

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS15148-SQfqq-16 (05/02)

Short Title: Prosthetist/Orthotist/Pedorthist Licensure. (Public)

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Sponsors: Senator Hartsell.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA PROSTHETISTS,  
ORTHOTISTS, AND PEDORTHIST LICENSURE ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 12B.

"Prosthetist, Orthotist, and Pedorthist Licensure Act.

**"§ 90-202.20. Short title.**

This Article may be cited as the 'Prosthetist, Orthotist, and Pedorthist Licensure Act'.

**"§ 90-202.21. Legislative findings.**

The General Assembly finds the practice of orthotics, prosthetics, and pedorthics is an area of health care that is continually evolving to include more sophisticated and demanding patient care activities. The increasing population of elderly and physically challenged individuals in North Carolina who need orthotic, prosthetic, and pedorthic services requires that the orthotic, prosthetic, and pedorthic professions be regulated to ensure the provision of high-quality services and devices. The General Assembly further finds the practice of orthotics, prosthetics, and pedorthics by unqualified persons is a threat to public health, safety, and welfare, and therefore it is necessary to establish minimum standards of education, training, and competency for persons engaged in the practice of orthotics, prosthetics, and pedorthics.

**"§ 90-202.22. Definitions.**

The following definitions apply in this act:

- (1) Board. – The North Carolina Prosthetist, Orthotist, and Pedorthist Licensure Board.

- 1           (2)    Custom fabricated device. – An orthosis, prosthesis, or pedorthic device  
2           that is fabricated to original measurements or a mold for use by a  
3           patient in accordance with a prescription.
- 4           (3)    Custom fitted device. – A prefabricated orthosis, prosthesis, or  
5           pedorthic device that is sized or modified for use by a patient in  
6           accordance with a prescription.
- 7           (4)    Over-the-counter. – Prefabricated, mass-produced item that is  
8           prepackaged and requires no professional advice or judgment in either  
9           size selection or use, including fabric or elastic supports, corsets,  
10          generic arch supports, and elastic hose.
- 11          (5)    Orthotist. – An allied health professional who is specifically trained  
12          and educated via a course of instruction accredited by the Commission  
13          on Accreditation of Allied Health Education Programs in this  
14          discipline to provide or manage the provision of a custom designed,  
15          fabricated, or modified and fitted external orthosis to an orthotic  
16          patient based on a clinical assessment and a physician's, physician's  
17          assistant, or nurse practitioner's or podiatrist's prescription, to restore  
18          physiological function or cosmesis and represents himself or herself to  
19          the public by such title as providing orthotic services.
- 20          (6)    Orthosis. – A custom designed, fabricated, fitted, modified, or fitted  
21          and modified device to correct, support, or compensate for a  
22          neuromusculoskeletal disorder or acquired condition. Orthosis does  
23          not include fabric or elastic supports, corsets, arch supports, low  
24          temperature plastic splints, trusses, elastic hose, canes, crutches, soft  
25          cervical collars, dental appliances, or other similar devices that are  
26          carried in stock and sold as over-the-counter items by a drugstore or  
27          department store, corset shop, or surgical supply facility.
- 28          (7)    Orthotics. – Evaluating, measuring, designing, fabricating, assembling,  
29          fitting, adjusting, or servicing an orthosis for the correction or  
30          alleviation of neuromuscular or musculoskeletal dysfunction, disease,  
31          injury, or deformity, as provided in this act.
- 32          (8)    Pedorthic device. – Therapeutic footwear, foot orthoses for use at the  
33          ankle or below, and modified footwear made for therapeutic purposes.  
34          The term does not include nontherapeutic accommodative inlays or  
35          nontherapeutic accommodative footwear, regardless of method of  
36          manufacture, shoe modifications made for nontherapeutic purposes,  
37          unmodified, over-the-counter shoes, or prefabricated foot care  
38          products.
- 39          (9)    Pedorthics. – Evaluating, measuring, designing, fabricating,  
40          assembling, fitting, adjusting, or servicing a pedorthic devise for the  
41          correction or alleviation of neuromuscular or musculoskeletal  
42          dysfunction, disease, injury, or deformity, as provided in this act.
- 43          (10)   Pedorthist. – An individual licensed under this act to practice  
44          pedorthics.

