

COMMITTEE REPORT

TO: Patrick O'Donnell
Clerk of the Legislature

FROM: Senator Sara Howard
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on
Regulated Occupations within Committee Jurisdiction – Podiatrist

GENERAL INFORMATION

- I. Occupation Regulated
 - A) Podiatrist

- II. Name of Occupational Board Responsible for Enforcement
 - A) Per Nebraska Revised Statutes Section [38-161](#), the Board of Podiatry provides recommendations to the Department of Health and Human Services regarding the issuance or denial of credentials, and provides recommendations to the Department of Health and Human Services regarding rules and regulations to carry out the Uniform Credentialing Act.

- III. Public Purpose and Assumptions Underlying License Creation
 - A) Practice of podiatry means the diagnosis or medical, physical, or surgical treatment of the ailments of the human foot, ankle, and related governing structures except (1) the amputation of the forefoot, (2) the general medical treatment of any systemic disease causing manifestations in the foot, and (3) the administration of anesthetics other than local.

The license was created to protect the public health, safety, and welfare.

- IV. Number of Regulated Professionals in Nebraska
 - A) There are 101 licensed Podiatrists in Nebraska.

BOARD MEMBERSHIPS AND MEETINGS

- I. Number of Members
 - A) There are four members of the Board of Podiatry.

II. Who Appoints Members of the Board / Is Legislative Approval Required?

- A) The Board of Health appoints the members of the Board of Podiatry.
Legislative approval is not required.

III. Term Length

- A) The length of term for service on the Board of Podiatry is up to two consecutive five year terms, on a rotating basis.

IV. Qualifications for Membership of the Board

- A) The Board of Podiatry is made up of three professional Podiatrists and one public member. The professional Podiatrists shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member.

V. The Number of Meetings Required Per Year / Meetings Actually Held

- A) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 2.
B) For FY 2015-2016: Meetings Required – 1; Meetings Held – 1.
C) For FY 2016-2017: Meetings Required – 1; Meetings Held – 3.
D) For FY 2017-2018: Meetings Required – 1; Meetings Held – 3.
E) For FY 2018-2019: Meetings Required – 1; Meetings Held – 1.

VI. Annual Budget Information for the Previous Five Years

- A) The Board of Podiatry is cash-funded from licensure fees. Funds for credentialed occupations may come from interest earned on the Professional and Occupational Credentialing Cash Fund, certification and verification of credentials, administrative fees, reinstatement fees, general funds and federal funds, fees for miscellaneous services, gifts, and grants.
B) For FY 2014-2015: \$1,862
C) For FY 2015-2016: \$1,501
D) For FY 2016-2017: \$5,882
E) For FY 2017-2018: \$9,141
F) For FY 2018-2019: \$7,064

VII. Statement from Occupational Board on Effectiveness of Regulations

- A) The Board of Podiatry stated “the occupational regulations overseen by the Board have been effective because the Board has been fair and prompt in their oversight of the regulations.”

AUTHORIZATION

- I. Statutory Authorization
 - A) Statutory authorization for the Podiatrist occupation may be found in the Nebraska Revised Statutes, sections [38-3001](#) to [38-3012](#), which may be cited as the Podiatry Practice Act. For text of the Nebraska statutes relating to the Podiatry occupation, see Appendix A.
- II. Other Authorization
 - A) Rules and regulations regarding the practice of Podiatry may be found in the Nebraska Administrative Code [Title 172, Chapter 143](#).

CREDENTIALING

- I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years
 - A) There were 28 Podiatrist licenses issued in the past five years.
- II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years
 - A) There were two Podiatrist licenses denied in the past five years.
 - B) Grounds for denial include misrepresentation of material facts, failure to complete required examinations, failure to provide licensure fees, and immoral or dishonorable conduct, amongst other grounds.
- III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years
 - A) There were no Podiatrist licenses revoked in the past five years.
- IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years
 - A) There were 13 Podiatrist licenses penalized in the past five years.
 - B) Reasons for penalizations include failure to keep adequate records, misrepresentation of material facts, controlled substance dependence, dishonorable conduct, failure to report conviction in 30 days, and failure to file mandatory reports.
- V. Comparison of How Other States Regulate This Occupation
 - A) All 50 states require licensure for the practice of Podiatry in one way or another. The Federation of Podiatric Medical Boards maintains a website which shows licensure breakdown by state, which can be found [here](#).
- VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?
 - A) If the Podiatrist occupation was no longer licensed, certified, or regulated, it would be detrimental to the public health, safety, and welfare. There

would be an increase in disparity between education, ability, and continuing competency, which would result in the potential for increased harm to the public. Those without adequate training, education, and experience would be allowed to treat diseases and deformities of the foot, and may not have the base knowledge to do so safely.

COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals, and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The licenses, certifications, and registrations overseen by the Board of Podiatry and the Department of Health and Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Podiatrist occupation by licensure is appropriate and balanced and does not need modification at this time.

APPENDIX A

STATUTES PERTAINING TO THE PODIATRY PRACTICE ACT

38-3001. Act, how cited.

Sections 38-3001 to 38-3012 shall be known and may be cited as the Podiatry Practice Act.

Source: Laws 2007, LB463, § 1023.

38-3002. Definitions, where found.

For purposes of the Podiatry Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-3003 to 38-3005 apply.

Source: Laws 2007, LB463, § 1024.

38-3003. Board, defined.

Board means the Board of Podiatry.

Source: Laws 2007, LB463, § 1025.

38-3004. Podiatrist, defined.

Podiatrist means a physician of the foot, ankle, and related governing structures.

Source: Laws 2007, LB463, § 1026.

38-3005. Practice of podiatry, defined.

