

AN ACT relating to prosthetics, orthotics, and pedorthics.

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

➔SECTION 1. 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) "Certified orthotic fitter" means a person who is certified under this chapter to fit the following non-custom orthotic devices:*

*(a) Cervical orthoses not requiring more than minor modification;*

*(b) Pressure gradient hose;*

*(c) Trusses;*

*(d) Prefabricated spinal orthoses, except those used in the treatment of scoliosis, 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;*

*(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. In the case of an orthotic/prosthetic facility, the orthotic/prosthetic facility has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic or prosthetic care; and, in the case of a pedorthic facility, the pedorthic facility has the appropriate clinical space and equipment to provide pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be available to either provide care or to supervise the provision of care by nonlicensed staff;

(6) "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;

(7) "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;

(8) "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;

(9) "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 drug store, department store, corset shop, or surgical supply facility;

(10) "Orthotic and prosthetic education program" means a course of instruction

accredited by the Commission on Accreditation of Allied Health Education Programs, 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;

(11) "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;

(12) "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;

(13) "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;

(14) "Pedorthic device" means therapeutic footwear, foot orthoses for use at the ankle or below, and modified footwear made for therapeutic purposes, as prescribed by a licensed health care practitioner or provider authorized by law to issue such 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;

(15) "Pedorthic education program" means a course of instruction accredited by the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc., 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;

(16) "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 order for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;

(17) "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 order for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities;

(18) "Person" means a natural person;

(19) "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, ears, or dental appliances, cosmetic devices such as artificial breasts, eyelashes, or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body;

(20) "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 order;

(21) "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;

(22) "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; and

(23) "Resident" means a person who has completed an education program in either orthotics or prosthetics and is continuing such person's clinical education in a residency program approved by the board.

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

There is hereby established the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, which 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 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 appointed and vacancies shall be filled from four (4) separate lists of three (3) names each submitted by the Kentucky Orthotics and Prosthetics Association. Each person on this list shall be a licensed orthotist, prosthetist, or pedorthist licensed under this chapter. All shall be residents of Kentucky and shall have engaged in the unrestricted practice of orthotics, prosthetics, or pedorthics within this state for at least two (2) years without disciplinary action. At least one (1) board member appointed under this subsection shall be a licensed pedorthist.

(3) All appointments to the board after the effective date of this Act shall be for a term of four (4) years and until their successors are appointed and qualify. No member shall serve for more than two (2) successive terms, or for more than ten (10) consecutive years. 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 such other times as necessary to complete the business required. A majority of the members of the board shall constitute a quorum for the transaction of business. Annually the

board shall elect from its membership a chair, a secretary, and a chair-elect.

(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 functioning within the scope of board duties, acting without malice, and with the reasonable belief that the actions taken by him or her are warranted by law.

(6) Each board member shall receive, in addition to travel, lodging, and other actual and necessary expenses, a per diem not to exceed one hundred twenty dollars (\$120) for each day the member is actually engaged in the discharge of official duties approved by the board. The board shall, by promulgation of administrative regulations, set the amount of the per diem.

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

The board shall:

(1) Promulgate administrative regulations to:

(a) Establish licensure and certification categories and issue licenses for orthotists, prosthetists, and pedorthists, and certificates for certified orthotic fitters;

(b) Establish the qualifications, educational courses, curriculum, hours, and standards that are prerequisite to issuance of all levels and types of licensure or certification 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 baccalaureate degree or semester hours equivalent to four (4) years of study at a four-year college or university;

- b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
  - c. Complete a clinical residency in the professional area for which a license is sought, in accordance with standards, guidelines, or procedures for residencies inside or outside this state established and approved by the board. The majority of training shall be devoted to services performed under the supervision of a licensed practitioner or provider of orthotics or prosthetics or a person who has obtained certification from the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. or the Board for Orthotist/Prosthetist Certification;
  - d. Pass all written, practical, and oral examinations that are required and approved by the board; and
  - e. Be qualified to practice in accordance with commonly accepted standards of orthotic and prosthetic care acceptable to the board;
2. To qualify for a license to practice pedorthics, a person shall:
- a. Possess a high school diploma or comparable credential approved by the board;
  - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
  - c. Pass all examinations that are required and approved by the board;
  - d. Complete a qualified work experience program or internship in pedorthics, in accordance with standards and procedures established by the board; and