- 1           (11) Prefabricated orthosis. – A brace or support designed to provide for  
2           alignment, correction, or prevention of neuromuscular or  
3           musculoskeletal dysfunction, disease, injury, or deformity. The term  
4           does not include fabric or elastic support, corsets, arch supports,  
5           low-temperature plastic splints, trusses, elastic hose, canes, crutches,  
6           soft cervical collars, dental appliances, or other similar devices carried  
7           in stock and sold as over-the-counter items by a drugstore, department  
8           store, corset shop, or surgical supply facility.
- 9           (12) Prosthesis. – A custom designed, fabricated, fitted, modified, or fitted  
10           and modified device to replace an absent external limb for purposes of  
11           restoring physiological function or cosmesis. Prosthesis does not  
12           include artificial eyes, ears, dental appliances, cosmetic devices such  
13           as artificial breasts, eyelashes, or wigs, or other devices that do not  
14           have a significant impact on the musculoskeletal functions of the body.
- 15           (13) Prosthetics. – The science and practice of evaluating, measuring,  
16           designing, fabricating, assembling, fitting, adjusting, or servicing a  
17           prosthesis under an order from a licensed physician or podiatrist.
- 18           (14) Prosthetist. – An individual licensed under this act to practice  
19           prosthetics.

20 **"§ 90-202.23. License required; exemptions.**

21           (a) On or after January 1, 2009, no person shall practice or offer to practice  
22           prosthetics, orthotics, or pedorthics as defined in this Article, use the title 'Licensed  
23           Prosthetist, Licensed Orthotist, or Licensed Pedorthist, use the letters 'LP', 'LO', or  
24           otherwise indicate or imply that the person is a licensed prosthetist, licensed orthotist, or  
25           licensed pedorthist, unless that person is currently licensed as provided in this Article.

26           (b) The provisions of this Article shall not apply to:

- 27           (1) Any person licensed to engage in another profession or occupation or  
28           any person working under the supervision of a person licensed to  
29           engage in another profession or occupation in this State if the person is  
30           performing work incidental to or within the practice of that profession  
31           and the person does not represent himself or herself as a licensed  
32           prosthetist, licensed orthotist, or licensed pedorthist.
- 33           (2) A student enrolled in a prosthetics, orthotics, or pedorthics educational  
34           program if services performed by the student are an integral part of the  
35           student's course of study and are performed under the direct  
36           supervision of a licensed prosthetist, licensed orthotist, or licensed  
37           pedorthist.
- 38           (3) A prosthetist, orthotist, or pedorthist employed by the United States  
39           government when performing duties associated with employment.

40           (c) Unlawful Act. – A person who violates this section is guilty of a Class 1  
41           misdemeanor and may be subject to a civil penalty of not more than one thousand  
42           dollars (\$1,000) for each violation. The Board may make application to superior court  
43           for an order enjoining a violation of this section. Upon a showing by the Board that a

1 person has violated or is about to violate this section, the court may grant an injunction,  
2 restraining order, or take other appropriate action.

3 **"§ 90-202.24. The North Carolina Prosthetist, Orthotist, and Pedorthist Licensure**

4 **Board.**

5 (a) Board. – The North Carolina Prosthetist, Orthotist, and Pedorthist Licensure  
6 Board is created. The Board consists of nine members serving for staggered terms.  
7 Upon expiration of the terms of the initial Board members, each member is appointed  
8 for a term of three years, beginning on January 1 of each year. A member serves until  
9 the member's successor is appointed. No member may serve more than two consecutive  
10 full terms.

