**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑51‑67 SO AS TO PROVIDE PERMIT REQUIREMENTS FOR LICENSED PODIATRISTS SEEKING TO INDEPENDENTLY ENGAGE IN ANKLE SURGERY PROCEDURES, TO PROVIDE THESE PERMITS ARE ISSUED BY THE BOARD OF MEDICAL EXAMINERS, TO CREATE THE JOINT PODIATRIC SURGERY ADVISORY COMMITTEE TO EVALUATE APPLICANTS FOR SUCH PERMITS, TO PROVIDE THE BOARD OF MEDICAL EXAMINERS MAY INVESTIGATE VIOLATIONS INVOLVING PERMITS, TO REQUIRE THE BOARD OF MEDICAL EXAMINERS TO PROMULGATE CERTAIN RELATED REGULATIONS, AND TO PROVIDE THE ISSUANCE OF A PERMIT BY THE BOARD OF MEDICAL EXAMINERS MAY NOT BE CONSTRUED TO OBLIGATE A HOSPITAL OR OUTPATIENT SURGICAL FACILITY TO GRANT HIM PRIVILEGES TO PERFORM SUCH PROCEDURES AT THE HOSPITAL OR OUTPATIENT SURGICAL FACILITY; TO AMEND SECTION 40‑51‑20, RELATING TO DEFINITIONS CONCERNING THE PODIATRISTS AND PODIATRY PRACTICE ACT, SO AS TO PROVIDE NECESSARY DEFINITIONS; AND TO AMEND SECTION 40‑51‑65, RELATING TO LICENSURE REQUIREMENTS TO PRACTICE PODIATRY, SO AS TO PROVIDE LICENSED PODIATRISTS MAY NOT INDEPENDENTLY ENGAGE IN THE SURGICAL TREATMENT OF THE ANKLE WITHOUT A PERMIT ISSUED BY THE BOARD OF MEDICAL EXAMINERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 51, Title 40 of the 1976 Code is amended by adding:

“Section 40‑51‑67. (A)(1) A licensed podiatrist seeking a permit from the Board of Medical Examiners to independently engage in ankle surgery procedures as provided in Section 40‑51‑65(B) must:

(a) be a graduate, on or after July 1, 2006, of a three‑year residency program in podiatric medicine and surgery that is accredited by the Council on Podiatric Medical Education, or its successor organization, at the time of graduation; and

(b) either be:

(i) board certified in reconstructive rearfoot ankle surgery by the American Board of Podiatric Surgery, or its successor organization; or

(ii) board qualified, but not board certified, in reconstructive rearfoot ankle surgery by the American Board of Podiatric Surgery, or its successor organization, and able to document that he has completed training and experience in midfoot, rearfoot and ankle procedures. This training and experience, and the documentation of it, all must be satisfactory to the board in its discretion.

(2) The Board of Medical Examiners shall issue no permit enabling a licensed podiatrist to independently engage in the surgical treatment of the ankle unless:

(a) a licensee submits an application on forms provided by the Board of Medical Examiners and pays a registration fee set by the board by promulgation of regulation; and

(b) the Board of Medical Examiners is satisfied that the applicant is in compliance with all requirements of this subsection, as appropriate.

(B)(1) There is created a Joint Podiatric Surgery Advisory Committee as a committee to the Board of Medical Examiners which consists of five members with experience regarding podiatry or orthopedic surgery.

(2) The committee is comprised of:

(a) three orthopedic surgeons selected by the Board of Medical Examiners; and

(b) two podiatrists selected by the Board of Podiatry Examiners.

(3) Members of the committee may not be compensated for their service on the board and may not receive mileage, per diem, and subsistence as otherwise authorized by law for members of state boards, committees, and commissions.

(4) The committee shall meet at least once annually and at other times as may be necessary. Three members, at least one of whom must be a podiatrist, constitute a quorum for all meetings. At its initial meeting, and at the beginning of each year thereafter, the committee shall elect from its membership a chairman to serve for a one-year term.

(5) The committee shall assist and advise the Board of Medical Examiners in evaluating an applicant’s training and experience in midfoot, rearfoot and ankle procedures for purposes of determining whether to permit the applicant to independently engage in ankle surgery procedures pursuant to subsection (A)(1).

(C) The Board of Medical Examiners shall investigate allegations of practices violating the provisions of this section concerning permits to enable licensed podiatrists to independently engage in the surgical treatment of the ankle. The Board of Medical Examiners may issue subpoenas, examine witnesses, and administer oaths in connection with an investigation or related hearings. The Board of Medical Examiners may suspend a permit issued pursuant to this section pending an investigation. Upon a finding of a violation, the Board of Medical Examiners may revoke a permit, assess a fine not to exceed five hundred dollars for each violation, or both, provided, however, the board may not make such a finding without first having provided the permit holder a hearing after having provided thirty days’ notice of the hearing to the permit holder. For allegations of the performance of unauthorized surgical treatment of an ankle in violation of Section 40‑51‑65(B), the Board of Medical Examiners also may seek restraining orders and cease and desist orders from the Administrative Law Court.

