

BILL TEXT:

STATE OF NEW YORK

2922

2005-2006 Regular Sessions

IN ASSEMBLY

January 28, 2005

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the education law, the public health law, the social services law, the tax law, the vehicle and traffic law, the limited liability company law, the mental hygiene law, the general municipal law, the insurance law, the business corporation law, the civil practice law and rules, the county law and the workers' compensation law, in relation to designating podiatrists as podiatric physicians

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 6505-b of the education law, as added by chapter
2 786 of the laws of 1992, is amended to read as follows:
3 § 6505-b. Course work or training in infection control practices.
4 Every dentist, registered nurse, licensed practical nurse, [~~podiatrist~~
5 podiatric physician, optometrist and dental hygienist practicing in the
6 state shall, on or before July first, nineteen hundred ninety-four and
7 every four years thereafter, complete course work or training appropri-
8 ate to the professional's practice approved by the department regarding
9 infection control and barrier precautions, including engineering and
10 work practice controls, in accordance with regulatory standards promul-
11 gated by the department, in consultation with the department of health,
12 which shall be consistent, as far as appropriate, with such standards
13 adopted by the department of health pursuant to section two hundred
14 [~~thirty-eight~~ thirty-nine of the public health law to prevent the tran-
15 smission of HIV/HBV in the course of professional practice. Each such
16 professional shall document to the department at the time of registra-
17 tion commencing with the first registration after July first, nineteen
18 hundred ninety-four that the professional has completed course work or
19 training in accordance with this section, provided, however that a
20 professional subject to the provisions of paragraph (f) of subdivision
21 one of section twenty-eight hundred five-k of the public health law

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

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1 shall not be required to so document. The department shall provide an
2 exemption from this requirement to anyone who requests such an exemption
3 and who (i) clearly demonstrates to the department's satisfaction that
4 there would be no need for him or her to complete such course work or
5 training because of the nature of his or her practice or (ii) that he or
6 she has completed course work or training deemed by the department to be
7 equivalent to the course work or training approved by the department
8 pursuant to this section. The department shall consult with organiza-
9 tions representative of professions, institutions and those with exper-
10 tise in infection control and HIV and HBV with respect to the regulatory
11 standards promulgated pursuant to this section.

12 § 2. Paragraph a of subdivision 3 of section 6507 of the education
13 law, as amended by chapter 230 of the laws of 2004, is amended to read
14 as follows:

15 a. Establish standards for preprofessional and professional education,
16 experience and licensing examinations as required to implement the arti-
17 cle for each profession. Notwithstanding any other provision of law, the
18 commissioner shall establish standards requiring that all persons apply-
19 ing, on or after January first, nineteen hundred ninety-one, initially,
20 or for the renewal of, a license, registration or limited permit to be a
21 physician, chiropractor, dentist, registered nurse, [~~podiatrist~~] podia-
22 tric physician, optometrist, psychiatrist, psychologist, licensed master
23 social worker, licensed clinical social worker, licensed creative arts
24 therapist, licensed marriage and family therapist, licensed mental
25 health counselor, licensed psychoanalyst, or dental hygienist shall, in
26 addition to all the other licensure, certification or permit require-
27 ments, have completed two hours of coursework or training regarding the
28 identification and reporting of child abuse and maltreatment. The
29 coursework or training shall be obtained from an institution or provider
30 which has been approved by the department to provide such coursework or
31 training. The coursework or training shall include information regarding
32 the physical and behavioral indicators of child abuse and maltreatment
33 and the statutory reporting requirements set out in sections four
34 hundred thirteen through four hundred twenty of the social services law,
35 including but not limited to, when and how a report must be made, what
36 other actions the reporter is mandated or authorized to take, the legal
37 protections afforded reporters, and the consequences for failing to
38 report. Each applicant shall provide the department with documentation
39 showing that he or she has completed the required training. The depart-
40 ment shall provide an exemption from the child abuse and maltreatment
41 training requirements to any applicant who requests such an exemption
42 and who shows, to the department's satisfaction, that there would be no
43 need because of the nature of his or her practice for him or her to
44 complete such training;

45 § 3. The opening paragraph of subdivision 3 of section 6527 of the
46 education law, as amended by chapter 257 of the laws of 1987, is amended
47 to read as follows:

48 No individual who serves as a member of (a) a committee established to
49 administer a utilization review plan of a hospital, including a hospital
50 as defined in article twenty-eight of the public health law or a hospi-
51 tal as defined in subdivision ten of section 1.03 of the mental hygiene
52 law, or (b) a committee having the responsibility of the investigation
53 of an incident reported pursuant to section 29.29 of the mental hygiene
54 law or the evaluation and improvement of the quality of care rendered in
55 a hospital as defined in article twenty-eight of the public health law
56 or a hospital as defined in subdivision ten of section 1.03 of the

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1 mental hygiene law, or (c) any medical review committee or subcommittee
2 thereof of a local, county or state medical, dental, podiatry or optome-
3 trical society, any such society itself, a professional standards review
4 organization or an individual when such committee, subcommittee, socie-
5 ty, organization or individual is performing any medical or quality
6 assurance review function including the investigation of an incident
7 reported pursuant to section 29.29 of the mental hygiene law, either
8 described in clauses (a) and (b) of this subdivision, required by law,
9 or involving any controversy or dispute between (i) a physician,
10 dentist, [~~pediatrist~~] podiatric physician or optometrist or hospital
11 administrator and a patient concerning the diagnosis, treatment or care
12 of such patient or the fees or charges therefor or (ii) a physician,
13 dentist, [~~pediatrist~~] podiatric physician or optometrist or hospital
14 administrator and a provider of medical, dental, podiatric or optometri-
15 cal services concerning any medical or health charges or fees of such
16 physician, dentist, [~~pediatrist~~] podiatric physician or optometrist, or
17 (d) a committee appointed pursuant to section twenty-eight hundred
18 five-j of the public health law to participate in the medical and dental
19 malpractice prevention program, or (e) any individual who participated
20 in the preparation of incident reports required by the department of
21 health pursuant to section twenty-eight hundred five-1 of the public
22 health law, or (f) a committee established to administer a utilization
23 review plan, or a committee having the responsibility of evaluation and
24 improvement of the quality of care rendered, in a health maintenance
25 organization organized under article forty-four of the public health law
26 or article forty-three of the insurance law, including a committee of an
27 individual practice association or medical group acting pursuant to a
28 contract with such a health maintenance organization, shall be liable in
29 damages to any person for any action taken or recommendations made, by
30 him within the scope of his function in such capacity provided that (a)
31 such individual has taken action or made recommendations within the
32 scope of his function and without malice, and (b) in the reasonable
33 belief after reasonable investigation that the act or recommendation was
34 warranted, based upon the facts disclosed.

35 § 4. Subdivision 25-a of section 6530 of the education law, as added
36 by chapter 542 of the laws of 2000, is amended to read as follows:

37 25-a. With respect to any non-emergency treatment, procedure or
38 surgery which is expected to involve local or general anesthesia, fail-
39 ing to disclose to the patient the identities of all physicians, except
40 medical residents in certified training programs, [~~pediatrists~~] podia-
41 tric physicians and dentists, reasonably anticipated to be actively
42 involved in such treatment, procedure or surgery and to obtain such
43 patient's informed consent to said practitioners' participation;

44 § 5. Subdivision 7 of section 6811 of the education law, as added by
45 chapter 987 of the laws of 1971, is amended to read as follows:

46 7. Any person to enter into an agreement with a physician, dentist,
47 [~~pediatrist~~] podiatric physician or veterinarian for the compounding or
48 dispensing of secret formula (coded) prescriptions;

49 § 6. Paragraph j of subdivision 2 of section 6815 of the education
50 law, as amended by chapter 752 of the laws of 1973, is amended to read
51 as follows:

52 j. Except as required by article thirty-three of the public health
53 law, the labeling provisions of this article shall not apply to the
54 compounding and dispensing of drugs on the written prescription of a
55 physician, a dentist, a [~~pediatrist~~] podiatric physician or a veterina-
56 rian, which prescription when filled shall be kept on file for at least

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1 five years by the pharmacist or druggist. Such drug shall bear a label
2 containing the name and place of business of the dispenser, the serial
3 number and date of the prescription, directions for use as may be stated
4 in the prescription, name and address of the patient and the name of the
5 physician or other practitioner authorized by law to issue the
6 prescription. In addition, such label shall contain the proprietary or
7 brand name of the drug and, if applicable, the strength of the contents,
8 unless the person issuing the prescription explicitly states on the
9 prescription, in his own handwriting, that the name of the drug and the
10 strength thereof should not appear on the label.

11 § 7. Subdivision c of section 6731 of the education law, as amended by
12 chapter 146 of the laws of 1993, is amended to read as follows:

13 c. Such treatment shall be rendered pursuant to a referral which may
14 be directive as to treatment by a licensed physician, dentist, [~~podia-~~
15 ~~trist~~] podiatric physician or nurse practitioner and in accordance with
16 their diagnosis.

17 § 8. Subdivision 3 of section 6817 of the education law, as amended by
18 chapter 752 of the laws of 1973, is amended to read as follows:

19 3. A drug dispensed on a written or oral prescription of a physician,
20 dentist, [~~podiatrist~~] podiatric physician or veterinarian (except a
21 controlled substance), shall be exempt from the requirements of this
22 section if such drug bears a label containing the name and place of
23 business of the dispenser, the serial number and date of the
24 prescription, directions for use as may be stated in the prescription
25 and the name of the physician, dentist, [~~podiatrist~~] podiatric physician
26 or veterinarian issuing the prescription and the name of the patient. In
27 addition, such drug shall bear a label containing the proprietary or
28 brand name of the drug and, if applicable, the strength of the contents,
29 unless the person issuing the prescription explicitly states on the
30 prescription, in his own handwriting, that the name of the drug and the
31 strength thereof should not appear on the label.

32 § 9. Section 7001 of the education law, as amended by chapter 677 of
33 the laws of 1996, is amended to read as follows:

34 § 7001. Definition of practice of podiatry. 1. The practice of the
35 profession of podiatry is defined as diagnosing, treating, operating and
36 prescribing for any disease, injury, deformity or other condition of the
37 foot, and may include performing physical evaluations in conjunction
38 with the provision of podiatric treatment. [~~Podiatrists~~] Podiatric
39 physicians may treat traumatic open wound fractures only in hospitals,
40 as defined in article twenty-eight of the public health law.

41 2. The practice of podiatry shall not include treating any part of the
42 human body other than the foot, nor treating fractures of the malleoli
43 or cutting operations upon the malleoli. [~~Podiatrists~~] Podiatric physi-
44 cians licensed to practice, but not authorized to prescribe or adminis-
45 ter narcotics prior to the effective date of this subdivision, may do so
46 only after certification by the department in accordance with the quali-
47 fications established by the commissioner. The practice of podiatry
48 shall include administering only local anesthetics for therapeutic
49 purposes as well as for anesthesia and treatment under general anes-
50 thesia administered by authorized persons.