11 The initial board members shall be appointed on or before October 1, 2009, as  
12 follows:

- 13 (1) The General Assembly, upon the recommendation of the President Pro  
14 Tempore of the Senate, shall appoint one licensed prosthetist, one  
15 licensed orthotist, and one licensed pedorthist, each of whom shall  
16 serve a term of three years.
- 17 (2) The General Assembly, upon the recommendation of the Speaker of  
18 the House of Representatives, shall appoint one licensed prosthetist,  
19 one licensed orthotist, and one licensed pedorthist, each of whom shall  
20 serve a term of two years.
- 21 (3) The General Assembly, upon the recommendation of the President Pro  
22 Tempore of the Senate, shall appoint one podiatrist who is licensed  
23 under Article 12A of Chapter 90 of the General Statutes, who shall  
24 serve a one-year term.
- 25 (4) The General Assembly, upon the recommendation of the Speaker of  
26 the House of Representatives, shall appoint one podiatrist who is  
27 licensed under Article 12A of Chapter 90 of the General Statutes, who  
28 shall serve a two-year term.
- 29 (5) The Governor shall appoint one public member who shall serve a  
30 three-year term.

31 (b) Qualifications. – Members of the Board shall be citizens of the United States  
32 and residents of this State. The prosthetist, orthotist, and pedorthist members shall hold  
33 current licenses from the Board and shall remain in good standing with the Board during  
34 their terms. Public members of the Board shall not be: (i) trained or experienced in the  
35 practice of prosthesis, orthotics, or pedorthics, (ii) an agent or employee of a person  
36 engaged in the practice of prosthetics, orthotics, or pedorthics, (iii) a health care  
37 professional licensed under Chapter 90 or a person enrolled in a program to become a  
38 licensed health care professional, (iv) an agent or employee of a health care institution, a  
39 health care insurer, or a health care professional school, (v) a member of an allied health  
40 profession or a person enrolled in a program to become a member of an allied health  
41 profession, or (vi) a spouse of an individual who may not serve as a public member of  
42 the Board.

43 (c) Vacancies. – A member of the Board serves at the pleasure of the authority  
44 that appointed it. A vacancy must be filled in the same manner as the original

1 appointment. An appointee to fill a vacancy shall serve the remainder of the unexpired  
2 term and until the appointee's successor has been duly appointed.

3 (d) Removal. – The Board may remove any of its members for neglect of duty,  
4 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings  
5 in his or her capacity as a licensed prosthetist, licensed orthotist, or licensed pedorthist  
6 shall be disqualified from participating in the official business of the Board until the  
7 charges have been resolved.

8 (e) Compensation. – Each member of the Board shall receive per diem and  
9 reimbursement for travel and subsistence as provided in G.S. 93B-5.

10 (f) Officers. – The officers of the Board shall be a chair, a vice-chair, and other  
11 officers deemed necessary by the Board to carry out the purposes of this Article. All  
12 officers shall be elected annually by the Board for one-year terms and shall serve until  
13 their successors are elected and qualified.

14 (g) Meeting. – The Board shall hold its first meeting within 30 days after the  
15 appointment of its members and shall hold at least two meetings each year to conduct  
16 business and to review the standards and rules previously adopted by the Board. The  
17 Board shall establish the procedures for calling, holding, and conducting regular and  
18 special meetings. A majority of Board members constitutes a quorum.

19 **"§ 90-202.25. Powers and duties of the Board.**

20 The Board shall have the power and duty to:

- 21 (1) Administer and enforce the provisions of this act.
- 22 (2) Issue interpretations of this Article.
- 23 (3) Adopt, amend, or repeal rules as may be necessary to carry out the  
24 provisions of this Article.
- 25 (4) Employ and fix the compensation of personnel that the Board  
26 determines is necessary to carry into effect the provisions of this  
27 Article and incur other expenses necessary to effectuate this Article.
- 28 (5) Determine the qualifications and fitness for applicants for licensure,  
29 licensure renewal, and reciprocal licensure.
- 30 (6) Issue, renew, deny, suspend, or revoke licenses, order probation, issue  
31 reprimands, and carry out any other disciplinary actions authorized by  
32 this Article.
- 33 (7) Set fees for licensure, reciprocal licensure, licensure renewal, and  
34 other services deemed necessary to carry out the purposes of this  
35 Article.
- 36 (8) Establish continuing education requirements for licensees.
- 37 (9) Establish a code of ethics for licensees.
- 38 (10) Maintain a current list of all persons who have been licensed under this  
39 Article.
- 40 (11) Conduct investigations for the purposes of determining whether  
41 violations of this Article are grounds for disciplining licensees.
- 42 (12) Maintain a record of all proceedings and make available to all  
43 licensees and other concerned parties an annual report of all Board  
44 action.