(D) The Board of Medical Examiners shall promulgate regulations to implement the provisions this section. These regulations must include, but are not limited to, the number and types of procedures required for an applicant’s training or experience to be deemed acceptable for purposes of issuing a permit pursuant to subsection (A)(1). In identifying the required number and types of procedures, the Board of Medical Examiners shall seek the advice and assistance of the Joint Podiatric Surgery Advisory Committee and shall consider nationally recognized standards for accredited residency programs in podiatric medicine and surgery for midfoot, rearfoot, and ankle procedures. The Board of Medical Examiners may not issue permits pursuant to subsection (A)(1) before the effective date of any regulations adopted pursuant to this section.

(E) The Board of Medical Examiners issuance of a permit to a licensed podiatrist to independently engage in the surgical treatment of the ankle may not be construed to obligate a hospital or outpatient surgical facility to grant him privileges to perform such procedures at the hospital or outpatient surgical facility.”

SECTION 2. Section 40‑51‑20 of the 1976 Code is amended to read:

“Section 40‑51‑20. For the purposes of this chapter:

(1) ~~‘Podiatry’ shall mean the diagnosis, medical and surgical treatment limited to ailments of the human foot, except the administration of an anaesthetic other than local~~ ‘Ankle’ means the distal metaphysis and epiphysis of the tibia and fibula, the articular cartilage of the distal tibia and distal fibula, the ligaments that connect the distal metaphysis and epiphysis of the tibia and fibula and the talus, and the portions of skin, subcutaneous tissue, fascia, muscles, tendons and nerves at or below the level of the myotendinous junction of the triceps surae.

(2) ‘Diagnosis’ ~~shall mean~~ means to ascertain a disease or ailment by symptoms and findings and does not confer the right to use X‑ray other than for diagnosis.

(3) ‘Medical treatment’ ~~shall mean~~ means the application or prescribing of any therapeutic agent or remedy for the relief of foot ailments, except the medical treatment of ~~any~~ a systemic disease causing manifestations in the foot.

(4) ‘Podiatric ankle surgery’ or ‘surgical treatment of the ankle’ means surgical treatment of the ankle, including the surgical treatment of the anatomical structures of the ankle, as well as the administration and prescription of drugs incidental to the ankle, and the surgical treatment of manifestations of systemic diseases as they appear on the ankle, excluding:

(a) placement of any intramedullary nail into the tibia regardless of entry point;

(b) placement of external fixator half pins in to the tibia;

(c) amputation of the leg or foot above the level of the transmetatarsal;

(d) total ankle replacement;

(e) surgical fixation of pilon fractures, tibial shaft fractures, calcaneus and talus fractures, and ankle fractures;

(f) Osteochondral Autograft Transfer System (OATS) to the Talus (autograft and allograft); and

(g) tibial osteotomy.

(5) ‘Podiatry’ means the diagnosis, medical and surgical treatment limited to ailments of the human foot, except the administration of an anaesthetic other than local.

(~~4~~6) ‘Surgical treatment’ ~~shall mean~~ means the use of ~~any~~ a cutting or invasive instrument to treat a disease, ailment, deformity or condition of the foot, but shall not confer the right to amputate the foot or toes.”

SECTION 3. Section 40‑51‑65 of the 1976 Code is amended to read:

“Section 40‑51‑65. (A) It is unlawful for ~~any~~ a person to practice podiatric medicine in this State without obtaining first a license from the ~~board~~ Board of Podiatry Examiners.

(B) The board shall conduct an examination of ~~any~~ an applicant who submits satisfactory evidence that he has:

(~~a~~1) received four years of high school training;

(~~b~~2) completed at least three years of pre‑podiatry training at a recognized college; and

(~~c~~3) received a diploma or certificate of graduation from a recognized college of podiatric medicine which has been accredited by the Council on Podiatric Medical Education.

(C) A licensed podiatrist may not independently engage in the surgical treatment of the ankle, including the surgical treatment of the anatomical structures of the ankle, as well as the administration and prescription of drugs incidental to the ankle, and the surgical treatment of manifestations of systemic diseases as they appear on the ankle, until he obtains a permit from the Board of Medical Examiners after meeting the requirements of Section 40‑51‑67.”

SECTION 4. This act takes effect upon approval by the Governor.

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