51 § 10. Section 7002 of the education law, as added by chapter 987 of
52 the laws of 1971, is amended to read as follows:

53 § 7002. Practice of podiatry and use of title [~~"podiatrist"~~] "podia-
54 tric physician". Only a person licensed or exempt under this article
55 shall practice podiatry or use the title [~~"podiatrist"~~] "podiatric
56 physician" or "chiroprapist".

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1 § 11. Section 7003 of the education law, as added by chapter 987 of
2 the laws of 1971, is amended to read as follows:

3 § 7003. State board for podiatry. A state board for podiatry shall be
4 appointed by the board of regents on recommendation of the commissioner
5 for the purpose of assisting the board of regents and the department on
6 matters of professional licensing and professional conduct in accordance
7 with section sixty-five hundred eight of this title. The board shall be
8 composed of not less than seven [~~podiatrists~~] podiatric physicians
9 licensed in this state. An executive secretary to the board shall be
10 appointed by the board of regents on recommendation of the commissioner.

11 § 12. The opening paragraph of section 7004 of the education law, as
12 added by chapter 987 of the laws of 1971, is amended to read as follows:

13 To qualify for a license as a [~~podiatrist~~] podiatric physician, an
14 applicant shall fulfill the following requirements:

15 § 13. Section 7005 of the education law, as amended by chapter 39 of
16 the laws of 1982, is amended to read as follows:

17 § 7005. Exempt persons. Nothing in this article shall be construed to
18 affect or prevent [~~1. A~~] a student from engaging in clinical practice
19 under supervision of a licensed [~~podiatrist~~] podiatric physician in a
20 school of podiatry in this state registered by the department.

21 § 14. Section 7006 of the education law, as added by chapter 987 of
22 the laws of 1971, subdivision 1 as amended by chapter 805 of the laws of
23 1984, subdivision 3 as added by chapter 413 of the laws of 1988 and
24 subdivision 4 as amended by chapter 544 of the laws of 2003, is amended
25 to read as follows:

26 § 7006. Special provision. 1. No corporation, except a hospital
27 corporation authorized under article forty-three of the insurance law or
28 a corporation organized and existing under the laws of the state of New
29 York which, on or before the first day of March, nineteen hundred
30 forty-two, was legally incorporated to practice podiatry, shall practice
31 podiatry, and then only through licensed [~~podiatrists~~] podiatric physi-
32 cians and shall conform to board of regents rules. No corporation
33 organized to practice podiatry shall change its name or sell its fran-
34 chise or transfer its corporate rights directly or indirectly, by trans-
35 fer of capital stock control or otherwise, to any person or to another
36 corporation without permission from the department and any corporation
37 so changing its name or so transferring its franchise or corporate
38 rights without such permission or found guilty of violating a board of
39 regents rule shall be deemed to have forfeited its right to exist and
40 shall be dissolved by a proceeding brought by the attorney general.

41 2. Any manufacturer or merchant may sell, advertise, fit, or adjust
42 proprietary foot remedies, arch supports, corrective foot appliances or
43 shoes.

44 3. Notwithstanding any inconsistent provision of any general, special
45 or local law, any licensed [~~podiatrist~~] podiatric physician who volun-
46 tarily and without the expectation of monetary compensation renders
47 first aid or emergency treatment at the scene of an accident or other
48 emergency, outside of a hospital or any other place having proper and
49 necessary medical equipment, to a person who is unconscious, ill or
50 injured shall not be liable for damages for injuries alleged to have
51 been sustained by such person or for damages for the death of such
52 person alleged to have occurred by reason of an act or omission in the
53 rendering of such first aid or emergency treatment unless it is estab-
54 lished that such injuries were or such death was caused by gross negli-
55 gence on the part of such [~~podiatrist~~] podiatric physician. Nothing in
56 this subdivision shall be deemed or construed to relieve a licensed

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1 [~~podiatrist~~] podiatric physician from liability for damages for injuries
2 or death caused by an act or omission on the part of a [~~podiatrist~~]
3 podiatric physician while rendering professional services in the normal
4 and ordinary course of practice.

5 4. An unlicensed person may provide supportive services to a [~~podia-~~
6 ~~trist~~] podiatric physician incidental to and concurrent with such
7 [~~podiatrist~~] podiatric physician personally performing a service or
8 procedure. Nothing in this subdivision shall be construed to allow an
9 unlicensed person to provide any service which constitutes the practice
10 of podiatry as defined in this article. An unlicensed person providing
11 supportive services to a [~~podiatrist~~] podiatric physician may operate
12 radiographic equipment under direct supervision for the sole purpose of
13 foot radiography provided that such person completes a course of study
14 acceptable to the department in consultation with the department of
15 health.

16 § 15. Subdivision 1 of section 7007 of the education law, as added by
17 chapter 728 of the laws of 1990, is amended to read as follows:

18 1. Limited permits to practice podiatry may be issued by the depart-
19 ment to graduates of a program of professional education in podiatry
20 registered by the department or accredited by an accrediting agency
21 acceptable to the department. Such permits shall authorize the practice
22 of podiatry only under the supervision of a licensed [~~podiatrist~~] podia-
23 tric physician and only in:

24 a. a hospital or health facility licensed pursuant to article twenty-
25 eight of the public health law;

26 b. a clerkship for a period of two years or less conducted by a
27 licensed [~~podiatrist~~] podiatric physician designated as a member of the
28 faculty of an approved school of podiatry for purposes of a preceptor-
29 ship program; or

30 c. in an approved post-graduate residency training program in podia-
31 tric medicine.

32 § 16. The education law is amended by adding a new section 7008 to
33 read as follows:

34 § 7008. Prior license as podiatrist. Any individual licensed as a
35 podiatrist prior to the effective date of this section shall, on and
36 after the effective date of this section, be deemed to be licensed as a
37 podiatric physician pursuant to this article for all purposes of the
38 laws of this state, and any such individual may use the title "podiatric
39 physician".

40 § 17. Paragraphs a and b of subdivision 1 of section 206-a of the
41 public health law, as amended by chapter 460 of the laws of 1985, are
42 amended to read as follows:

43 a. To deny to or to withhold from a physician, dentist or [~~podiatrist~~]
44 podiatric physician staff membership or professional privileges in a
45 hospital because of his participation in any medical group practice,
46 non-profit health insurance plan, or comprehensive health services plan
47 offered by a health maintenance organization authorized by the laws of
48 the state; or

49 b. To exclude or to expel a physician, dentist or [~~podiatrist~~] podia-
50 tric physician from staff membership or to curtail, terminate or dimin-
51 ish in any way a physician's, dentist's or [~~podiatrist's~~] podiatric
52 physician's professional privileges in a hospital because of his partic-
53 ipation in any medical group practice, non-profit health insurance plan,
54 or comprehensive health services plan offered by a health maintenance
55 organization authorized by the laws of the state.

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1 § 18. Subdivision 11 of section 238 of the public health law, as added
2 by chapter 803 of the laws of 1992, is amended to read as follows:

3 11. "Practitioner" shall mean a licensed or registered physician,
4 dentist, [~~podiatrist~~] podiatric physician, chiropractor, nurse, midwife,
5 physician assistant or specialist assistant, physical therapist, or
6 optometrist.

7 § 19. Subdivision 1 of section 579 of the public health law, as sepa-
8 rately amended by chapters 397 and 440 of the laws of 2004, is amended
9 to read as follows:

10 1. This title is applicable to all clinical laboratories and blood
11 banks operating within the state, except clinical laboratories and blood
12 banks operated by the federal government and clinical laboratories oper-
13 ated by a licensed physician, osteopath, dentist, midwife, nurse practi-
14 tioner or [~~podiatrist~~] podiatric physician who performs laboratory tests
15 or procedures, personally or through his or her employees, solely as an
16 adjunct to the treatment of his or her own patients; to the extent
17 authorized by federal and state law, including the education law, and
18 consistent with any applicable written practice agreement.

19 § 20. Subdivision 1 of section 585 of the public health law, as added
20 by chapter 803 of the laws of 1992, is amended to read as follows:

21 1. "Health services purveyor" means any person, firm, partnership,
22 group, association, corporation or professional corporation, or any
23 agent, employee, fiduciary, employer or representative thereof, includ-
24 ing but not limited to a physician, dentist, [~~podiatrist~~] podiatric
25 physician, or chiropractor, either in individual practice, group prac-
26 tice or employed in a facility owned by any person, group, association,
27 firm, partnership or corporation hiring any of the aforementioned prac-
28 titioners, who provide health or health related services.

29 § 21. Subdivisions 1 and 3 of section 2801-b of the public health law,
30 subdivision 1 as amended by chapter 640 of the laws of 1997 and subdivi-
31 sion 3 as amended by chapter 204 of the laws of 1986, are amended to
32 read as follows:

33 1. It shall be an improper practice for the governing body of a hospi-
34 tal to refuse to act upon an application for staff membership or profes-
35 sional privileges or to deny or withhold from a physician, [~~podiatrist~~]
36 podiatric physician, optometrist or dentist staff membership or profes-
37 sional privileges in a hospital, or to exclude or expel a physician,
38 [~~podiatrist~~] podiatric physician, optometrist or dentist from staff
39 membership in a hospital or curtail, terminate or diminish in any way a
40 physician's, [~~podiatrist's~~] podiatric physician's, optometrist's or
41 dentist's professional privileges in a hospital, without stating the
42 reasons therefor, or if the reasons stated are unrelated to standards of
43 patient care, patient welfare, the objectives of the institution or the
44 character or competency of the applicant. It shall be an improper prac-
45 tice for a governing body of a hospital to refuse to act upon an appli-
46 cation or to deny or to withhold staff membership or professional privi-
47 leges to a [~~podiatrist~~] podiatric physician based solely upon a
48 practitioner's category of licensure.

49 3. After the filing of any such complaint, the public health council
50 shall make a prompt investigation in connection therewith. In conducting
51 such investigation, the public health council is authorized to receive
52 reports from the governing body of the hospital and the complainant, as
53 the case may be, and the furnishing of such information to the public
54 health council, or by the council to the governing body or complainant,
55 shall not subject any person or hospital to any action for damages or
56 other relief. Such information when received by the public health coun-

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1 cil, or its authorized representative, shall be kept confidential and
2 shall be used solely for the purposes of this section and the improve-
3 ment of the standards of patient care and patient welfare. The records
4 of such proceedings shall not be admissible as evidence in any other
5 action of any kind in any court or before any other tribunal, board,
6 agency, or person. If the council shall determine after such investi-
7 gation that cause exists for crediting the allegations of the complaint,
8 the council shall promptly so advise the governing body of the hospital
9 against which the complaint was made, and shall direct that such govern-
10 ing body make a review of the actions of such body in denying or with-
11 holding staff membership or professional privileges from the complainant
12 physician, [~~podiatrist~~] podiatric physician, optometrist or dentist or
13 in excluding or expelling such physician, [~~podiatrist~~] podiatric physi-
14 cian, optometrist or dentist from staff membership or in curtailing,
15 terminating or in any way diminishing such physician's, [~~podiatrist's~~]
16 podiatric physician's, optometrist's or dentist's professional privi-
17 leges in the hospital.

