



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: The Professional Practice Committee

FROM: Douglas E. Lentivech

SUBJECT: Proposed Amendment to the Regulations of the
Commissioner of Education Relating to Podiatric Ankle
Surgery Privileges

DATE: November 13, 2013

AUTHORIZATION(S):

SUMMARY

Issue for Discussion

Should the Board of Regents approve the addition of section 65.8 of the Regulations of the Commissioner of Education relating to podiatric ankle surgery privileges?

Reason(s) for Consideration

Required by State statute (L. 2012, Ch. 438).

Proposed Handling

The proposed rule is submitted to the Professional Practice Committee for discussion at its November 2013 meeting.

Procedural History

A Notice of Proposed Rule Making will be published in the State Register no later than December 4, 2013. A copy of the proposed rule is attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Chapter 438 of the Laws of 2012, which will become effective on February 17, 2014, amended the Education Law to expand the scope of practice of podiatrists. Until that date, the scope of practice continues to be limited to diagnosing, treating, operating and prescribing for any disease injury, deformity or other condition of the foot. When the new law takes effect, podiatrists will be able to treat certain wounds that occur between the foot and the knee.

In addition, Chapter 438 authorizes the provision of ankle surgery by podiatrists who obtain a privilege from the State Education Department to perform such surgery. The law provides for the issuance of two levels of privilege. Holders of the standard ankle surgery privilege will be able to perform soft tissue and osseous procedures on the ankle, except for those procedures which are reserved to podiatrists holding the advanced ankle surgery privilege. The reserved procedures are:

- ankle fracture fixation;
- ankle fusion;
- ankle arthroscopy.
- insertion or removal of external fixation pins into or from the tibial diaphysis at or below the level of the myotendinous junction of the triceps surae; and
- insertion and removal of retrograde tibiototalcanneal intramedullary rods and locking screws up to the level of the myotendinous junction of the triceps surae.

Education Law section 7009 establishes the requirements to be met for a podiatrist to obtain an ankle surgery privilege. In addition to the submission of an application, licensure as a podiatrist, and the payment of a fee, the applicant must meet specified training and certification requirements. There are three training and certification routes available to podiatrists seeking the standard privilege and two routes available to those seeking the advanced privilege. Education Law section 7010 establishes ankle surgery limited permits to authorize the performance of podiatric standard ankle surgery only under the direct personal supervision of a licensed podiatrist holding a standard or advanced privilege or of a licensed physician certified in orthopedic surgery by a national certifying board having certification standards acceptable to the department. The limited permits will enable licensed podiatrists to obtain the additional training they may need to qualify for an ankle surgery privilege.

Each of the routes for obtaining an ankle surgery privilege requires completion of an accredited residency program in podiatric medicine and surgery and either national board certification or qualification in reconstructive rearfoot and ankle surgery. Four of the five routes also require additional training, acceptable to the Department, in midfoot, rearfoot, and ankle procedures. The proposed regulations:

1. define the term “accrediting agency acceptable to the department” with regard to the accreditation of podiatric residencies;
2. define the term “certification standards acceptable to the department” with regard to the certification of podiatric residency programs; and
3. set the requirements for the approval of the additional training that may be required for issuance of an ankle surgery privilege. Within each level of the privilege, the shorter the residency program undertaken by the podiatrist and the lower his or her board certification status, the greater the amount of additional training and experience required by the Department.

Timetable for Implementation

It is anticipated that the proposed rule will be presented for adoption at the February 2014 Regents meeting.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6507, 7001 and 7009 of the Education Law and Chapter 438 of the Laws of 2012

Section 65.8 of the Regulations of the Commissioner of Education is added, effective February 26, 2014, to read as follows:

§ 65.8 Podiatric ankle surgery privileges.

(a) Definitions. As used in this section:

(1) "Accrediting agency acceptable to the department" shall mean an organization accepted by the department as a reliable authority for the purpose of accrediting podiatric residencies and as having accreditation standards that are applied in a fair, consistent, and nondiscriminatory manner.

(2) "Certification standards acceptable to the department" shall mean standards accepted by the department as reliable for the purpose of granting board qualification and certification to podiatrists engaged in reconstructive rearfoot and ankle surgery and applied in a fair, consistent, and nondiscriminatory manner.

