

**CHAPTER 109****(HB 376)**

AN ACT relating to health care professionals and making an appropriation therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS 157.310 TO 157.440 IS CREATED TO READ AS FOLLOWS:

*Notwithstanding any other statute to the contrary:*

- (1) (a) *If funds are appropriated by the General Assembly for this purpose, a local board of education shall provide an annual salary supplement to all speech-language pathologists or audiologists:*
1. *Who are employed by the local board of education to provide or coordinate speech-language pathology or audiology services for students; and*
  2. *Who hold:*
    - a. *i. A certificate of clinical competence issued by the American Speech-Language Hearing Association; or*
    - ii. Board certification from the American Board of Audiology; and*
    - b. *i. A valid Kentucky credential approved and issued by the Education Professional Standards Board under KRS Chapter 161; or*
    - ii. A license approved and issued by the Kentucky Board of Speech-Language Pathology and Audiology under KRS Chapter 334A.*
- (b) *The salary supplement shall be in the same amount as the salary supplement provided to a public school teacher who has attained certification from the National Board for Professional Teaching Standards as provided in KRS 157.395. If the amount appropriated by the General Assembly is less than the amount necessary to meet the requirements of this paragraph, the salary supplement received by each qualified speech-language pathologist or audiologist shall be reduced proportionately by the Department of Education so that all eligible individuals receive the same amount as a supplement.*
- (c) *The supplement shall remain available to a speech-language pathologist or audiologist so long as funds are appropriated for this purpose by the General Assembly, and the speech-language pathologist or audiologist continues to meet the requirements established by this subsection. The supplement shall cease if the speech-language pathologist or audiologist is employed in another capacity by the local board where the provision of speech-language pathology or audiology services is incidental to his or her other duties.*
- (d) *The Department of Education shall:*
1. *Determine how many speech-language pathologists and audiologists qualify for the supplement each year;*
  2. *Determine the amount of the supplement available each year for each qualified speech-language pathologist and audiologist based on appropriated funds available;*
  3. *Notify each local board of education of the supplement amount available to each qualifying speech-language pathologist and audiologist employed by the local board of education; and*
  4. *Develop a process for payment to local boards of education of supplement amounts due.*
- (2) *If funds are not appropriated by the General Assembly to support the salary supplement established by subsection (1) of this section, a local board of education may provide an annual salary supplement under the conditions established by subsection (1) of this section using the resources available to the local board of education.*
- (3) *The supplement authorized by this section shall be considered in the calculation for contribution to the Kentucky Teachers' Retirement System.*

➔SECTION 2. KRS CHAPTER 319B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*As used in this chapter, unless the context requires otherwise:*