18 § 22. Subdivision 1 of section 2803-d of the public health law, as
19 amended by chapter 230 of the laws of 2004, is amended to read as
20 follows:

21 1. The following persons are required to report in accordance with
22 this section when they have reasonable cause to believe that a person
23 receiving care or services in a residential health care facility has
24 been physically abused, mistreated or neglected by other than a person
25 receiving care or services in the facility: any operator or employee of
26 such facility, any person who, or employee of any corporation, partner-
27 ship, organization or other entity which, is under contract to provide
28 patient care services in such facility, and any nursing home administra-
29 tor, physician, medical examiner, coroner, physician's associate,
30 specialist's assistant, osteopath, chiropractor, physical therapist,
31 occupational therapist, registered professional nurse, licensed practi-
32 cal nurse, dentist, [~~podiatrist~~] podiatric physician, optometrist, phar-
33 macist, psychologist, licensed master social worker, licensed clinical
34 social worker, speech pathologist and audiologist.

35 § 23. Section 2805-k of the public health law, as amended by chapter
36 485 of the laws of 1986, paragraph (f) of subdivision 1 as added and
37 paragraph (g) of subdivision 1 as relettered by chapter 786 of the laws
38 of 1992, is amended to read as follows:

39 § 2805-k. Investigations prior to granting or renewing privileges. 1.
40 Prior to granting or renewing professional privileges or association of
41 any physician, dentist or [~~podiatrist~~] podiatric physician or hiring a
42 physician, dentist or [~~podiatrist~~] podiatric physician, a hospital or
43 facility approved pursuant to this article shall request from the physi-
44 cian, dentist or [~~podiatrist~~] podiatric physician and the physician,
45 dentist or [~~podiatrist~~] podiatric physician shall be required to provide
46 the following information:

47 (a) The name of any hospital or facility with or at which the physi-
48 cian, dentist or [~~podiatrist~~] podiatric physician had or has any associ-
49 ation, employment, privileges or practice;

50 (b) Where such association, employment, privilege or practice was
51 discontinued, the reasons for its discontinuation;

52 (c) Any pending professional medical, dental or podiatric misconduct
53 proceedings or any pending medical malpractice actions in this state or
54 another state, the substance of the allegations in such proceedings or
55 actions, and any additional information concerning such proceedings or

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1 actions as the physician, dentist or [~~podiatrist~~] podiatric physician
2 may deem appropriate;

3 (d) The substance of the findings in such actions or proceedings and
4 any additional information concerning such actions or proceedings as the
5 physician, dentist or [~~podiatrist~~] podiatric physician may deem appro-
6 priate;

7 (e) A waiver by the physician, dentist or [~~podiatrist~~] podiatric
8 physician of any confidentiality provisions concerning the information
9 required to be provided to hospitals pursuant to this subdivision; [~~and~~]

10 (f) Documentation that the physician, dentist or [~~podiatrist~~] podia-
11 tric physician has completed the course work or training as mandated by
12 section two hundred [~~thirty-eight~~] thirty-nine of this chapter or
13 section six thousand five hundred five-b of the education law. A hospi-
14 tal or facility shall not grant or renew professional privileges or
15 association to a physician, dentist, or [~~podiatrist~~] podiatric physician
16 who has not completed such course work or training[~~-~~]; and

17 (g) A verification by the physician, dentist or [~~podiatrist~~] podiatric
18 physician that the information provided by the physician, dentist or
19 [~~podiatrist~~] podiatric physician is true and accurate.

20 2. Prior to granting privileges or association to any physician,
21 dentist or [~~podiatrist~~] podiatric physician, or hiring a physician,
22 dentist or [~~podiatrist~~] podiatric physician, any hospital or facility
23 approved pursuant to this article shall request from any hospital with
24 or at which such physician, dentist or [~~podiatrist~~] podiatric physician
25 had or has privileges, was associated, or was employed, the following
26 information concerning such physician, dentist or [~~podiatrist~~] podiatric
27 physician:

28 (a) Any pending professional medical conduct proceedings or any pend-
29 ing medical malpractice actions, in this state or another state;

30 (b) Any judgment or settlement of a medical malpractice action and any
31 finding of professional misconduct in this state or another; and

32 (c) Any information required to be reported by hospitals pursuant to
33 section twenty-eight hundred three-e of this article as added by chapter
34 eight hundred sixty-six of the laws of nineteen hundred eighty.

35 3. If requested by the department, a hospital shall provide documenta-
36 tion that, prior to granting privileges, association or employing a
37 physician, dentist or [~~podiatrist~~] podiatric physician, it has complied
38 with the requirements of subdivisions one and two of this section and
39 that, prior to renewing privileges, association or employment, it has
40 complied with the requirements of subdivision one of this section.
41 Copies of the information and documentation required pursuant to subdivi-
42 sions one and two of this section shall be placed in the physician's,
43 dentist's or [~~podiatrist's~~] podiatric physician's personnel or creden-
44 tials file maintained by the hospital.

45 4. Any hospital which receives a request for information from another
46 hospital pursuant to subdivision one or two of this section shall
47 provide such information concerning the physician, dentist or [~~podia-~~
48 ~~trist~~] podiatric physician in question to the extent such information is
49 known to the hospital receiving such a request, including the reasons
50 for suspension, termination, curtailment of employment or privileges at
51 the hospital. Any hospital or hospital employee providing such informa-
52 tion in good faith shall not be liable in any civil action for the
53 release of such information.

54 § 24. Subdivision 29 of section 3302 of the public health law, as
55 amended by chapter 163 of the laws of 1973 and as renumbered by chapter
56 537 of the laws of 1998, is amended to read as follows:

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1 29. "Practitioner" means:

2 A physician, dentist, [~~podiatrist~~] podiatric physician, veterinarian,
3 scientific investigator, or other person licensed, or otherwise permit-
4 ted to dispense, administer or conduct research with respect to a
5 controlled substance in the course of a licensed professional practice
6 or research licensed pursuant to this article. Such person shall be
7 deemed a "practitioner" only as to such substances, or conduct relating
8 to such substances, as is permitted by his license, permit or otherwise
9 permitted by law.

10 § 25. Paragraph (a) of subdivision 4 of section 3515 of the public
11 health law, as amended by chapter 847 of the laws of 1972, is amended to
12 read as follows:

13 (a) a hospital resident specializing in radiology or a student
14 enrolled in or attending a school or college of medicine, osteopathy,
15 dentistry, podiatry, chiropractic, or x-ray technology who applies
16 radiation to a human being, while under the direct supervision of a
17 licensed physician, dentist, osteopath, [~~podiatrist~~] podiatric
18 physician, chiropractor, or x-ray technician;

19 § 26. Paragraph (1) of subdivision 2 of section 365-a of the social
20 services law, as amended by chapter 81 of the laws of 1995, is amended
21 to read as follows:

22 (1) care and services of [~~podiatrists~~] podiatric physicians which care
23 and services shall only be provided upon referral by a physician, nurse
24 practitioner or certified nurse midwife in accordance with the program
25 of early and periodic screening and diagnosis established pursuant to
26 subdivision three of this section or to persons eligible for benefits
27 under title XVIII of the federal social security act as qualified medi-
28 care beneficiaries in accordance with federal requirements therefor and
29 private duty nurses which care and services shall only be provided in
30 accordance with regulations of the department of health; [~~provided,~~
31 ~~however, that private duty nursing services shall not be restricted when~~
32 ~~such services are more appropriate and cost effective than nursing~~
33 ~~services provided by a home health agency pursuant to section three~~
34 ~~hundred sixty seven 1;~~]

35 § 27. Paragraph (e) of subdivision 5 of section 365-g of the social
36 services law, as amended by chapter 41 of the laws of 1992, is amended
37 to read as follows:

38 (e) on a fee-for-services basis to in-patients in general hospitals
39 certified under article twenty-eight of the public health law or article
40 thirty-one of the mental hygiene law and residential health care facili-
41 ties, with the exception of [~~podiatrists~~] podiatric physicians'
42 services;

43 § 28. Subdivision 1 of section 413 of the social services law, as
44 separately amended by chapters 420 and 676 of the laws of 2002, is
45 amended to read as follows:

46 1. The following persons and officials are required to report or cause
47 a report to be made in accordance with this title when they have reason-
48 able cause to suspect that a child coming before them in their profes-
49 sional or official capacity is an abused or maltreated child, or when
50 they have reasonable cause to suspect that a child is an abused or
51 maltreated child where the parent, guardian, custodian or other person
52 legally responsible for such child comes before them in their profes-
53 sional or official capacity and states from personal knowledge facts,
54 conditions or circumstances which, if correct, would render the child an
55 abused or maltreated child: any physician; registered physician assist-
56 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;

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1 osteopath; optometrist; chiropractor; [~~pediatrist~~] podiatric physician;
2 resident; intern; psychologist; registered nurse; social worker; emer-
3 gency medical technician; licensed creative arts therapist; licensed
4 marriage and family therapist; licensed mental health counselor;
5 licensed psychoanalyst; hospital personnel engaged in the admission,
6 examination, care or treatment of persons; a Christian Science practi-
7 tioner; school official; social services worker; day care center worker;
8 provider of family or group family day care; employee or volunteer in a
9 residential care facility defined in subdivision seven of section four
10 hundred twelve of this title or any other child care or foster care
11 worker; mental health professional; substance abuse counselor; alcohol-
12 ism counselor; peace officer; police officer; district attorney or
13 assistant district attorney; investigator employed in the office of a
14 district attorney; or other law enforcement official. Whenever such
15 person is required to report under this title in his or her capacity as
16 a member of the staff of a medical or other public or private institu-
17 tion, school, facility or agency, he or she shall immediately notify the
18 person in charge of such institution, school, facility or agency, or his
19 or her designated agent, who then also shall become responsible to
20 report or cause reports to be made. However, nothing in this section or
21 title is intended to require more than one report from any such institu-
22 tion, school or agency. At the time of the making of a report, or at any
23 time thereafter, such person or official may exercise the right to
24 request, pursuant to paragraph (A) of subdivision four of section four
25 hundred twenty-two of this title, the findings of an investigation made
26 pursuant to this title or section 45.07 of the mental hygiene law.