(b) For issuance of a privilege to perform podiatric standard ankle surgery, as that term is used in Education Law section 7001(2), the applicant shall:

(1) file an application with the department;

(2) be licensed as a podiatrist in the state;

(3) pay a fee of \$220 to the department; and

(4) either:

(i) (a) have graduated on or after June 1, 2006 from a three-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department; and

(b) be certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department; or

(ii) (a) have graduated on or after June 1, 2006 from a three-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department; and

(b) be board qualified but not yet certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department; and

(c) provide documentation acceptable to the department that he or she has acceptable training and experience in standard or advanced midfoot, rearfoot and ankle procedures that consist of not less than 10 ankle procedures in the five years immediately preceding application, provided that not less than five procedures shall be osseous procedures and not less than five procedures shall be soft tissue procedures, and further provided that procedures performed in a residency program in podiatric medicine may be used to satisfy the requirements of this clause, if performed within the time constraints of this clause; or

(iii) (a) have graduated before June 1, 2006 from a two-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department; and

(b) be certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department; and

(c) provide documentation acceptable to the department that he or she has acceptable training and experience in standard or advanced midfoot, rearfoot and ankle procedures that consist of not less than 20 ankle procedures in the five years

immediately preceding application, provided that not less than 10 procedures shall be osseous procedures and not less than 10 procedures shall be soft tissue procedures.

(c) For issuance of a privilege to perform podiatric advanced ankle surgery, as that term is used in Education Law section 7001(2), the applicant shall:

(1) file an application with the department;

(2) be licensed as a podiatrist in the state;

(3) pay a fee of \$220 to the department; and

(4) either:

(i) (a) have graduated on or after June 1, 2006 from a three-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department; and

(b) be certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department; and

(c) provide documentation acceptable to the department that he or she has acceptable training and experience in advanced midfoot, rearfoot and ankle procedures that consist of:

(1) not less than 10 ankle procedures in the five years immediately preceding application, provided that not less than five procedures shall be osseous procedures and not less than five procedures shall be soft tissue procedures, and further provided that procedures performed in a residency program in podiatric medicine may be used to satisfy the requirements of this subclause, if performed within the time constraints of this subclause; and

(2) not less than 15 procedures in the following categories in the ten years immediately preceding application, which shall include the specified numbers for each

type of procedure, provided that procedures performed in a residency program in podiatric medicine may be used to satisfy the requirements of this subclause, if performed within the time constraints of this subclause, and further provided that the same procedure may be used to satisfy the requirements of both this subclause and subclause (1) of this clause, if it, in fact, meets the requirements of both:

(i) not less than three ankle fracture fixation procedures, which may include, but are not limited to:

(A) the insertion or removal of external fixation pins into or from the tibial diaphysis at or below the level of the myotendinous junction of the triceps surae; and

(B) the insertion and removal of retrograde tibiototalcanneal intramedullary rods and locking screws up to the level of the myotendinous junction of the triceps surae;

(ii) not less than three ankle fusion procedures; and

(iii) not less than one ankle arthroscopy; or

(ii) (a) have graduated before June 1, 2006 from a two-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department; and

(b) be certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department; and

(c) provide documentation acceptable to the department that he or she has acceptable training and experience in advanced midfoot, rearfoot and ankle procedures that consist of:

(1) not less than 20 ankle procedures in the five years immediately preceding application, provided that not less than 10 procedures shall be osseous procedures and not less than 10 procedures shall be soft tissue procedures; and

(2) not less than 15 procedures in the following categories in the ten years immediately preceding application, which shall include the specified numbers for each type of procedure, provided that procedures performed in a residency program in podiatric medicine may be used to satisfy the requirements of this subclause, if performed within the time constraints of this subclause, and further provided that the same procedure may be used to satisfy the requirements of both this subclause and subclause (1) of this clause, if it, in fact, meets the requirements of both:

(i) not less than three ankle fracture fixation procedures, which may include, but are not limited to:

(A) the insertion or removal of external fixation pins into or from the tibial diaphysis at or below the level of the myotendinous junction of the triceps surae; and

(B) the insertion and removal of retrograde tibiototalcanneal intramedullary rods and locking screws up to the level of the myotendinous junction of the triceps surae;

(ii) not less than three ankle fusion procedures; and

(iii) not less than one ankle arthroscopy.