1           (13) Adopt a seal containing the name of the Board for use on all official  
2           documents and reports issued by the Board.

3 **"§ 90-202.26. Qualifications for licensure; renewal.**

4           (a) Licensure. – Upon application to the Board and payment of the required fees,  
5 an applicant may be licensed under this act as a prosthetist, orthotist, or pedorthist if the  
6 applicant meets all of the following qualifications and conditions:

7           (1) Possesses a high school diploma or its equivalent.

8           (2) Completes the amount of formal training, including, but not limited to,  
9 any hours of classroom education and clinical practice established and  
10 approved by a prosthetic, orthotic, and pedorthic credentialing  
11 organization recognized by the National Organization for Competency  
12 Assurance (NOCA) and accredited by the National Commission for  
13 Certifying Agencies (NCCA).

14           (3) Completes a qualified work experience program or internship in  
15 prosthetics, orthotics, or pedorthics in accordance with standards,  
16 guidelines, or procedures established and approved by the Board.

17           (4) Passes all examinations that are required for certification by a  
18 prosthetic, orthotic, or pedorthic credentialing organization recognized  
19 by the National Organization for Competency Assurance (NOCA) and  
20 accredited by the National Commission for Certifying Agencies  
21 (NCCA).

22           (5) Fulfills all educational and training requirements consistent with those  
23 required for certification by a prosthetic, orthotic, and pedorthic  
24 credentialing organization recognized by the National Organization for  
25 Competency Assurance (NOCA) and accredited by the National  
26 Commission for Certifying Agencies (NCCA).

27           (b) Renewal. – A license expires two years after the date it is issued unless it is  
28 renewed. Failure to renew a license within six months of the date the license expires  
29 shall result in automatic forfeiture of the right to practice prosthetics, orthotics, or  
30 pedorthics in this State until such time that the license has been reinstated. To renew a  
31 license, a licensee must meet all of the following conditions:

32           (1) Submit an application for license renewal.

33           (2) Pay the required fees.

34           (3) Complete continuing education requirements approved by the Board.

35           An application for renewal of a license that has been expired for less than three years  
36 shall be accompanied by proof satisfactory to the Board that the applicant has satisfied  
37 the continuing education requirements established by the Board and the renewal and late  
38 fees required by G.S. 90-202.28. A license that has been expired for more than three  
39 years shall not be renewed, but the applicant may reapply for licensure by complying  
40 with the current requirements for licensure under this Article.

41 **"§ 90-202.27. Reciprocity.**

42           The Board may grant, upon application and the payment of proper fees, a license to  
43 a person who, at the time of application, holds a valid license, certificate, or registration

1 as a prosthetist, orthotist, or pedorthist, issued by another state if both of the following  
2 conditions are met:

- 3 (1) The standards for licensure, certification, or registration in the state in  
4 which the applicant is licensed, certified, or registered are substantially  
5 equivalent to those provided in this act.
- 6 (2) The applicant provides proof of licensure, certification, or registration  
7 in good standing in all states in which the applicant has been licensed,  
8 certified, or registered.

9 **"§ 90-202.28. Expenses; fees.**

10 (a) All fees shall be payable to the Board and deposited in the name of the Board  
11 in financial institutions designated by the Board as official depositories. These fees shall  
12 be used to carry out the purposes of this Article.

13 (b) All salaries, compensation, and expenses incurred or allowed to carry out the  
14 purposes of this Article shall be paid by the Board exclusively out of the fees received  
15 by the Board as authorized by this Article or funds received from other sources. In no  
16 case shall any salary, expense, or other obligation authorized by this Article be charged  
17 against the Department of State Treasurer.