27 § 29. Paragraph 2 of subdivision (a) of section 1212-a of the tax law,
28 as amended by section 2 of part J of chapter 63 of the laws of 2003, is
29 amended to read as follows:

30 (2) a tax, at the same uniform rate, but at a rate not to exceed four
31 and one-eighth per centum, in multiples of one-eighth of one per centum,
32 on the receipts from every sale of the following services: beauty,
33 barbering, hair restoring, manicuring, pedicuring, electrolysis, massage
34 services and similar services, and every sale of services by weight
35 control salons, health salons, gymnasiums, turkish and sauna bath and
36 similar establishments and every charge for the use of such facilities,
37 whether or not any tangible personal property is transferred in conjunc-
38 tion therewith; but excluding services rendered by a physician, osteo-
39 path, dentist, nurse, physiotherapist, chiropractor, [~~pediatrist~~] podia-
40 tric physician, optometrist, ophthalmic dispenser or a person performing
41 similar services licensed under title VIII of the education law, as
42 amended, and excluding such services when performed on pets and other
43 animals.

44 § 29-a. Paragraph 2 of subdivision (a) of section 1212-a of the tax
45 law, as amended by chapter 190 of the laws of 1990, is amended to read
46 as follows:

47 (2) a tax, at the same uniform rate, but at a rate not to exceed four
48 per centum, in multiples of one-half of one per centum, on the receipts
49 from every sale of the following services: beauty, barbering, hair
50 restoring, manicuring, pedicuring, electrolysis, massage services and
51 similar services, and every sale of services by weight control salons,
52 health salons, gymnasiums, turkish and sauna bath and similar establish-
53 ments and every charge for the use of such facilities, whether or not
54 any tangible personal property is transferred in conjunction therewith;
55 but excluding services rendered by a physician, osteopath, dentist,
56 nurse, physiotherapist, chiropractor, [~~pediatrist~~] podiatric physician,

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1 optometrist, ophthalmic dispenser or a person performing similar
2 services licensed under title VIII of the education law, as amended, and
3 excluding such services when performed on pets and other animals.

4 § 30. Subdivision 4 of section 404-a of the vehicle and traffic law,
5 as amended by chapter 686 of the laws of 1994, is amended to read as
6 follows:

7 4. Issue of plates. The commissioner shall issue sets of plates to
8 such person in accordance with subdivision two of this section with
9 proof of such disability of such person or such members of his family
10 certified by a physician, or [~~podiatrist~~] podiatric physician pursuant
11 to subdivision four-a of this section, to the satisfaction of the
12 commissioner who is empowered to carry out the effects of this section
13 by formulating rules and regulations.

14 For the purposes of this section, a "severely disabled person" shall
15 mean any person having any one or more of the following impairments,
16 disabilities or conditions which are permanent in nature:

17 (a) Has limited or no use of one or both lower limbs;

18 (b) Has a neuro-muscular dysfunction which severely limits mobility;

19 (c) Has a physical or mental impairment or condition which is other
20 than those specified above, but is of such nature as to impose unusual
21 hardship in utilization of public transportation facilities and such
22 condition is certified by a physician duly licensed to practice medicine
23 in this state, or, pursuant to subdivision four-a of this section, a
24 [~~podiatrist~~] podiatric physician duly licensed to practice podiatry in
25 this state, as constituting an equal degree of disability (specifying
26 the particular condition) so as to prevent such person from getting
27 around without great difficulty in accordance with subdivision two of
28 this section; or

29 (d) A blind person.

30 § 31. Subdivision 4-a of section 404-a of the vehicle and traffic law,
31 as added by chapter 686 of the laws of 1994, is amended to read as
32 follows:

33 4-a. Certification of disability by a [~~podiatrist~~] podiatric
34 physician. A [~~podiatrist~~] podiatric physician duly licensed to practice
35 podiatry in this state may certify only those conditions which he or she
36 treats in the course of the practice of podiatry, as defined by section
37 seventy hundred one of the education law.

38 § 32. Paragraph (b) of subdivision 5 of section 404-a of the vehicle
39 and traffic law, as amended by chapter 686 of the laws of 1994, is
40 amended to read as follows:

41 (b) The commissioner may require the applicant for registration to
42 furnish such proof of his disability or such proof of disability of such
43 members of his family from a physician, or [~~podiatrist~~] podiatric physi-
44 cian pursuant to subdivision four-a of this section, as the commissioner
45 deems necessary either for initial registration or renewal thereof;
46 provided, however, that a handicapped or disabled permit issued by a
47 municipality to such applicant pursuant to section twelve hundred
48 three-a of this chapter shall be deemed sufficient proof of disability
49 for purposes of this paragraph.

50 § 33. Subdivision (c) of section 1204 of the limited liability company
51 law is amended to read as follows:

52 (c) Each report, diagnosis, prognosis and prescription made or issued
53 by a professional service limited liability company practicing medicine,
54 dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medi-
55 cine, pharmacy, nursing, psychology, physical therapy or chiropractic
56 shall bear the signature of one or more physicians, dentists, [~~podia-~~

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1 ~~trists~~] podiatric physicians, optometrists, ophthalmic dispensers,
2 veterinarians, pharmacists, nurses, licensed psychologists, physical
3 therapists or chiropractors, respectively, who are in responsible charge
4 of such report, diagnosis, prognosis or prescription.

5 § 34. Subdivision (c) of section 1302 of the limited liability company
6 law is amended to read as follows:

7 (c) Each report, diagnosis, prognosis and prescription made or issued
8 by a foreign professional service limited liability company practicing
9 medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veteri-
10 nary medicine, pharmacy, nursing, psychology, physical therapy or
11 chiropractic shall bear the signature of one or more physicians,
12 dentists, [~~podiatrists~~] podiatric physicians, optometrists, ophthalmic
13 dispensers, veterinarians, pharmacists, nurses, licensed psychologists,
14 physical therapists or chiropractors, respectively, who are in responsi-
15 ble charge of such report, diagnosis, prognosis or prescription.

16 § 35. Subdivision 48 of section 1.03 of the mental hygiene law, as
17 added by chapter 223 of the laws of 1992, is amended to read as follows:

18 48. "Practitioner" shall mean a physician, dentist, [~~podiatrist~~]
19 podiatric physician, veterinarian, scientific investigator, or other
20 person licensed, or otherwise permitted to dispense, administer or
21 conduct research with respect to a controlled substance in the course of
22 a licensed professional practice or research licensed pursuant to this
23 article. Such person shall be deemed a "practitioner" only as to such
24 substances, or conduct relating to such substances, as is permitted by
25 his license, permit or otherwise permitted by law.

26 § 36. Section 50-d of the general municipal law, as amended by chapter
27 82 of the laws of 1963 and subdivision 3 as added by chapter 673 of the
28 laws of 1979, is amended to read as follows:

29 § 50-d. Municipal liability for malpractice of certain physicians,
30 resident physicians, internes, dentists, [~~podiatrists~~] podiatric physi-
31 cians and optometrists in public institutions. 1. Notwithstanding any
32 inconsistent provision of law, general, special or local, or limitation
33 contained in the provisions of any city charter, every municipal corpo-
34 ration shall be liable for, and shall assume the liability, to the
35 extent that it shall save him harmless, of any resident physician,
36 physician, interne, dentist, [~~podiatrist~~] podiatric physician or optome-
37 trist rendering medical, dental, podiatry or optometry services of any
38 kind to a person without receiving compensation from such person in a
39 public institution maintained in whole or in part by the municipal
40 corporation, or in the course of a home care service maintained by such
41 public institution, for damages for personal injuries alleged to have
42 been sustained by such person by reason of the malpractice of such resi-
43 dent physician, physician, interne, dentist, [~~podiatrist~~] podiatric
44 physician or optometrist while engaged in the rendition of such
45 services. Every such resident physician, physician, interne, dentist,
46 [~~podiatrist~~] podiatric physician or optometrist for the purpose of this
47 section, shall be deemed an employee of the municipal corporation
48 notwithstanding that the municipal corporation derived no special bene-
49 fit in its corporate capacity.

50 2. No action shall be maintained under this section against such muni-
51 cipality, resident physician, physician, interne, dentist, [~~podiatrist~~]
52 podiatric physician or optometrist unless a notice of claim shall have
53 been made and served in compliance with section fifty-e of this [~~chap-~~
54 ~~ter~~] article. Every such action shall be commenced pursuant to the
55 provisions of section fifty-i of this [~~chapter~~] article.

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1 3. The provisions of this section shall not apply to the city of New
2 York.

3 § 37. Paragraph 2 of subsection (i) of section 3216 of the insurance
4 law is amended to read as follows:

5 (2) If a policy provides for reimbursement for any podiatric service
6 within the lawful scope of practice of a licensed [~~podiatrist~~] podiatric
7 physician, the insured shall be entitled to reimbursement for such
8 service whether it is performed by a physician or licensed [~~podiatrist~~]
9 podiatric physician.

10 § 38. Subparagraph (B) of paragraph 4 of subsection (f) of section
11 4235 of the insurance law is amended to read as follows:

12 (B) any podiatric service which is within the lawful scope of prac-
13 tice of a licensed [~~podiatrist~~] podiatric physician, a subscriber to
14 such policy shall be entitled to reimbursement for such service, whether
15 the said service is performed by a physician or licensed [~~podiatrist~~]
16 podiatric physician and when such policy or any certificate issued ther-
17 eunder is delivered or issued for delivery without this state by an
18 authorized insurer, covered persons residing in this state shall be
19 entitled to reimbursement for podiatric services as herein provided;

20 § 39. Subparagraph (D) of paragraph 1 of subsection (b) of section
21 4301 of the insurance law is amended to read as follows:

22 (D) podiatric care provided through licensed [~~podiatrists~~] podiatric
23 physicians,

24 § 40. Paragraph 3 of subsection (b) of section 4301 of the insurance
25 law, as amended by chapter 593 of the laws of 2000, is amended to read
26 as follows:

27 (3) Every medical expense indemnity corporation shall be open to the
28 participation of licensed physicians, [~~podiatrists,~~] podiatric physi-
29 cians, chiropractors, optometrists, physical and occupational thera-
30 pists, speech-language pathologists, audiologists, and dentists, certi-
31 fied and registered psychologists without discrimination against schools
32 of medical practice, podiatry practice, chiropractic practice, optome-
33 tric practice, physical and occupational therapy practice, dental prac-
34 tice, speech-language pathology practice (subject to the permitted limi-
35 tations of paragraph one of this subsection), audiology practice
36 (subject to the permitted limitations of paragraph one of this
37 subsection), and psychological training as defined in the education law.

