MISSISSIPPI LEGISLATURE REGULAR SESSION 1999

By: Senator(s) Dearing, Simmons

To: Public Health and Welfare

SENATE BILL NO. 2146
(As Passed the Senate)

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

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

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

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

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

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

(c) "Orthotist" means a person who is certified by <u>an organization fully accredited by the National Commission for Certifying Agencies (NCCA)</u> as a certified orthotist.

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

(e) "Prosthetic device" means any artificial device

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

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

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

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

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

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

Certifying Agencies (NCCA) as a certified pedorthist.

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

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

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

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

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

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

SECTION 3. This act shall take effect and be in force from and after July 1, 1999.