18 (c) The Board shall establish fees not exceeding the following amounts:

- 19 (1) For issuance of any license, a fee not to exceed three hundred fifty  
20 dollars (\$350.00).
- 21 (2) For the late renewal of any license, an additional late fee not to exceed  
22 one hundred dollars (\$100.00).
- 23 (3) For the reinstatement of any license, an additional fee not to exceed  
24 one hundred dollars (\$100.00).
- 25 (4) For copies of rules adopted pursuant to this Article and licensure  
26 standards, charges not exceeding the actual cost of printing and  
27 mailing.

28 **"§ 90-202.29. Disciplinary authority.**

29 (a) Authority. – The Board may deny, suspend, revoke, or refuse to issue or  
30 renew a license if the licensee or applicant:

- 31 (1) Engages in any act or practice in violation of any of the provisions of  
32 this act or of any of the rules adopted by the Board, or aids, abets, or  
33 assists any other person in the violation of these provisions or rules.
- 34 (2) Gives false information to or withholds information from the Board in  
35 procuring or attempting to procure a license.
- 36 (3) Has been convicted of or pled guilty or no contest to a crime that  
37 indicates that the person is unfit or incompetent to practice as a  
38 prosthetist, orthotist, or pedorthist or that indicates the person has  
39 deceived or defrauded the public. A felony conviction shall result in  
40 the automatic revocation of a license issued by the Board unless the  
41 Board determines otherwise pursuant to rules adopted by the Board.
- 42 (4) Has been declared mentally incompetent by a court of competent  
43 jurisdiction.

- 1           (5)   Habitually uses or is addicted to drugs or intoxicating liquors to an  
2           extent that affects his or her professional competency. If a licensee  
3           violates this subdivision, the Board may require the licensee to  
4           undergo a mental or physical examination by physicians designated by  
5           the Board before or after the licensee has been charged. The results of  
6           the examination shall be admissible as evidence in a hearing before the  
7           Board.
- 8           (6)   Has demonstrated gross negligence, incompetence, or misconduct in  
9           the performance of prosthetics, orthotics, or pedorthics.
- 10          (7)   Has had a license, certification, or registration denied, restricted,  
11          revoked, or suspended by another state or jurisdiction.
- 12          (8)   Fails to respond, within a reasonable time, to inquiries from the Board  
13          concerning any matter affecting the individual's license to practice  
14          prosthetics, orthotics, or pedorthics.
- 15          (9)   Fails to complete continuing education requirements within the time  
16          prescribed.

17          (b)   Hearing. – Denial, refusal to renew, suspension, or revocation of a license, or  
18          imposition of probationary conditions upon a licensee may be ordered by the Board  
19          after a hearing held in accordance with Article 3A of Chapter 150B of the General  
20          Statutes and rules adopted pursuant to this act. An application may be made to the Board  
21          for reinstatement of a revoked license."

22                **SECTION 2.** A person who submits proof to the Board that the person has  
23                been actively engaged in business as a prosthetist, orthotist, or pedorthist in this State  
24                for at least three consecutive years before the effective date of this act and pays the  
25                required fee for the issuance of a license shall be licensed without having to satisfy the  
26                requirements of G.S. 90-202.26 enacted by Section 1 of this act. All persons who do  
27                not make application to the Board within one year of the effective date of this act shall  
28                be required to complete all requirements prescribed by the Board and otherwise to  
29                comply with the provisions of G.S. 90-202.26.

30                **SECTION 3.** Notwithstanding G.S. 90-202.24(a)(1) and (2), as enacted by  
31                Section 1 of this act, the initial prosthetists, orthotists, and pedorthists appointed to the  
32                North Carolina Prosthetist, Orthotist, and Pedorthist Licensure Board do not have to  
33                meet the licensure qualifications established under G.S. 90-202.26, as enacted by  
34                Section 1 of this act. The appointees must be prosthetist, orthotist, and pedorthist  
35                certified by a credentialing organization recognized by the National Organization for  
36                Competency Assurance (NOCA) and accredited by the National Commission for  
37                Certifying Agencies (NCCA) and must apply for and obtain a license from the Board  
38                within 90 days after the Board begins issuing licenses.

39                **SECTION 4.** This act is effective when it becomes law.