38 § 41. Subsection (b) of section 5501 of the insurance law, as amended
39 by chapter 522 of the laws of 1987, is amended to read as follows:

40 (b) "Medical malpractice insurance" means insurance against legal
41 liability of the insured, and against loss, damage, or expense incident
42 to a claim of such liability arising out of the death or injury of any
43 person due to medical, dental, podiatric, certified nurse-midwifery or
44 hospital malpractice by any licensed physician, dentist, [~~podiatrist~~]
45 podiatric physician, certified nurse-midwife, certified registered nurse
46 anesthetist or hospital.

47 § 42. Subsection (d) of section 5502 of the insurance law, as amended
48 by chapter 147 of the laws of 2000, is amended to read as follows:

49 (d) Upon dissolution, the association shall not resume underwriting
50 operations for physicians, dentists, [~~podiatrists~~] podiatric physicians,
51 certified nurse-midwives, certified registered nurse anesthetists or for
52 hospitals respectively, until the superintendent, after consultation
53 with the commissioner of health, has determined that medical malpractice
54 insurance is not readily available for physicians, dentists, [~~podia-~~
55 ~~trists~~] podiatric physicians, certified nurse-midwives, certified regis-
56 tered nurse anesthetists or for hospitals, as the case may be, in the

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1 voluntary market and has approved or promulgated a new plan of opera-
2 tion. If the superintendent determines during such period that insurance
3 is readily available for physicians, dentists, [~~podiatrists~~] podiatric
4 physicians, certified nurse-midwives, certified registered nurse anesth-
5 etists or for hospitals, as the case may be, in the voluntary market,
6 the superintendent shall not authorize its underwriting operations for
7 the respective categories.

8 § 43. Paragraph 1 of subsection (e) of section 5502 of the insurance
9 law, as amended by chapter 510 of the laws of 1988, is amended to read
10 as follows:

11 (1) To issue, or to cause to be issued, policies of insurance to
12 physician, dentist and [~~podiatrist~~] podiatric physician applicants
13 subject to primary limits specified in the plan of operation not in
14 excess of one million dollars for each claimant under one policy and
15 three million dollars for all claimants under one policy in any one
16 year, and excess coverage as provided in this paragraph. Each applicant
17 shall be entitled to purchase a policy providing primary limits not to
18 exceed one million dollars for each claimant and three million dollars
19 for all claimants in any one year. In addition, any applicant insured by
20 the association in an amount equal to or greater than one million
21 dollars for each claimant and three million dollars for all claimants
22 in any one year, or any other applicant covered under a policy or poli-
23 cies providing such primary levels of insurance against liability for
24 medical, dental or podiatric malpractice that is issued by an author-
25 ized insurer, shall be entitled to purchase a policy from the associ-
26 ation providing excess coverage of at least one million dollars per
27 claimant and three million dollars for all claimants in any one year.
28 The association shall, subject to the approval of the superintendent,
29 make available, and if requested by the applicant, provide additional
30 excess coverage in an amount requested by such applicant. With respect
31 to the coverage required to be made available on and after July first,
32 nineteen hundred eighty-five by this paragraph, the superintendent shall
33 establish and promulgate rates to be charged for such excess coverage
34 and additional excess coverage and shall require that the association
35 accept payment for such coverage from the hospital excess liability
36 pool pursuant to a payment schedule that is consistent with the receipt
37 of funds by such pool from the hospital reimbursement system. Rates for
38 excess coverage and additional excess coverage shall not be subject to
39 the stabilization reserve fund charge established by section five thou-
40 sand five hundred nine of this article.

41 § 44. Subsection (c) of section 5505 of the insurance law, as amended
42 by chapter 522 of the laws of 1987, is amended to read as follows:

43 (c) The association's rates, rating plans, rating rules and rating
44 classifications may provide for premium discounts for physicians,
45 dentists, certified nurse-midwives, certified registered nurse anesthe-
46 tists or [~~podiatrists~~] podiatric physicians commencing practice or
47 conducting a limited practice as set forth in the plan of operation.

48 § 45. Subsection (a) of section 5506 of the insurance law, as amended
49 by chapter 522 of the laws of 1987, is amended to read as follows:

50 (a) Any licensed physician, dentist, [~~podiatrist~~] podiatric physician,
51 certified nurse-midwife, certified registered nurse anesthetist or
52 hospital is entitled to apply to the association for coverage pursuant
53 to this article. Application may be made directly to the association by
54 the applicant, in which event no service fee shall be charged. If the
55 applicant authorizes a broker or agent to make the application, the only
56 charge for such service shall be a service fee as limited by the plan of

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1 operation and in compliance with the procedure established in
2 subsections (c) and (d) of section two thousand one hundred nineteen of
3 this chapter.

4 § 46. Paragraph (c) of section 1504 of the business corporation law,
5 as added by chapter 974 of the laws of 1970, is amended to read as
6 follows:

7 (c) Each report, diagnosis, prognosis, and prescription made or issued
8 by a corporation practicing medicine, dentistry, podiatry, optometry,
9 ophthalmic dispensing, veterinary medicine, pharmacy, nursing, physioth-
10 erapy or chiropractic shall bear the signature of one or more physi-
11 cians, dentists, [~~podiatrists~~] podiatric physicians, optometrists,
12 ophthalmic dispensers, veterinarians, pharmacists, nurses, physiothera-
13 pists, or chiropractors, respectively, who are in responsible charge of
14 such report, diagnosis, prognosis, or prescription.

15 § 47. Paragraph (c) of section 1526 of the business corporation law,
16 as added by chapter 505 of the laws of 1983, is amended to read as
17 follows:

18 (c) Each report, diagnosis, prognosis, and prescription made or issued
19 by a foreign professional service corporation practicing medicine,
20 dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medi-
21 cine, pharmacy, nursing, physiotherapy or chiropractic shall bear the
22 signature of one or more physicians, dentists, [~~podiatrists~~] podiatric
23 physicians, optometrists, ophthalmic dispensers, veterinarians, pharma-
24 cists, nurses, physiotherapists, or chiropractors, respectively, who are
25 in responsible charge of such report, diagnosis, prognosis, or
26 prescription.

27 § 48. Paragraphs 1 and 3 of subdivision (a) and subdivision (e) of
28 section 3012-a of the civil practice law and rules, as amended by chap-
29 ter 507 of the laws of 1987, are amended to read as follows:

30 (1) the attorney has reviewed the facts of the case and has consulted
31 with at least one physician in medical malpractice actions, at least one
32 dentist in dental malpractice actions or at least one [~~podiatrist~~]
33 podiatric physician in podiatric malpractice actions who is licensed to
34 practice in this state or any other state and who the attorney reason-
35 ably believes is knowledgeable in the relevant issues involved in the
36 particular action, and that the attorney has concluded on the basis of
37 such review and consultation that there is a reasonable basis for the
38 commencement of such action; or

39 (3) the attorney was unable to obtain the consultation required by
40 paragraph one of this subdivision because the attorney had made three
41 separate good faith attempts with three separate physicians, dentists or
42 [~~podiatrists~~] podiatric physicians, in accordance with the provisions of
43 paragraph one of this subdivision to obtain such consultation and none
44 of those contacted would agree to such a consultation.

45 (e) For purposes of this section, and subject to the provisions of
46 section thirty-one hundred one of this chapter, an attorney who submits
47 a certificate as required by paragraph one or two of subdivision (a) of
48 this section and the physician, dentist or [~~podiatrist~~] podiatric physi-
49 cian with whom the attorney consulted shall not be required to disclose
50 the identity of the physician, dentist or [~~podiatrist~~] podiatric physi-
51 cian consulted and the contents of such consultation; provided, however,
52 that when the attorney makes a claim under paragraph three of subdivi-
53 sion (a) of this section that he was unable to obtain the required
54 consultation with the physician, dentist or [~~podiatrist~~] podiatric
55 physician, the court may, upon the request of a defendant made prior to
56 compliance by the plaintiff with the provisions of section thirty-one

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1 hundred one of this chapter, require the attorney to divulge to the
2 court the names of physicians, dentists or [~~pediatrists~~] podiatric
3 physicians refusing such consultation.

4 § 49. The section heading and subdivision (b) of section 4504 of the
5 civil practice law and rules, as amended by chapter 457 of the laws of
6 1991, are amended to read as follows:

7 Physician, dentist, [~~pediatrist~~] podiatric physician, chiropractor and
8 nurse.

9 (b) Identification by dentist; crime committed against patient under
10 sixteen. A dentist shall be required to disclose information necessary
11 for identification of a patient. A physician, dentist, [~~pediatrist~~]
12 podiatric physician, chiropractor or nurse shall be required to disclose
13 information indicating that a patient who is under the age of sixteen
14 years has been the victim of a crime.

15 § 50. The opening paragraph of section 396-d of the county law, as
16 added by chapter 1005 of the laws of 1969, is amended to read as
17 follows:

18 Whenever a medical assistance clinic has been established as provided
19 in this article, all medical assistance pursuant to title two of article
20 five of the social services law may be given at such clinic under the
21 supervision of the head of such clinic to those eligible persons elect-
22 ing to utilize the facilities of such clinic. The services of qualified
23 physicians, dentists, nurses, optometrists, [~~pediatrists~~] podiatric
24 physicians and other related professional personnel shall be made avail-
25 able at such clinic.

26 § 51. Subparagraph (iii) of paragraph (d) of subdivision 3 of section
27 13-c of the workers' compensation law, as added by chapter 803 of the
28 laws of 1983, is amended to read as follows:

29 (iii) When physical therapy care is required it shall be rendered by a
30 duly licensed physical therapist upon the referral which may be direc-
31 tive as to treatment of an authorized physician or [~~pediatrist~~] podia-
32 tric physician within the scope of such physical therapist's specialized
33 training and qualifications as defined in article one hundred thirty-six
34 of the education law. Reports of such treatment and records of instruc-
35 tion for treatment, if any, shall be maintained by the physical thera-
36 pist and referring professional and submitted to the chairman on such
37 forms and at such times as the chairman may require.

38 § 52. Subparagraph (iii) of paragraph (d) of subdivision 4 of section
39 13-c of the workers' compensation law, as added by chapter 362 of the
40 laws of 1986, is amended to read as follows:

41 (iii) When physical therapy care is required it shall be rendered by a
42 duly licensed physical therapist upon the referral which may be direc-
43 tive as to treatment of an authorized physician or [~~pediatrist~~] podia-
44 tric physician within the scope of such physical therapist's specialized
45 training and qualifications as defined in article one hundred thirty-six
46 of the education law. Reports of such treatment and records of instruc-
47 tion for treatment, if any, shall be maintained by the physical thera-
48 pist and referring professional and submitted to the chairman [~~of~~] on
49 such forms and at such times as the chairman may require.