- e. Be qualified to practice in accordance with commonly accepted standards of pedorthic care acceptable to the board;*
- 3. To qualify for a license to practice as a certified orthotic fitter, a person shall:*
  - a. Possess a high school diploma or comparable credential approved by the board;*
  - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;*
  - c. Pass all examinations that are required and approved by the board;*
  - d. Complete a qualified work experience program or internship, in accordance with standards and procedures established by the board; and*
  - e. Be qualified to practice in accordance with commonly accepted standards of care acceptable to the board; and*
- 4. A person may be licensed or certified in more than one discipline;*
- (c) Establish the circumstances or conditions, if any, under which persons shall be entitled to exemption from licensure or certification 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 or certification examination or examinations and the prerequisites for admission to the examination or examinations. The board is authorized to 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 issuance of licensure or certification that are reasonably related to the safe and competent performance of prosthetics, orthotics, and pedorthics;
- (f) Accredit continuing education courses;
- (g) 1. Establish the fees to be paid for each of the following:
- a. Application for licensure or certification;
  - b. Renewal or reinstatement of licensure or certification;
  - c. Late renewal of licensure or certification;
  - d. Application for continuing education course accreditation; and
  - e. Duplicate or replacement license or certificate;
2. The fees shall be set at a level that is adequate to pay all of the expenses of implementing and administering licensure or certification under this chapter;
- (h) Establish the continuing education requirements for license or certificate holders, 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 implementation of the continuing education process; and
- (i) Delineate the standards of practice for persons licensed or certified under this chapter; and
- (2) Administer and enforce the provisions of this chapter and evaluate the qualifications of license and certificate applicants.

➔SECTION 4. 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 Finance and Administration 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 or certificates or impose supervisory or probationary conditions upon licensees or certificate holders, or impose administrative disciplinary fines, issue written reprimands or admonishments, or any combination thereof;
- (6) Grant retired or inactive licensure or certification 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 or certificate holder 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 5. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Any license or certificate 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 or certificate, and other information the board deems necessary. The address contained on the license or certificate 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 license or certificate holder shall be the address deemed sufficient for purposes of service of process.

(2) Every licensee or certificate holder shall either keep his or her license or certificate prominently displayed in the office or place in which the licensee or certificate holder 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 or certificate has been lost or destroyed may make application 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 or certificate and the payment of a reasonable replacement fee as established by the board in subsection (1)(g) of Section 3 of this Act.

(4) Any person whose name is changed by marriage or court order may surrender the person's license or certificate and apply to the board for a replacement license or certificate.

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

(1) On and after July 1, 2010, no person shall practice any profession governed by this chapter, or hold out as being able to practice any such profession, or dispense an orthosis, prosthesis, or pedorthic device, unless such person is licensed or certified by the board.

(2) Until July 1, 2010, a person certified by the American Board for Certification in

Orthotics, Prosthetics and Pedorthics, Inc., with the title of Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Orthotist-Prosthetist (CPO), or by the Board for Orthotist/Prosthetist Certification with the title of Board of Orthotic Certification -- Orthotist (BOCO) or Board of Certification -- Prosthetist (BOCP), 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 an investigation of the applicant's work history. The investigation may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice. After July 1, 2010, any applicant for initial licensure as an orthotist or a prosthetist shall meet the requirements of this chapter regarding the applicable license.

- (3) Until July 1, 2010, a person certified as a CO, CP, or CPO by the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc., or certified as a BOCO or BOCP by the Board for Orthotist/Prosthetist Certification, 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 an investigation of the applicant's work history. The investigation may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice. Until that date, a pedorthist certified by either the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc., or the Board for Orthotist/Prosthetist Certification 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. After that date, any applicant for initial licensure as a pedorthist shall meet the requirements of the board regarding licensure.