- (1) *"Board" means the Kentucky Board of Prosthetics, Orthotics, and Pedorthics;*
- (2) *"CAAHEP" means the Commission on Accreditation of Allied Health Education Programs;*
- (3) *"Custom fabricated and fitted device" means an orthosis, prosthesis, or pedorthic device that is fabricated to original measurements, or to a mold for use by a patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such prescriptions, and that requires substantial clinical and technical judgment in its design and fitting;*
- (4) *"Custom fitted device" means a prefabricated orthosis, prosthesis, or pedorthic device sized or modified for use by the patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such prescriptions that requires substantial clinical judgment and substantive alteration for appropriate use;*
- (5) *"Facility" means the business location where orthotic, prosthetic, or pedorthic care is provided. The orthotic/prosthetic/pedorthic facility has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic, prosthetic, and pedorthic care. Licensed orthotists, prosthetists, and pedorthists shall be available to either provide care or to supervise the provision of care by nonlicensed staff;*
- (6) *"Licensed orthotic fitter" means a person who receives a license under this chapter to fit the following noncustom orthotic devices:*
  - (a) *Cervical orthoses, except those requiring more than minor modification or those used to treat an unstable cervical condition;*
  - (b) *Pressure gradient hose;*
  - (c) *Trusses;*
  - (d) *Prefabricated spinal orthoses, except those used in the treatment of scoliosis or unstable spinal conditions, rigid body jackets made of thermoformable materials, and "halo" devices; and*
  - (e) *Prefabricated orthoses of upper and lower extremities, except those used in the treatment of bone fractures and dislocations, therapeutic (diabetic) shoes or inserts, and functional electrical stimulation orthoses, such as myo-orthosis or neuroprosthesis;*
- (7) *"Licensed orthotist" means a person who is licensed under this chapter to practice orthotics and who represents the person to the public by title or description of services that includes the term "orthotic," "orthotist," "brace," or a similar title or description of services;*
- (8) *"Licensed pedorthist" means a person who is licensed under this chapter to practice pedorthics and who represents the person to the public by the title or description of services that includes the term "pedorthic," "pedorthist," or a similar title or description of services;*
- (9) *"Licensed prosthetist" means a person who is licensed under this chapter to practice prosthetics and who represents the person to the public by title or description of services that includes the term "prosthetic," "prosthetist," "artificial limb," or a similar title or description of services;*
- (10) *"NCOPE" means the National Commission on Orthotic and Prosthetic Education;*
- (11) *"Orthosis" means a custom-designed, fabricated, fitted, or modified device to correct, support, or compensate for a neuro-musculoskeletal disorder or acquired condition. "Orthosis" does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices that are carried in stock and sold without modification as "over-the-counter" items by a pharmacy, department store, corset shop, or surgical supply facility;*
- (12) *"Orthotic and prosthetic education program" means a course of instruction accredited by CAAHEP, consisting of:*
  - (a) *An adequate curriculum of college level training and instruction in math, physics, biology, chemistry, and psychology; and*

- (b) *A specific curriculum in orthotic or prosthetic courses, including:*
1. *Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management;*
  2. *Subject matter related to pediatric and geriatric problems;*
  3. *Instruction in acute care techniques, such as immediate and early postsurgical prosthetics and fracture-bracing techniques; and*
  4. *Lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses;*
- (13) *"Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis, under an order from a licensed health care practitioner or provider authorized by law to issue such an order, for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;*
- (14) *"Orthotist" means a person who is specifically trained and educated to provide or manage the provision of a custom-designed, fabricated, modified, and fitted external orthosis to an orthotic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized by law to write such prescriptions, to restore physiological function or cosmesis;*
- (15) *"Over-the-counter device" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgment in either size selection or use, including fabric or elastic supports, corsets, generic arch supports, and elastic hoses;*
- (16) *"Pedorthic device" means therapeutic footwear, foot orthoses, or orthotics for use at the ankle or below, below the ankle partial foot prostheses, and modified footwear made for therapeutic purposes, as prescribed by a licensed health care practitioner or provider authorized by law to issue such a prescription. "Pedorthic device" does not include nontherapeutic accommodative inlays or nontherapeutic accommodative footwear, regardless of method of manufacture; shoe modifications made for nontherapeutic purposes; unmodified over-the-counter shoes; or prefabricated foot care products;*
- (17) *"Pedorthic education program" means a course of instruction accredited by NCOPE, consisting of:*
- (a) *A basic curriculum of instruction in foot-related pathology of diseases, anatomy, and biomechanics;*
  - (b) *A specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, and subject matter related to pediatric and geriatric problems; and*
  - (c) *Lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices;*
- (18) *"Pedorthics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device, under an order from a licensed health care practitioner or provider authorized by law to issue such an order for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;*
- (19) *"Pedorthist" means a person who measures, designs, fabricates, fits, or services pedorthic devices and assists in the formulation of the order of pedorthic devices, as ordered by a licensed health care practitioner or provider authorized by law to issue such an order for the support or correction of disabilities caused by neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;*
- (20) *"Person" means a natural person;*
- (21) *"Prosthesis" means a custom designed, fabricated, fitted, or modified device to replace an absent external limb, for the purpose of restoring physiological function or cosmesis. "Prosthesis" does not include artificial eyes or ears, dental appliances, artificial breasts, cosmetic devices such as artificial eyelashes or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body;*