50 § 53. The opening paragraph of subdivision 1 and subdivision 5 of
51 section 13-g of the workers' compensation law, the opening paragraph of
52 subdivision 1 as amended by chapter 674 of the laws of 1994 and subdivi-
53 sion 5 as amended by chapter 578 of the laws of 1959, are amended to
54 read as follows:

55 Within forty-five days after a bill has been rendered to the employer
56 by the hospital, physician or self-employed physical or occupational

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1 therapist who has rendered treatment pursuant to a referral from the
2 injured employee's authorized physician or authorized [~~podiatrist~~]
3 podiatric physician for treatment to the injured employee, such employer
4 must pay the bill or notify the hospital, physician or self-employed
5 physical or occupational therapist in writing that the bill is not being
6 paid and explain the reasons for non-payment. In the event that the
7 employer fails to make payment or notify the hospital, physician or
8 self-employed physical or occupational therapist within such forty-five
9 day period that payment is not being made, the hospital, physician,
10 self-employed physical therapist or self-employed occupational therapist
11 may notify the chair in writing that the bill has not been paid and
12 request that the board make an award for payment of such bill. The board
13 or the chair may make an award not in excess of the established fee
14 schedules for any such bill or part thereof which remains unpaid after
15 said forty-five day period or thirty days after all other questions duly
16 and timely raised in accordance with the provisions of this chapter,
17 relating to the employer's liability for the payment of such amount,
18 shall have been finally determined adversely to the employer, whichever
19 is later, in accordance with rules promulgated by the chair, and such
20 award may be collected in like manner as an award of compensation. The
21 chair shall assess the sum of fifty dollars against the employer for
22 each such award made by the board, which sum shall be paid into the
23 state treasury.

24 (5) In claims where the employer has failed to secure compensation to
25 his employees as required by section fifty of this chapter, the board
26 may make an award for the value of medical and podiatry services or
27 treatment rendered to such employees, in accordance with the schedules
28 of fees and charges prepared and established under the provisions of
29 [~~section thirteen,~~] subdivision [a] (a) of section thirteen, and
30 [~~section thirteen-k,~~] subdivision two[7] of section thirteen-k of this
31 chapter, and for the reasonable value of hospital care in accordance
32 with the charges currently in force in hospitals in the same community
33 for cases coming within the provisions of this chapter. Such award
34 shall be made to the physician, [~~podiatrist~~] podiatric physician, or
35 hospital entitled thereto. A default in the payment of such award may be
36 enforced in the manner provided for the enforcement of compensation
37 awards as set forth in section twenty-six of this chapter.

38 In all cases coming under this subdivision the payment of the claim of
39 the physician, [~~podiatrist~~] podiatric physician, or hospital for
40 medical, podiatry, or surgical services or treatment shall be subordi-
41 nate to that of the claimant or his beneficiaries.

42 § 54. Section 13-k of the workers' compensation law, as added by chap-
43 ter 787 of the laws of 1952, subdivisions 2, 3 and 10 as amended by
44 chapter 473 of the laws of 2000, subdivision 5 as amended by chapter 539
45 of the laws of 1964, subdivision 6 as amended by chapter 639 of the laws
46 of 1996, subdivision 12 as amended by chapter 498 of the laws of 1982
47 and subdivision 13 as added by chapter 803 of the laws of 1983, is
48 amended to read as follows:

49 § 13-k. Care and treatment of injured employees by duly licensed
50 [~~podiatrists~~] podiatric physicians. 1. When the term "chairman" is
51 [~~hereinafter~~] used in this section, it shall be deemed to mean the
52 chairman of the [~~workmen's~~] workers' compensation board of the state of
53 New York.

54 2. An employee injured under circumstances which make such injury
55 compensable under this article, when care is required for an injury to
56 the foot which injury or resultant condition therefrom may lawfully be

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1 treated by a duly registered and licensed [~~podiatrist~~] podiatric physi-
2 cian of the state of New York, may select to treat him or her any
3 [~~podiatrist~~] podiatric physician authorized by the chair to render
4 podiatry care, as hereinafter provided. If the injury or condition is
5 one which is without the limits prescribed by the education law for
6 podiatry care and treatment, or the injuries involved affect other parts
7 of the body in addition to the foot, the said [~~podiatrist~~] podiatric
8 physician must so advise the said injured employee and instruct him or
9 her to consult a physician of said employee's choice for appropriate
10 care and treatment. Such physician shall thenceforth have overall super-
11 vision of the treatment of said patient including the future treatment
12 to be administered to the patient by the [~~podiatrist~~] podiatric physi-
13 cian. If for any reason during the period when podiatry treatment and
14 care is required, the employee wishes to transfer his or her treatment
15 and care to another authorized [~~podiatrist~~] podiatric physician he or
16 she may do so, in accordance with rules prescribed by the chair,
17 provided however that the employer shall be liable for the proper fees
18 of the original [~~podiatrist~~] podiatric physician for the care and treat-
19 ment he or she shall have rendered. A [~~podiatrist~~] podiatric physician
20 licensed and registered to practice podiatry in the state of New York
21 who is desirous of being authorized to render podiatry care under this
22 section and/or to conduct independent medical examinations in accordance
23 with paragraph (b) of subdivision three of this section shall file an
24 application for authorization under this section with the podiatry prac-
25 tice committee. In such application he or she shall agree to refrain
26 from subsequently treating for remuneration, as a private patient, any
27 person seeking podiatry treatment, or submitting to an independent
28 medical examination, in connection with, or as a result of, any injury
29 compensable under this chapter, if he or she has been removed from the
30 list of [~~podiatrists~~] podiatric physicians authorized to render podiatry
31 care or to conduct independent medical examinations under this chapter,
32 or if the person seeking such treatment has been transferred from his or
33 her care in accordance with the provisions of this section. This agree-
34 ment shall run to the benefit of the injured person so treated or exam-
35 ined, and shall be available to him or her as a defense in any action by
36 such [~~podiatrist~~] podiatric physician for payment for treatment rendered
37 by a [~~podiatrist~~] podiatric physician after he or she has been removed
38 from the list of [~~podiatrists~~] podiatric physicians authorized to render
39 podiatry care or to conduct independent medical examinations under this
40 section, or after the injured person was transferred from his or her
41 care in accordance with the provisions of this section. The podiatry
42 practice committee if it deems such licensed [~~podiatrist~~] podiatric
43 physician duly qualified shall recommend to the chair that such [~~podia-~~
44 ~~trist~~] podiatric physician be authorized to render podiatry care and/or
45 to conduct independent medical examinations under this section. Such
46 recommendation shall be advisory to the chair only and shall not be
47 binding or conclusive upon him or her. The chair shall prepare and
48 establish a schedule for the state, or schedules limited to defined
49 localities, of charges and fees for podiatry treatment and care, to be
50 determined in accordance with and to be subject to change pursuant to
51 rules promulgated by the chair. Before preparing such schedule for the
52 state or schedules for limited localities the chair shall request the
53 podiatry practice committee to submit to him or her a report on the
54 amount of remuneration deemed by such committee to be fair and adequate
55 for the types of podiatry care to be rendered under this chapter, but
56 consideration shall be given to the view of other interested parties.

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1 The amounts payable by the employer for such treatment and services
2 shall be the fees and charges established by such schedule.

3 3. (a) No claim for podiatry care or treatment shall be valid and
4 enforceable as against the employer or employee unless within forty-
5 eight hours following the first treatment the [~~podiatrist~~] podiatric
6 physician giving such care or treatment furnish to the employer and
7 directly to the chair a preliminary notice of such injury and treatment,
8 within fifteen days thereafter a more complete report and subsequent
9 thereto progress reports as requested in writing by the chair, board,
10 employer or insurance carrier, at intervals of not less than three weeks
11 apart or at less frequent intervals if requested on forms prescribed by
12 the chair. The board may excuse the failure to give such notices within
13 the designated periods when it finds it to be in the interest of justice
14 to do so.

15 (b) Upon receipt of the notice provided for by paragraph (a) of this
16 subdivision, the employer, the carrier and the claimant each shall be
17 entitled to have the claimant examined by a qualified [~~podiatrist~~]
18 podiatric physician authorized by the chair in accordance with subdivi-
19 sion two of this section and section one hundred thirty-seven of this
20 chapter, at a medical facility convenient to the claimant and in the
21 presence of the claimant's [~~podiatrist~~] podiatric physician, and refusal
22 by the claimant to submit to such independent medical examination at
23 such time or times as may reasonably be necessary in the opinion of the
24 board shall bar the claimant from recovering compensation for any period
25 during which he or she has refused to submit to such examination.

26 (c) Where it would place an unreasonable burden upon the employer or
27 carrier to arrange for, or for the claimant to attend, an independent
28 medical examination by an authorized [~~podiatrist~~] podiatric physician,
29 the employer or carrier shall arrange for such examination to be
30 performed by a qualified [~~podiatrist~~] podiatric physician in a medical
31 facility convenient to the claimant.

32 (d) The independent podiatric examiner shall provide such reports and
33 shall submit to investigation as required by the chair.

34 (e) In order to qualify as admissible medical evidence, for purposes
35 of adjudicating any claim under this chapter, any report submitted to
36 the board by an independent podiatric examiner licensed by the state of
37 New York shall include the following:

38 (i) a signed statement certifying that the report is a full and truth-
39 ful representation of the independent podiatric examiner's professional
40 opinion with respect to the claimant's condition,

41 (ii) such examiner's board issued authorization number,

42 (iii) the name of the individual or entity requesting the examination,

43 (iv) if applicable, the registration number as required by section
44 thirteen-n of this article, and

45 (v) such other information as the chair may require by regulation.

46 4. Fees for podiatry services shall be payable only to a duly author-
47 ized [~~podiatrist~~] podiatric physician as defined in this section or to
48 the agent, executor or administrator of the estate of such [~~podiatrist~~]
49 podiatric physician. No [~~podiatrist~~] podiatric physician rendering
50 treatment to a compensation claimant, shall collect or receive a fee
51 from such claimant within this state, but shall have recourse for
52 payment of services rendered only to the employer under the provisions
53 of this section.

54 5. Whenever his attendance at a hearing is required, the [~~podiatrist~~]
55 podiatric physician of the injured employee shall be entitled to receive
56 a fee from the employer in an amount to be fixed by the board, in addi-

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1 tion to any fee payable under section eight thousand one of the civil
2 practice law and rules.

