

By: Dearing

To: Public Health and
Welfare

SENATE BILL NO. 2761
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 73-22-1 AND 73-22-3, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT CERTIFICATION TO PRACTICE ORTHOTICS
3 OR PROSTHETICS SHALL BE BY AN ORGANIZATION FULLY ACCREDITED BY THE
4 NATIONAL COMMISSION FOR CERTIFYING AGENCIES AND TO DEFINE
5 "PEDORTHIC DEVICE," "PEDORTHICS" AND "PEDORTHIST" FOR
6 CERTIFICATION PURPOSES; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. Section 73-22-1, Mississippi Code of 1972, is
9 amended as follows:

10 73-22-1. As used in this chapter:

11 (a) "Orthotic device" means a brace or support, but
12 does not include fabric and elastic supports, corsets, arch
13 supports, trusses, elastic hose, canes, crutches, cervical
14 collars, dental appliances or other similar devices carried in
15 stock and sold by drug stores, department stores, corset shops or
16 surgical supply facilities.

17 (b) "Orthotics" means the science or practice of
18 measuring, designing, constructing, assembling, fitting, adjusting
19 or servicing orthotic devices for the support, correction or
20 alleviation of musculoskeletal diseases, injuries, disabilities or
21 deformities as permitted by prescriptions from a licensed doctor
22 of medicine.

23 (c) "Orthotist" means a person who is certified by an
24 organization fully accredited by the National Commission for
25 Certifying Agencies (NCCA) as a certified orthotist.

26 (d) "Person" means any individual, corporation,
27 partnership, association or other organization.

28 (e) "Prosthetic device" means any artificial device

29 that is not surgically implanted and that is used to replace a
30 missing limb, appendage or any other external human body part,
31 including devices such as artificial limbs, hands, fingers, feet,
32 toes, but excluding artificial eyes or appliances for the eyes,
33 dental plates, and largely cosmetic devices such as wigs,
34 artificial breasts, eyelashes, ears and noses or other devices
35 which could not by their use have a significantly detrimental
36 impact upon the musculoskeletal functions of the body.

37 (f) "Prosthetics" means the science or practice of
38 measuring, designing, constructing, assembling, fitting, adjusting
39 or servicing prosthetic devices as permitted by prescriptions from
40 a licensed doctor of medicine.

41 (g) "Prosthetist" means a person who is certified by an
42 organization fully accredited by the National Commission for
43 Certifying Agencies (NCCA) as a certified prosthetist.

44 (h) "Pedorthic device" means a therapeutic shoe, shoe
45 modification made for therapeutic purposes, partial foot
46 prosthesis and foot orthosis for use from the ankle and below, but
47 does not include a nontherapeutic, accommodative inlay and
48 nontherapeutic accommodative footwear, regardless of method of
49 manufacture; an unmodified, over-the-counter shoe; or
50 prefabricated foot care products. For purposes of this document,
51 "therapeutic" devices are devices that address a medical condition
52 and "accommodative" means designed with a primary goal of
53 conforming to the individual's anatomy.

54 (i) "Pedorthics" means the science or practice of
55 measuring, designing, constructing, assembling, fitting, adjusting
56 or servicing pedorthic devices for the support, correction or
57 alleviation of musculoskeletal diseases, injuries, disabilities or
58 deformities as permitted by prescriptions from a licensed doctor
59 of medicine or doctor of podiatry.

60 (j) "Pedorthist" means a person who is certified by an
61 organization fully accredited by the National Commission for

62 Certifying Agencies (NCCA) as a certified pedorthist.

63 SECTION 2. Section 73-22-3, Mississippi Code of 1972, is
64 amended as follows:

65 73-22-3. (1) No person shall practice orthotics,
66 prosthetics or pedorthics in the state unless he or she is
67 certified as an orthotist, prosthetist, or both, or pedorthist by
68 an organization fully accredited by the National Commission for
69 Certifying Agencies (NCCA). However, nothing in this chapter
70 shall be construed to prevent any person licensed, registered or
71 certified in this state from engaging in the profession or
72 occupation for which he is licensed, registered or certified, as
73 long as he does not represent himself as an orthotist, prosthetist
74 or pedorthist, and nothing in this chapter shall be construed to
75 prevent any physician licensed in this state from performing any
76 activities included within the definition of orthotics,
77 prosthetics or pedorthics in the normal course of his practice as
78 a physician, as long as he does not represent himself as an
79 orthotist, prosthetist or pedorthist. In addition, nothing in
80 this chapter shall be construed to prevent the practice of
81 orthotics, prosthetics or pedorthics by any person who has engaged
82 in the practice of orthotics, prosthetics or pedorthics for a
83 period of twenty-five (25) or more consecutive years before July
84 1, 1991, and is engaged in the practice of orthotics, prosthetics
85 or pedorthics on July 1, 1991.

86 (2) It is unlawful for any orthotist, prosthetist or
87 pedorthist, or any person on behalf of an orthotist, prosthetist
88 or pedorthist, to solicit the patronage of individual patients for
89 the orthotist, prosthetist or pedorthist by direct contact with a
90 potential customer outside of the place of business of the
91 orthotist, prosthetist or pedorthist.

92 (3) Whenever any person employs or utilizes the services of
93 an orthotist, prosthetist or pedorthist in connection with the
94 person's business, the measuring, fitting, adjusting and approval

95 of any orthotic, prosthetic or pedorthic device furnished to a
96 patient shall be performed only under the direct supervision of a
97 board certified orthotist, in the case of orthotic patients, or
98 under the direct supervision of a board certified prosthetist, in
99 the case of prosthetic patients, or under the direct supervision
100 of a board certified prosthetist, or a board certified orthotist,
101 in the case of prosthetic patients. "Direct supervision" means
102 involvement by the certified practitioner in each and every case.

103 (4) Any person violating any provision of this section shall
104 be guilty of a misdemeanor and, upon conviction thereof, shall be
105 fined not less than Two Hundred Dollars (\$200.00) nor more than
106 One Thousand Dollars (\$1,000.00), and may be imprisoned in the
107 county jail for not more than six (6) months. In addition, any
108 person sustaining damages as a result of a violation of any
109 provision of this section may recover the amount of those damages,
110 plus a civil penalty of One Thousand Five Hundred Dollars
111 (\$1,500.00) per incident, in any court of competent jurisdiction.

112 SECTION 3. This act shall take effect and be in force from
113 and after July 1, 2000.