- (22) *"Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis, under an order from a licensed health care practitioner or provider authorized by law to issue such an order;*
- (23) *"Prosthetist" means a person who is specifically trained and educated to provide or manage the provision of a custom designed, fabricated, modified, and fitted external limb prosthesis to a prosthetic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized to write such prescriptions, to restore physiological function or cosmesis;*
- (24) *"Prosthetist/Orthotist" means a person who practices both disciplines of prosthetics and orthotics and who represents the person to the public by title or by description of services;*
- (25) *"Resident" means a person who has completed a CAAHEP accredited education program in orthotics, prosthetics, or both and is obtaining his or her clinical training in a residency accredited by NCOPE;*
- (26) *"Residency" means a minimum of a one-year NCOPE accredited program to acquire practical clinical training in orthotics, prosthetics, or both, in a patient care setting; and*
- (27) *"Supervision" means the act of critical observing and directing the work or tasks of another who may lack full knowledge of the concept at hand.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

*The Kentucky Board of Prosthetics, Orthotics, and Pedorthics is hereby established. The board shall consist of five (5) members who shall be appointed by the Governor.*

- (1) *One (1) member shall be a citizen at large who is a consumer of orthotic, prosthetic, or pedorthic professional services and is not affiliated with and does not have more than five percent (5%) financial interest in any one (1) health care profession or business.*
- (2) *Four (4) members shall be practicing, licensed orthotists, licensed prosthetists, or licensed pedorthists. These members may be licensed in more than one (1) discipline and at least one (1) board member shall be a licensed pedorthist. Membership of the board shall reasonably reflect representation from the geographic areas in the Commonwealth.*
- (3) *Each member of the board shall serve a term of three (3) years, except that of the initial appointments to the board, two (2) members shall be appointed for two (2) years, two (2) members shall be appointed for three (3) years, and one (1) member shall be appointed for one (1) year. No member of the board shall serve more than the greater of eight (8) consecutive years or two (2) full terms. The Governor may remove any member of the board for misconduct, incompetence, or neglect of duty.*
- (4) *The board shall meet at least annually and may meet at other times if necessary to complete required business. A quorum of the board shall consist of a majority of board members currently appointed. The board shall annually elect a chairperson and vice chairperson who shall be licensed under this chapter.*
- (5) *There shall be no liability on the part of, and no action for damages against, any current or former board member, representative, agent, or employee of the board, when the person is acting with ordinary care, is functioning within the scope of board duties, is acting without malice, and has the reasonable belief that the actions taken by him or her are warranted by law.*
- (6) *Members of the board shall receive a per diem reimbursement of reasonable expenses incurred as determined by the board in consultation with the Division of Occupations and Professions for each day actually engaged in the duties of the office.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

*The board shall:*

- (1) *Promulgate administrative regulations to:*
- (a) *Establish licensure categories and issue licenses for orthotists, prosthetists, pedorthists, and orthotic fitters;*
- (b) *Establish the qualifications, educational courses, curriculum, hours, and standards that are prerequisite to issuance of all levels and types of licensure established pursuant to paragraph (a) of this subsection. Any qualifications established by the board shall include the following:*
1. *To qualify for a license to practice orthotics or prosthetics, a person shall:*