Practice of podiatry means the diagnosis or medical, physical, or surgical treatment of the ailments of the human foot, ankle, and related governing structures except (1) the amputation of the forefoot, (2) the general medical treatment of any systemic disease causing manifestations in the foot, and (3) the administration of anesthetics other than local.

Source: Laws 2007, LB463, § 1027.

38-3006. Practice of podiatry.

The following persons shall be deemed to be practicing podiatry: Persons who publicly profess to be podiatrists or who publicly profess to assume the duties incident to the practice of podiatry.

Source: Laws 1927, c. 167, § 72, p. 473; C.S.1929, § 71-1001; R.S.1943, § 71-173; Laws 1947, c. 228, § 1, p. 723; Laws 1961, c. 337, § 9, p. 1055; Laws 1974, LB 778, § 1; Laws 1976, LB 25, § 1; Laws 1983, LB 541, § 1; Laws 2001, LB 25, § 2; R.S.1943, (2003), § 71-173; Laws 2007, LB463, § 1028.

38-3007. Podiatry; practice; persons excepted.

The Podiatry Practice Act shall not be construed to include (1) licensed physicians and surgeons or licensed osteopathic physicians, (2) physicians and surgeons who serve in the armed forces of the United States or the United States Public Health Service or who are employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment, (3) students who have not graduated from a school of podiatry and are enrolled in an approved and accredited school of podiatry when the services performed are a part of the course of study and are under the direct supervision of a licensed podiatrist, or (4) graduates of a school of podiatry currently enrolled in a postgraduate residency program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

Source: Laws 1927, c. 167, § 73, p. 473; C.S.1929, § 71-1002; R.S.1943, § 71-174; Laws 1989, LB 342, § 13; Laws 1990, LB 1064, § 10; Laws 1995, LB 173, § 1; R.S.1943, (2003), § 71-174; Laws 2007, LB463, § 1029.

38-3008. Podiatry; license; qualifications.

Every applicant for an initial license to practice podiatry shall (1) present proof of graduation from a school of chiropody or podiatry approved by the board, (2) present proof of completion of a minimum one-year postgraduate residency program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, (3) pass a written examination which consists of (a) parts I and II of the examination given by the National Board of Podiatric Medical Examiners and (b) the written examination approved by the Board of Podiatry, and (4) present proof satisfactory to the board that he or she, within two years immediately preceding the application for licensure, (a) has been in the active practice of the profession of podiatry under a license in another state or territory of the United States or the District of Columbia for a period of one year, (b) has completed at least one year of a postgraduate residency program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, or (c) has completed continuing competency in podiatry approved by the board.

Source: Laws 1927, c. 167, § 74, p. 473; C.S.1929, § 71-1003; R.S.1943, § 71-175; Laws 1961, c. 337, § 10, p. 1055; Laws 1967, c. 438, § 5, p. 1351; Laws 1988, LB 1100, § 28; Laws 1990, LB 1064, § 11; Laws 1995, LB

173, § 2; Laws 1999, LB 828, § 61; Laws 2003, LB 242, § 33; R.S.1943, (2003), § 71-175; Laws 2007, LB463, § 1030.

Cross References

- **Credentialing**, general requirements and issuance procedures, see section 38-121 et seq.

38-3009. Fees.

The department shall establish and collect fees for credentialing under the Podiatry Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 1031.

38-3010. Schools of podiatry; approval; requirements.

No school of podiatry shall be approved by the board unless the school is accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

Source: Laws 1927, c. 167, § 75, p. 474; C.S.1929, § 71-1004; R.S.1943, § 71-176; Laws 1947, c. 228, § 2, p. 724; Laws 1961, c. 337, § 11, p. 1056; Laws 1967, c. 438, § 6, p. 1352; Laws 1973, LB 52, § 1; Laws 1995, LB 173, § 3; R.S.1943, (2003), § 71-176; Laws 2007, LB463, § 1032.

38-3011. Podiatry; surgery; restrictions.

A podiatrist shall not perform surgery on the ankle other than in a licensed hospital or ambulatory surgical center, and a podiatrist who performs surgery on the ankle in a licensed hospital or ambulatory surgical center shall have successfully completed an advanced postdoctoral surgical residency program of at least one year's duration which is recognized as suitable for that purpose by the board.

No podiatrist initially licensed in this state on or after September 1, 2001, shall perform surgery on the ankle unless such person has successfully completed an advanced postdoctoral surgical residency program of at least two years' duration which is recognized as suitable for that purpose by the board.

Source: Laws 2001, LB 25, § 3; R.S.1943, (2003), § 71-174.02; Laws 2007, LB463, § 1033.

38-3012. Employee of licensed podiatrist; radiography practices; requirements.

(1) A person employed exclusively in the office or clinic of a licensed podiatrist shall not perform any of the functions described in section 38-1916 as a part of such employment unless the person is (a) licensed as a limited radiographer under the Medical Radiography Practice Act or (b) certified as provided in this section.

(2) The department, with the recommendation of the board, may certify a person to perform medical radiography on the anatomical regions of the ankle and foot if such person (a) has completed a fifteen-hour course of instruction, approved by the board, on radiation hygiene and podiatric radiological practices, including radiation health and safety, lower extremity anatomy, physics, concepts, physiology, techniques, positioning, equipment maintenance, and minimization of radiation exposure, and (b) passed a competency examination approved by the board. A person who has not passed the competency examination after three attempts shall successfully complete a remedial course of instruction in medical radiography, approved by the board, prior to any further attempts to pass the competency examination.

Source: Laws 1995, LB 406, § 39; Laws 1999, LB 828, § 63; Laws 2003, LB 245, § 12; R.S.1943, (2003), § 71-176.01; Laws 2007, LB463, § 1034.

Cross References

- **Medical Radiography Practice Act**, see section 38-1901.