3 6. The provisions of subdivisions one and three of section thirteen-g
4 of this article with respect to the conditions under which a hospital,
5 physician or self-employed physical or occupational therapist may
6 request payment or arbitration of a bill, or under which an award may be
7 made for payment of such bill, shall be applicable to bills rendered by
8 a [~~podiatrist~~] podiatric physician for services rendered to an injured
9 employee. If the parties fail to agree as to the value of podiatry care
10 rendered under this chapter to a claimant such value shall be decided by
11 an arbitration committee consisting of three duly registered and
12 licensed [~~podiatrists~~] podiatric physicians who are members of a recog-
13 nized professional association representing [~~podiatrists~~] podiatric
14 physicians in the state of New York, one to be appointed by the presi-
15 dent of such an association, one to be appointed by the employer or
16 carrier and one to be appointed by the chair of the workers' compen-
17 sation board and the majority decision of such committee shall be
18 conclusive upon the parties as to the value of the services rendered.
19 The board or the chair may make an award not in excess of the estab-
20 lished fee schedules for any such bill or part thereof which remains
21 unpaid in the same manner as an award for bills rendered under subdivi-
22 sions one and three of section thirteen-g of this article, and such
23 award may be collected in like manner as an [~~award~~] award of compen-
24 sation.

25 Where a [~~podiatrist's~~] podiatric physician's bill has been determined
26 to be due and owing in accordance with the provisions of this section
27 the board shall include in the amount of the award interest of not more
28 than one and one-half percent (1 1/2%) per month payable to the [~~podia-~~
29 ~~trist~~] podiatric physician in accordance with the rules and regulations
30 promulgated by the board. The chair shall assess the sum of fifty
31 dollars against the employer for each such award made by the board,
32 which sum shall be paid into the state treasury.

33 A provider initiating an arbitration pursuant to this section shall
34 pay a fee, as determined by regulations promulgated by the chair, to be
35 used to cover the costs related to the conduct of such arbitration.
36 Upon resolution in favor of such party, the amount due, based upon the
37 bill in dispute, shall be increased by the amount of the fee paid by
38 such party. Where a partial award is made, the amount due, based upon
39 the bill in dispute shall be increased by a part of such fee. Each
40 member of the arbitration committee shall be entitled to receive and
41 shall be paid a fee for each day's attendance at an arbitration session
42 in an amount fixed by the chair of the [~~workers' compensation~~] board.

43 7. Within the limits prescribed by the education law for podiatry care
44 and treatment, the report or testimony of an authorized [~~podiatrist~~]
45 podiatric physician concerning the condition of the foot of an injured
46 employee and the treatment thereof shall be deemed competent evidence
47 and the professional opinion of the [~~podiatrist~~] podiatric physician as
48 to causal relation and as to required treatment shall be deemed compe-
49 tent but shall not be controlling. Nothing in this section shall be
50 deemed to deprive any employer or insurance carrier of any right to
51 medical examination or presentation of medical testimony now conferred
52 by law.

53 8. The chairman shall promulgate rules governing the procedure to be
54 followed by those rendering podiatry care under this section, which
55 rules so far as practicable shall conform to the rules presently in
56 effect with reference to medical care furnished to claimants in [~~work-~~

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1 ~~men's~~ workers' compensation. In connection with the promulgation of
2 said rules the chairman may consult the podiatry practice committee
3 hereinafter provided and may take into consideration the view of other
4 interested parties.

5 9. The chairman shall appoint for and with jurisdiction in the entire
6 state of New York a single podiatry practice committee composed of one
7 duly licensed physician and two duly registered and licensed [~~podia-~~
8 ~~trists~~] podiatric physicians of the state of New York. Each podiatry
9 member of said committee shall have been engaged in the practice of
10 podiatry as a duly registered and licensed [~~podiatrist~~] podiatric physi-
11 cian of the state of New York at least ten years prior to the time of
12 his appointment and shall receive compensation either on an annual basis
13 or on a per diem basis to be fixed by the chairman within amounts appro-
14 priated therefor. One of said members shall be designated by the chair-
15 man as chairman of said podiatry practice committee. No member of said
16 committee shall render podiatry treatment under this section nor be
17 employed by or accept or participate in any fee from any insurance
18 company authorized to write [~~workmen's~~] workers' compensation insurance
19 in this state or from any self-insurer, whether such employment or fee
20 relates to a [~~workmen's~~] workers' compensation claim or otherwise. The
21 attorney general, upon request, shall advise and assist such committee.

22 10. The podiatry practice committee shall investigate, hear and make
23 findings with respect to all charges as to professional or other miscon-
24 duct of any authorized [~~podiatrist~~] podiatric physician as herein
25 provided under rules and procedures to be prescribed by the chair and
26 shall report evidence of such misconduct, with their findings and recom-
27 mendation with respect thereto, to the chair. The findings, decision and
28 recommendation of such podiatry practice committee shall be advisory to
29 the chair only, and shall not be binding or conclusive upon him or her.
30 The chair shall remove from the list of [~~podiatrists~~] podiatric physi-
31 cians authorized to render podiatry care under this chapter or to
32 conduct independent medical examinations in accordance with paragraph
33 (b) of subdivision three of this section the name of any [~~podiatrist~~]
34 podiatric physician who he or she shall find after reasonable investi-
35 gation is disqualified because such [~~podiatrist~~] podiatric physician

36 (a) has been guilty of professional or other misconduct or incompeten-
37 cy in connection with podiatry services rendered under the law; or

38 (b) has exceeded the limits of his or her professional competence in
39 rendering podiatry care under the law, or has made materially false
40 statements regarding his or her qualifications in his or her application
41 for authorization; or

42 (c) has failed to submit timely, full and truthful podiatry reports of
43 all his or her findings to the employer and directly to the chair or the
44 board within the time limits provided in this section; or

45 (d) has knowingly made a false statement or presentation as to a mate-
46 rial fact in any medical report made pursuant to this chapter or in
47 testifying or otherwise providing information for the purposes of this
48 chapter; or

49 (e) has solicited or has employed another to solicit for himself or
50 herself or for another professional treatment, examination or care of an
51 injured employee with any claim under this chapter; or

52 (f) has refused to appear before, to testify, to submit to a deposi-
53 tion, or to answer upon request of, the chair, board, podiatry practice
54 committee or any duly authorized officer of the state, any legal ques-
55 tion or produce any relevant book or paper concerning his or her conduct
56 under an authorization granted to him or her under the law[7]; or

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1 (g) has directly or indirectly requested, received or participated in
2 the division, transference, assignment, rebating, splitting or refunding
3 of a fee for, or has directly or indirectly requested, received or prof-
4 ited by means of a credit or other valuable consideration as a commis-
5 sion, discount or gratuity in connection with the treatment, or inde-
6 pendent medical examination, of a workers' compensation claimant.
7 Nothing contained in this paragraph shall prohibit such [~~podiatrists~~]
8 podiatric physicians who practice as partners, in groups or as a profes-
9 sional corporation from pooling fees and moneys received, either by the
10 partnership, professional corporation or group by the individual members
11 thereof, for professional services furnished by any individual profes-
12 sional member, or employee of such partnership, corporation or group,
13 nor shall the professionals constituting the partnership, corporation,
14 or group be prohibited from sharing, dividing or apportioning the fees
15 and moneys received by them or by the partnership, corporation or group
16 in accordance with a partnership or other agreement.

17 11. Any person who violates or attempts to violate, and any person who
18 aids another to violate or attempts to induce him to violate the
19 provisions of paragraph [~~g~~] (g) of subdivision ten of this section shall
20 be guilty of a misdemeanor.

21 12. Nothing in this section shall be construed as limiting in any
22 respect the power or duty of the chairman to investigate instances of
23 misconduct, either before or after investigation by the podiatry prac-
24 tice committee or to temporarily suspend the authorization of any
25 [~~podiatrist~~] podiatric physician that he may believe to be guilty of
26 such misconduct. The provisions of subdivision one of section thir-
27 teen-d of this article which are not inconsistent with the provisions of
28 this section shall be applicable as fully as if set forth herein.

29 13. Upon the referral which may be directive as to treatment of an
30 authorized [~~podiatrist~~] podiatric physician physical therapy care may be
31 rendered by a duly licensed physical therapist.

32 § 55. Paragraph (a) of subdivision 3 of section 137 of the workers'
33 compensation law, as added by chapter 473 of the laws of 2000, is
34 amended to read as follows:

35 (a) Only a New York state licensed and board certified physician,
36 surgeon, [~~podiatrist~~] podiatric physician or any other person authorized
37 to examine or evaluate injury or illness by the board shall perform such
38 independent medical examination. Where a claimant resides out of state a
39 practitioner qualified to examine or evaluate injury or illness by the
40 board shall perform such independent medical examination.

41 § 56. Section 141 of the workers' compensation law, as amended by
42 chapter 398 of the laws of 1997, is amended to read as follows:

43 § 141. General powers and duties of the chairman. The chairman shall
44 be the administrative head of the [~~workers' compensation~~] board and
45 shall exercise the powers and perform the duties in relation to the
46 administration of this chapter heretofore vested in the commissioner of
47 labor by chapter fifty of the laws of nineteen hundred twenty-one, and
48 acts amendatory thereof, and by this chapter excepting article six ther-
49 eof, and except in so far as such powers and duties are vested by this
50 chapter in the [~~workers' compensation~~] board. The chairman shall preside
51 at all meetings of the board and shall appoint all committees and panels
52 of the board; shall designate the times and places for the hearing of
53 claims under this chapter and shall perform all administrative functions
54 of the board as in this chapter set forth. The chairman, in the name of
55 the board, shall enforce all the provisions of this chapter, and may
56 make administrative regulations and orders providing for the receipt,

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1 indexing and examining of all notices, claims and reports, for the
2 giving of notice of hearings and of decisions, for certifying of
3 records, for the fixing of the times and places for the hearing of
4 claims, and for providing for the conduct of hearings and establishing
5 of calendar practice to the extent not inconsistent with the rules of
6 the board. The chairman shall issue and may revoke certificates of
7 authorization of physicians, chiropractors and [~~pediatrists~~] podiatric
8 physicians as provided in sections thirteen-a, thirteen-k and thirteen-l
9 of this chapter, and licenses for medical bureaus and x-ray and other
10 laboratories under the provisions of section thirteen-c of this chapter,
11 and shall have and exercise all powers not otherwise provided for herein
12 in relation to the administration of this chapter heretofore expressly
13 conferred upon the commissioner of labor by any of the provisions of
14 this chapter, or of the labor law. The chairman, on behalf of the
15 [~~workers' compensation~~] board, shall enter into the agreement provided
16 for in section one hundred seventy-one-h of the tax law, and shall take
17 such other actions as may be necessary to carry out the agreement
18 provided for in such section for matching beneficiary records of work-
19 ers' compensation with information provided by employers to the state
20 directory of new hires for the purposes of verifying eligibility for
21 such benefits and for administering workers' compensation.