- a. *Possess a minimum of a baccalaureate degree from an accredited college or university;*
  - b. *Complete a CAAHEP accredited education program in orthotics, prosthetics, or both;*
  - c. *Complete a residency as defined in this chapter in the discipline for which a license is sought;*
  - d. *Pass all written and practical examinations in any combination that is required and approved by the board; and*
  - e. *Be qualified to practice in accordance with internationally accepted standards of orthotic and prosthetic care;*
2. *To qualify for a license to practice pedorthics, a person shall:*
- a. *Possess a minimum of a high school diploma or comparable credential approved by the board;*
  - b. *Complete an NCOPE-approved pedorthic education program;*
  - c. *Pass all written and practical examinations that are required and approved by the board;*
  - d. *Have a minimum of one thousand (1,000) hours of pedorthic patient care experience as approved by the board;*
  - e. *Be qualified to practice in accordance with nationally accepted standards of pedorthic care;*
3. *To qualify for a license to practice as an orthotic fitter, a person shall:*
- a. *Possess a minimum of a high school diploma or comparable credential approved by the board;*
  - b. *Complete an NCOPE-approved orthotic fitter course;*
  - c. *Pass all examinations that are required and approved by the board;*
  - d. *Complete a minimum of one thousand (1,000) hours of experience in orthotic fitting as approved by the board;*
  - e. *Be qualified to practice in accordance with nationally accepted standards of care acceptable to the board;*
4. *Provisions that a person may be licensed in more than one (1) discipline;*
- (c) *Establish the circumstances or conditions, if any, under which persons may be exempt from licensure after completion of training, while waiting to take or receive the results of any required examination, or upon meeting specified minimum educational and clinical qualifications;*
  - (d) *Select the examination or examinations to be utilized as the board's licensure examination or examinations and the prerequisites for admission to the examination or examinations. The board may enter into a contract or agreement with the chosen examination service or services, or select an intermediary between the board and the examination service or services, to process applicants for the examination or examinations;*
  - (e) *Establish any other criteria for licensure that are reasonably related to the safe and competent performance of prosthetics, orthotics, and pedorthics;*
  - (f) 1. *Establish the fees to be paid for each of the following:*
    - a. *Application for licensure;*
    - b. *Renewal or reinstatement of licensure;*
    - c. *Late renewal of licensure;*
    - d. *Application for continuing education course approval; and*
    - e. *Duplicate or replacement license.*

2. *The fees shall be set at a level that is adequate to pay all of the expenses of implementing and administering licensure under this chapter;*
- (g) *Establish the continuing education requirements for licensees, which shall include the frequency of reporting, number of hours, types of courses, approval of courses, methods of proving compliance, penalties for violation, and all fees necessary for implementing the continuing education process; and*
- (h) *Delineate the standards of practice for persons licensed under this chapter; and*
- (2) *Administer and enforce the provisions of this chapter and evaluate the qualifications of applicants for licensure.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

*The board may:*

- (1) *Employ needed personnel and contract with the Division of Occupations and Professions within the Public Protection Cabinet for the provision of administrative services;*
- (2) *Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter;*
- (3) *Seek injunctive relief in the Circuit Court of the county where the violation occurred to stop the unlawful practice of prosthetics, orthotics, and pedorthics by unlicensed persons;*
- (4) *Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of this chapter;*
- (5) *Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, issue written reprimands or admonishments, or impose any combination of these penalties;*
- (6) *Grant retired or inactive licensure status under conditions set forth by the board by the promulgation of administrative regulations; and*
- (7) *Issue advisory private letter rulings to any affected licensee who makes such a request regarding any matters within the board's primary jurisdiction. Any private letter ruling shall affect only the person making the inquiry and shall have no precedential value for any other inquiry or future contested case that might come before the board. Any dispute regarding a private letter ruling may, if the board chooses to do so, be resolved pursuant to KRS Chapter 13B.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) *Any license issued by the board shall contain the name of the person to whom it is issued, the address of the person, the date and number of the license, and other information the board deems necessary. The address contained on the license shall be the address where all correspondence and renewal forms from the board shall be sent. Any person whose address changes shall, within thirty (30) days after the address change, notify the board of the address change. The most recent address contained in the board's records for each licensee shall be the address deemed sufficient for purposes of service of process.*
- (2) *Every licensee shall either keep his or her license prominently displayed in the office or place in which the licensee practices or have it stored in a place from which it can be immediately produced upon request of a patient or a representative of the board.*
- (3) *Any person whose license has been lost or destroyed may apply to the board for a replacement. This application shall be accompanied by an affidavit setting out the facts concerning the loss or destruction of the original license and the payment of a reasonable replacement fee as established by the board in subsection (1)(f) of Section 4 of this Act.*
- (4) *Any person whose name is changed by marriage or court order or who changes employment, home address, or telephone shall notify the board in writing within thirty (30) days of the change.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) *On and after January 1, 2013, no person shall practice any profession governed by this chapter, or hold himself or herself out as being able to practice any such profession, or dispense a custom orthosis, prosthesis, or pedorthic device, unless that person is licensed by the board.*

