of his renewal fee. The Board is authorized to treat funds set aside for the purpose of continuing education as State funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. This requirement may be waived by the Board in cases of certified illness or undue hardship as provided in the rules and regulations of the Board. (1975, c. 672, s. 1.)

§ 90-202.12. Free choice by patient guaranteed.

No agency of the State, county or municipality, nor any commission or clinic, nor any board administering relief, social security, health insurance or health service under the laws of the State of North Carolina shall deny to the recipients or beneficiaries of their aid or services the freedom to choose the provider of care or service which are within the scope of practice of a duly licensed podiatrist or duly licensed physician as defined in this Chapter. (1967, c. 690, s. 3; 1975, c. 672, s. 1.)

§ 90-202.13. Injunctions.

The Board may appear in its own name in the superior courts in an action for injunctive relief to prevent violation of this Article and the superior courts shall have power to grant such injunctions regardless of whether criminal prosecution has been or may be instituted as a result of such violations. Actions under this section shall be commenced in the superior court district or set of districts as defined in G.S. 7A-41.1 in which the respondent resides or has his principal place of business or in which the alleged acts occurred. (1975, c. 672, s. 1; 1981, c. 659, s. 9; 1987 (Reg. Sess., 1988), c. 1037, s. 103.)

§ 90-202.14. Not applicable to physicians.

Nothing in this Article shall apply to a physician licensed to practice medicine or to a person acting under the supervision or at his direction in the course of such practice. (1975, c. 672, s. 1.)