22 § 57. Subdivision 2 of section 205 of the workers' compensation law,
23 as amended by chapter 270 of the laws of 1990, is amended to read as
24 follows:

25 2. for any period of disability during which an employee is not under
26 the care of a duly licensed physician or with respect to disability
27 resulting from a condition of the foot which may lawfully be treated by
28 a duly registered and licensed [~~pediatrist~~] podiatric physician of the
29 state of New York or with respect to a disability resulting from a
30 condition which may lawfully be treated by a duly registered and
31 licensed chiropractor of the state of New York or with respect to a
32 disability resulting from a condition which may lawfully be treated by a
33 duly licensed dentist of the state of New York or with respect to a
34 disability resulting from a condition which may lawfully be treated by a
35 duly registered and licensed psychologist of the state of New York or
36 with respect to a disability resulting from a condition which may
37 lawfully be treated by a duly certified nurse midwife, for any period of
38 such disability during which an employee is neither under the care of a
39 physician nor a [~~pediatrist~~] podiatric physician, nor a chiropractor,
40 nor a dentist, nor a psychologist, nor a certified nurse midwife; and
41 for any period of disability during which an employee who adheres to the
42 faith or teachings of any church or denomination and who in accordance
43 with its creed, tenets or principles depends for healing upon prayer
44 through spiritual means alone in the practice of religion, is not under
45 the care of a practitioner duly accredited by the church or denomi-
46 nation, and provided such employee shall submit to all physical examina-
47 tions as required by this chapter.

48 § 58. Subdivision 1 of section 213 of the workers' compensation law,
49 as amended by chapter 784 of the laws of 1980, is amended to read as
50 follows:

51 1. Whenever a covered employer does not comply with this article by
52 providing for the payment of disability benefits to his employees in one
53 or more of the ways provided in section two hundred eleven of this arti-
54 cle or whenever a carrier fails to pay the benefits required by this
55 article to employees of a covered employer, then such employer shall be
56 fully and directly liable to each of his employees for the payment of

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1 benefits provided by this article. The amount of the benefits to which
2 employees of such employers are entitled under this article and attend-
3 ance fees of their attending physicians or attending [~~podiatrist~~] podia-
4 tric physicians fixed pursuant to [~~subdivision two of~~] section two
5 hundred thirty-two of this article shall, on order of the chairman, be
6 paid out of the fund established under section two hundred fourteen of
7 this article. In case of non-compliance of the employer, such employer
8 shall forthwith pay to the chairman, for credit to the fund, the sum so
9 expended or one per cent of his payroll for his employees in employment
10 during the period of non-compliance, whichever is greater; provided,
11 however, that if it shall appear to the satisfaction of the chairman
12 that the default in payment of benefits or the non-compliance of the
13 employer otherwise with his obligation under this article was inadvert-
14 ent, the chairman may fix the sum payable in such case for non-compli-
15 ance or default at the amount paid out of the fund and a sum less than
16 one per cent of such payroll, and in addition the penalties for non-com-
17 pliance imposed under this article. In case of failure of the carrier to
18 pay benefits, the employer shall forthwith pay to the chairman, for
19 credit to the fund, the sum so expended.

20 § 59. Subdivisions 1, 2 and 3 of section 217 of the workers' compen-
21 sation law, subdivision 1 as amended by chapter 167 of the laws of 1999
22 and subdivisions 2 and 3 as amended by chapter 270 of the laws of 1990,
23 are amended to read as follows:

24 1. Written notice and proof of disability shall be furnished to the
25 employer by or on behalf of the employee claiming benefits or, in the
26 case of a claimant under section two hundred seven of this article, to
27 the chair, within thirty days after commencement of the period of disa-
28 bility. Additional proof shall be furnished thereafter from time to time
29 as the employer or carrier or chair may require but not more often than
30 once each week. Such proof shall include a statement of disability by
31 the employee's attending physician or attending [~~podiatrist~~] podiatric
32 physician or attending chiropractor or attending dentist or attending
33 psychologist or attending certified nurse midwife, or in the case of an
34 employee who adheres to the faith or teachings of any church or denomi-
35 nation, and who in accordance with its creed, tenets or principles
36 depends for healing upon prayer through spiritual means alone in the
37 practice of religion, by an accredited practitioner, containing facts
38 and opinions as to such disability in compliance with regulations of the
39 chair. Failure to furnish notice or proof within the time and in the
40 manner above provided shall not invalidate the claim but no benefits
41 shall be required to be paid for any period more than two weeks prior to
42 the date on which the required proof is furnished unless it shall be
43 shown to the satisfaction of the chair not to have been reasonably
44 possible to furnish such notice or proof and that such notice or proof
45 was furnished as soon as possible; provided, however, that no benefits
46 shall be paid unless the required proof of disability is furnished with-
47 in twenty-six weeks after commencement of the period of disability. No
48 limitation of time provided in this section shall run as against any
49 person who is mentally incompetent, or physically incapable of providing
50 such notice as a result of a serious medical condition, or a minor so
51 long as such person has no guardian of the person and/or property.

52 2. An employee claiming benefits shall, as requested by the employer
53 or carrier, submit himself or herself at intervals, but not more than
54 once a week, for examination by a physician or [~~podiatrist~~] podiatric
55 physician or chiropractor or dentist or psychologist or certified nurse
56 midwife designated by the employer or carrier. All such examinations

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1 shall be without cost to the employee and shall be held at a reasonable
2 time and place.

3 3. The chair may direct the claimant to submit to examination by a
4 physician or [~~pediatrist~~] podiatric physician or chiropractor or dentist
5 or psychologist designated by him or her in any case in which the claim
6 to disability benefits is contested and in claims arising under section
7 two hundred seven of this article, and in other cases as the chair or
8 board may require.

9 § 60. Subdivision 5 of section 220 of the workers' compensation law,
10 as amended by chapter 940 of the laws of 1973, is amended to read as
11 follows:

12 5. In addition to other penalties herein provided, the chairman shall
13 remove from the list of physicians authorized to render medical care
14 under the provisions of articles one to eight, inclusive, of this chap-
15 ter and from the list of [~~pediatrists~~] podiatric physicians authorized
16 to render podiatric care under section thirteen-k of this chapter, and
17 from the list of chiropractors authorized to render chiropractic care
18 under section thirteen-l of this chapter the name of any physician or
19 [~~pediatrist~~] podiatric physician or chiropractor whom he shall find,
20 after reasonable investigation, has submitted to the employer or carrier,
21 or chairman in connection with any claim for disability benefits under
22 this article, a statement of disability that is not truthful and
23 complete.

24 § 61. The opening paragraph of section 221 of the workers' compen-
25 sation law, as separately amended by chapters 425 and 500 of the laws of
26 1985, is amended to read as follows:

27 Within twenty-six weeks of written notice of rejection of claim, the
28 employee may file with the chairman a notice that his or her claim for
29 disability benefits has not been paid, and the employee shall submit
30 proof of disability and of his or her employment, wages and other facts
31 reasonably necessary for determination of the employee's right to such
32 benefits. Failure to file such notice within the time provided, may be
33 excused by the chairman if it can be shown to the satisfaction of the
34 chairman not to have been reasonably possible to furnish such notice and
35 that such notice was furnished as soon as possible. On demand of the
36 chairman the employer or carrier shall forthwith deliver to the chairman
37 the original or a true copy of the attending physician's or attending
38 [~~pediatrist's~~] podiatric physician's or accredited practitioner's state-
39 ment, wage and employment data and all other papers in the possession of
40 the employer or carrier with respect to such claim.

41 § 62. Section 232 of the workers' compensation law, as amended by
42 chapter 270 of the laws of 1990, is amended to read as follows:

43 § 232. Fees of physicians, [~~pediatrists~~] podiatric physicians, chiro-
44 practors, dentists and psychologists. Whenever his or her attendance at
45 a hearing before the board or its referees is required, the attending
46 physician or attending [~~pediatrist~~] podiatric physician or attending
47 chiropractor or attending dentist or attending psychologist or attending
48 certified nurse midwife of the disabled employee, except such physicians
49 as are disqualified from testifying pursuant to subdivision one of
50 section thirteen-b, or section nineteen-a of this chapter, and except
51 such [~~pediatrists~~] podiatric physicians as are disqualified from testi-
52 fying under the provisions of section thirteen-k of this chapter, and
53 except such chiropractors as are disqualified from testifying under the
54 provisions of section thirteen-l of this chapter, and except such
55 psychologists as are disqualified from testifying under the provisions
56 of section thirteen-m of this chapter, shall be entitled to receive a

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1 fee from the carrier or the fund established under section two hundred
 2 fourteen of this article, in an amount as directed and fixed by the
 3 board, or its referees, and such fee shall be in addition to any witness
 4 fee.

5 § 63. This act shall take effect immediately; provided, that the
 6 amendments to paragraph 2 of subdivision (a) of section 1212-a of the
 7 tax law made by section twenty-nine of this act shall be subject to the
 8 expiration and reversion of such paragraph pursuant to section 4 of part
 9 J of chapter 63 of the laws of 2003, as amended, when upon such date the
 10 provisions of section twenty-nine-a of this act shall take effect.

SPONSORS MEMO:

**NEW YORK STATE ASSEMBLY
 MEMORANDUM IN SUPPORT OF LEGISLATION
 submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A2922**SPONSOR:** Wright

TITLE OF BILL: An act to amend the education law, the public health law, the social services law, the tax law, the vehicle and traffic law, the limited liability company law, the mental hygiene law, the general municipal law, the insurance law, the business corporation law, the civil practice law and rules, the county law and the workers' compensation law, in relation to designating podiatrists as podiatric physicians

PURPOSE OR GENERAL IDEA OF BILL:

To allow properly licensed podiatrists to use the title podiatric physician.

SUMMARY OF SPECIFIC PROVISIONS:

Amends ? of the Education Law to accomplish the above stated purpose.

JUSTIFICATION:

In 31 states podiatrists are already recognized for the integrated role they play in the health care system and, as such, define podiatrists as physicians. Similarly, podiatrists are currently included within the definition of physician under Health Care Finance Authority (HCFA) regulations for the purposes of Medicare reimbursement. (MCM 2020.4) This legislation seeks to permit podiatrists in New York to use the more precise title "podiatric physician", instead of physician to avoid any consumer confusion.

Given the educational training leading to licensure in podiatric medicine and surgery, the podiatrist already plays a heightened and needed role in the diagnosing of systemic diseases and the managing of patient care. Patients who seek podiatric medical services are very frequently those who lack an ongoing relationship with a family physician or a general internist, or who have not encountered such a physician for a

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year or longer. Professionally trained and licensed in every jurisdiction to medically and surgically diagnose and treat all conditions affecting the lower extremities, the Doctor of Podiatric Medicine often encounters the pedal manifestations of systemic diseases, including diabetes, arthritis, neurological disease, and circulatory and kidney disorders. These systemic conditions are frequently first identified in the podiatrist's office which makes the Doctor of Podiatric Medicine a member of a variety of disease management teams and a regular source of referral to other medical specialists.

PRIOR LEGISLATIVE HISTORY:

See Bill A.1446 (2002)

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect immediately.