- (2) (a) *Until January 1, 2013, a person certified by the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC), with the title of Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Prosthetist/Orthotist (CPO), or by the Board of Certification/Accreditation, International (BOC) with the title of Board of Certification-Orthotist (BOCO), Board of Certification-Prosthetist (BOCP), or Board of Certification-Prosthetist/Orthotist (BOCPO), or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted orthotic or prosthetic licensure by the board, upon payment of the required fee and after the board has completed a review of the applicant's work history. The board shall complete its review for the purposes of this section within six (6) months of the date of application. The review may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.*
- (b) *Until January 1, 2013, an orthotist or prosthetist certified by either the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC), or the Board of Certification/Accreditation, International (BOC), shall be held to the standards of practice enforced by the board that has certified the orthotist or prosthetist. For these purposes, certification by either board shall be considered equally valid and enforceable regarding pedorthist certification and standards of practice.*
- (c) *After December 31, 2012, any applicant for licensure as an orthotist or a prosthetist shall meet the requirements of this chapter regarding the applicable license.*
- (3) (a) *Until January 1, 2013, a person certified as a Certified Pedorthist (C.Ped) by the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC), or certified as a Board of Certification-Pedorthist (BOCPD) by the Board of Certification/Accreditation, International (BOC), or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted pedorthic licensure under this chapter, upon payment of the required fee and after the board has completed a review of the applicant's work history. The board shall complete its review for the purposes of this section within six (6) months of the date of application. The review may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.*
- (b) *Until January 1, 2013, a pedorthist certified by either the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC), or the Board of Certification/Accreditation, International (BOC), shall be held to the standards of practice enforced by the board that has certified the pedorthist. For these purposes, certification by either board shall be considered equally valid and enforceable regarding pedorthist certification and standards of practice.*
- (c) *After December 31, 2012, any applicant for licensure as a pedorthist shall meet the requirements of the board regarding licensure.*
- (4) *Notwithstanding any other provision of this chapter to the contrary, as an alternative mechanism for those in practice who are not currently certified, a person who has practiced full-time for a minimum of the past four (4) years in a prosthetic/orthotic/pedorthic facility as an orthotist, prosthetist, or pedorthist, may file an application with the board before January 1, 2013, in order to continue to practice orthotics, prosthetics, or pedorthics, and may be issued a license to practice orthotics, prosthetics, or pedorthics by the board without examination, upon the board's receipt of payment of the required licensing fee and after the board has completed a review of the applicant's work history. The board shall complete its review for the purposes of this section within six (6) months of the date of application. The review may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.*
- (5) (a) *Until January 1, 2013, a person certified as a Certified Fitter-orthotics (CFo) by the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC), or certified as a Certified Orthotic Fitter (COF) by the Board of Certification/Accreditation, International (BOC), or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted licensure as an orthotic fitter under this chapter, upon payment of the required fee and after the board has completed a review of the applicant's work history. The board shall complete its review for the purposes of this section within six (6) months of the date of application. The review may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.*