(4) Notwithstanding any other provision of this chapter to the contrary, a person who has practiced full time for a minimum of the past five (5) years in a prosthetic/orthotic facility as an orthotist or prosthetist, or in a pedorthic facility as a pedorthist, may file an application with the board before July 1, 2009, 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 an investigation of the applicant's work history. The investigation 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) Until July 1, 2010, any application for licensure made under subsection (2) or (3) of this section shall be rejected by the board unless the application is based on a certification that was originally held by the applicant prior to January 1, 2008.

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

A licensee or certificate holder 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 licensed physician, if the care or services are eligible for reimbursement from Medicare, Medicaid, or health insurance.

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

(1) The scope of practice of a licensee or certificate holder 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 or certificate holder does 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 an over-the-counter 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 9. 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) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom 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 for Orthotist/Prosthetist Certification (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
- (8) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom fabricated and fitted pedorthic devices including but not limited to diabetic shoes, so long as such individual meets the criteria of either subsection (7)(a) or (7)(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 10. 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 the National Commission on Orthotic and Prosthetic Education;*
- (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 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 11. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

*No person shall profess to be a licensee or certificate holder, or practice or assume the duties incident to a license issued under this chapter, or use the title "orthotist," "prosthetist," "pedorthist," "certified 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 certified orthotic fitter, unless he or she holds a valid, current license or certificate from the board.*

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

- (1) Every license or certificate 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 licensee or certificate holders, at their last known addresses, advising them that the annual renewal fee is due on July 1 of each year. Every licensee or certificate holder shall renew his or her license or certificate 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 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 such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee or certificate holder 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 such fees, penalties, and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license or certificate 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 rules and regulations adopted pursuant thereto, 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. No part of this fund shall revert to the general fund of this Commonwealth.

➔SECTION 13. 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 or certification without further examination of persons who have been duly licensed or certified 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 or certificates by reciprocity or endorsement, and without further examination, to persons who have been duly licensed or certified 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 14. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) The board may deny or refuse to renew a license or certificate, may suspend or revoke a license or certificate, or may impose probationary conditions where the licensee, certificate holder, or applicant for licensure or certification 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 or certificate by means of fraud, misrepresentation, or concealment of material facts;
- (b) Unprofessional conduct as defined by administrative regulations promulgated by the board or violating the code of ethics promulgated by the board;
- (c) Being convicted of a felony in any court if the act or acts for which the applicant, licensee, or certificate holder 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 or certified 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 a license or certificate 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 shall have discretion to accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.
- (3) The surrender of a license or certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

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

Fees shall be collected and determined by the board for the following:

(1) Licensed orthotist, prosthetist, or pedorthist:

- (a) Initial license fee, not to exceed three hundred dollars (\$300);
- (b) License renewal fee, not to exceed three hundred dollars (\$300);
- (c) Late renewal fees, not to exceed one hundred dollars (\$100);
- (d) Reinstatement fee, not to exceed three hundred dollars (\$300);
- (e) Duplicate license fee, not to exceed twenty-five dollars (\$25); and
- (f) Continuing education course accreditation fee, not to exceed fifty dollars (\$50); and

(2) Certified orthotic fitter:

- (a) Initial certificate fee, not to exceed one hundred fifty dollars (\$150);
- (b) Certificate renewal fee, not to exceed one hundred fifty dollars (\$150);
- (c) Late renewal fees, not to exceed fifty dollars (\$50);
- (d) Reinstatement fee, not to exceed one hundred fifty dollars (\$150);

(e) Duplicate certificate fee, not to exceed ten dollars (\$10); and

(f) Continuing education course accreditation fee, not to exceed twenty-five dollars (\$25).

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

(1) Until July 1, 2010, any person who practices as a certified 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 violating any provision of this chapter shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisoned for not more than six (6) months, or both.