- (b) *Until January 1, 2013, an orthotic fitter certified by either the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC), or the Board of Certification/Accreditation, International (BOC), shall be held to the standards of practice enforced by the board that has certified the orthotic fitter. For these purposes, certification by either board shall be considered equally valid and enforceable regarding orthotic fitter certification and standards of practice.*
  - (c) *After December 31, 2012, any applicant for licensure as an orthotic fitter shall meet the requirements of the board regarding licensure.*
- (6) *Notwithstanding any other provision of this chapter to the contrary, a person who has practiced full-time for a minimum of the past four (4) years in a prosthetic/orthotic facility as an orthotic fitter, may file an application with the board before January 1, 2013, in order to continue to practice as an orthotic fitter, and shall be issued a license to practice as an orthotic fitter by the board without examination, upon the board's receipt of payment of the required licensing fee and after the board has completed a review of the applicant's work history. The board shall complete its review for the purposes of this section within six (6) months of the date of application. The review may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

*A licensee may provide care or services only if the care or services are provided pursuant to an order from:*

- (1) *A licensed health care practitioner authorized to issue such an order; or*
- (2) *A physician licensed under KRS Chapter 311 or an advanced registered nurse practitioner licensed under KRS Chapter 314, if the care or services are eligible for reimbursement from Medicare, Medicaid, or health insurance.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) *The scope of practice of a licensee shall not include the right to diagnose a medical problem or condition or the right to give medical advice as to the nature, cause, or treatment for the problem or condition for which the orthotic, prosthetic, or pedorthic device is being dispensed. However, the scope of practice of a licensee shall include the right to provide information or demonstration regarding the proper use and care of the device and to make adjustments to the device as needed.*
- (2) *No person shall dispense or sell a custom or custom-fit device, based upon an image of the customer's limb captured by the person through a mold, cast, scanning device, digital appliance, or pressure sensitive device, unless the customer has first presented to that person a written prescription for that device from a health care practitioner or provider authorized by law to write such a prescription.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

*Nothing in this chapter or in the administrative regulations promulgated by the board pursuant to this chapter shall be interpreted to limit or restrict:*

- (1) *A licensed health care practitioner or provider from engaging in the full scope of practice authorized by the license for that person's profession, training, or services;*
- (2) *A person licensed as a physical therapist under KRS Chapter 327 or as an occupational therapist under KRS Chapter 319A from engaging in that person's profession pursuant to his or her education and training;*
- (3) *A person certified as an athletic trainer under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;*
- (4) *A person licensed as a physician under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;*
- (5) *A person licensed as a chiropractor under KRS Chapter 312 from engaging in that person's profession pursuant to his or her education and training;*
- (6) *A person licensed as a pharmacist under KRS Chapter 315 from engaging in that person's profession pursuant to his or her education and training;*



- (7) *A person certified as a therapeutic shoe fitter by a nationally recognized board from engaging in that person's profession pursuant to his or her education and training and within that person's scope of practice as defined by the certifying board;*
- (8) *Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting, or adjusting any noncustom fabricated and fitted device including but not limited to over-the-counter devices, so long as such individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical condition, and so long as such individual meets one (1) of the following criteria for the device:*
- (a) *Documented training from a manufacturer or training from a licensed or certified orthotist, prosthetist, or pedorthist;*
  - (b) *Certification or registration as a fitter of orthotic, prosthetic, or pedorthic devices from a nationally recognized board or association such as the Board of Certification/Accreditation, International (BOC), the National Community Pharmacists Association (NCPA), or the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC); or*
  - (c) *Direct supervision by a trained and experienced, or certified, or registered, fitter of orthotic, prosthetic, or pedorthic devices; or*
- (9) *Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting, or adjusting any noncustom fabricated and fitted pedorthic devices including but not limited to diabetic shoes, so long as the individual meets the criteria of either subsection (8)(a) or (8)(b) of this section, and so long as the individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical problem.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

*This chapter shall not apply to:*

- (1) *The practice of orthotics, prosthetics, or pedorthics by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;*
- (2) *The practice of orthotics, prosthetics, or pedorthics by:*
  - (a) *A student enrolled in a school of orthotics, prosthetics, or pedorthics;*
  - (b) *A resident continuing his or her clinical education in a residency accredited by CAAHEP or NCOPE;*
  - (c) *A student in a qualified work experience program or internship in pedorthics; or*
  - (d) *A physician licensed under KRS Chapter 311; or*
- (3) *The measuring, fitting, or adjusting of an orthotic device by an employee or authorized representative of an orthosis manufacturer registered with the federal food and drug administration, when the employee or representative is directly supervised by a licensed health care professional authorized by law to prescribe, measure, or fit the device, and the measuring, fitting, or adjusting of the device occurs in the office of the licensed health care professional or in a health care facility.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

*No person shall profess to be a licensee, or practice or assume the duties incident to a license issued under this chapter, or use the title "orthotist," "prosthetist," "pedorthist," "orthotic fitter," or any words or letters which designate or tend to designate to the public that the person is an orthotist, prosthetist, pedorthist, or orthotic fitter, unless he or she holds a valid, current license from the board.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) *Every license issued under this chapter shall expire on June 30 following the date of issuance unless sooner revoked and canceled.*
- (2) *On or before June 1 of each year, the board shall send notices to all licensees, at their last known addresses, advising them that the annual renewal fee is due on July 1 of each year. Every licensee shall renew his or*

*her license on or before July 1 of each year by the payment to the board of an annual renewal fee which shall be a reasonable fee set by administrative regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. If this renewal fee is not paid or the statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee by mail at his or her last known address that the fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee, and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If these fees, penalties, and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.*

- (3) *All fees collected under the provisions of this chapter, or the administrative regulations adopted pursuant to this chapter, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of this chapter, including but not limited to salaries and necessary travel expenses.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

*The board is authorized in its sound discretion to:*

- (1) *Enter into reciprocal agreements with corresponding boards of other states having qualifications and standards at least as high as those of this state, providing for reciprocal licensure without further examination of persons who have been duly licensed upon written examination. Approval of such agreements by the Governor, or any other officer or agency of this state, shall not be required; and*
- (2) *Issue licenses by reciprocity or endorsement, and without further examination, to persons who have been duly licensed upon written examination in another state having qualifications and standards at least as high as those of this state, or who have successfully passed the appropriate national examination.*

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) *The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions where the licensee or applicant for licensure has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:*
- (a) *Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;*
- (b) *Unprofessional conduct as defined by administrative regulations promulgated by the board or violation of the code of ethics promulgated by the board through administrative regulations;*
- (c) *Being convicted of a felony in any court if the act or acts for which the applicant or licensee was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of the licensed profession;*
- (d) *Violating any lawful order or administrative regulation rendered or promulgated by the board; or*
- (e) *Violating any provision of this chapter.*
- (2) *A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon an applicant or licensee may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board may accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.*
- (3) *The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) *Until January 1, 2013, any person who practices as an orthotic fitter, orthotist, prosthetist, or pedorthist in violation of this chapter shall be subject to only a warning for the first offense. The person shall be granted thirty (30) days to comply with the provisions of this chapter. Any subsequent offenses committed at any time shall be subject to the relevant penalties in subsection (2) of this section.*

- (2) *Except as otherwise indicated in subsection (1) of this section, any person who violates any provision of this chapter shall be guilty of a Class A misdemeanor and shall pay a fine not to exceed five thousand dollars (\$5,000) per violation.*

➔Section 17. The initial appointments of the four orthotists, prosthetists, or pedorthists to the Kentucky Board of Prosthetics, Orthotics, and Pedorthics shall include at least one pedorthist and shall consist of orthotists, prosthetists, or pedorthists who are not licensed under KRS Chapter 319B but who have engaged in their respective practices for at least two years. Once licensing under KRS Chapter 319B is implemented, orthotists, prosthetists, or pedorthists appointed to the board shall hold the requisite license.

➔Section 18. Sections 2 to 18 of this Act shall be known and may be cited as the "Henry Brown Prosthetics, Orthotics, and Pedorthics Act."

**Signed by Governor April 12, 2010.**