



AOPA Model O&P Licensure Bill

Instructions

1. Create a committee or working group of your state association to develop a licensure proposal. Seek out professional assistance in your state. If your state association has a lobbyist, work with them to develop and introduce your bill. Contact AOPA for a copy of the State Association Package for guidance on state legislative activities.
2. Determine the goals of state licensure for your purposes.
3. Review the attached draft model licensure bill.
4. Determine which elements and language from the model meet your goals and purposes. Work with your lobbyist, the state's legislative counsel and/or state representative to develop specific language for your proposal.

I. Findings

Determine if all, some, none or other findings fit your state's specific goals and needs.

II. Definitions

Go through each definition and determine if all, some, none or other definitions promote the purpose of your proposal.

Determine your definition of the scope of practice. Will it be defined as ABC's language or other language to meet your state's specific needs?

III. Licensing Board

A board's authorization and makeup is usually driven by state requirements that are already in place. So this section needs state specific information that only can be determined state by state. You will need the assistance of legislative counsel or staff in a state representative's office to help with this.

Also, this is just suggested language. It can be altered to fit your specific needs and goals.

IV. Scope of Authority For Licensing Board

Review this section carefully and determine which sections you want to include in your proposal. There may be state requirements or guidelines that must be followed when developing this section. Research other licensure laws in your state for specific requirements.

V. Licensure Eligibility Standards

This language reflects ABC requirements for certification. You may choose to list all the requirements or simply state that ABC certification is the baseline for eligibility. You may also choose other certifying groups requirements.

VI. Grandfather Sections

Two examples of grandfather sections are included for your review. They share some elements, yet are very distinct.

This is another area where you will have to be very careful of state specific requirements. Research other laws in your state that have grandfather sections for suggested language.

VII. Temporary Licensure/Student Registration

Use elements of this section as they fit your needs. Other license laws in your state could provide state specific information.

VIII. Reciprocity

Reciprocity is usually included in licensure legislative proposals. This is a generic section that can be altered to fit your state's requirements.

IX. Penalties

Use elements of this section as they fit your needs. Other license laws in your state could provide state specific information. Determine whether you want your law to only impact licensed personnel or also those operating without a license.

5. Work with your lobbyist to have a state representative in each house of the legislature to introduce your bill.

DRAFT – MODEL LICENSURE BILL

I. FINDINGS

The Legislature finds and declares that:

- The practice of orthotics and prosthetics is an allied health service;
- The practice of orthotics and prosthetics provides important services for the rehabilitation of the physically challenged, retuning the function of the individual so that they can be contributing members of this State;
- The practice of orthotics and prosthetics serves to improve and enhance the lives of individuals with disabilities, by enabling them to resume productive lives following serious illness, injury or trauma;
- Orthotic and prosthetic devices and services are an essential component of the overall rehabilitative process for individuals with disabilities;
- The increasing populations of elderly and physically challenged individuals who need orthotic and prosthetic services requires that the orthotic and prosthetic profession be regulated to ensure the provision of high quality services and devices;
- Citizens of this State deserve the best care available, and will benefit from the assurance of initial and ongoing professional competence of the orthotists and prosthetists practicing in this State;
- Disabled individuals and the public at large will benefit from the assurance of an initial and ongoing professional competence by orthotic and prosthetic practitioners, which may only be attained through appropriate regulation and monitoring by the State;
- Licensure of the orthotic and prosthetic profession will help ensure the health and safety of consumers, as well as maximize their functional abilities and productivity levels, and is in keeping with State requirements imposed on similar health disciplines;
- The present unregulated system for dispensing orthotic and prosthetic care does not adequately meet the needs or serve the interests of the public; and
- In order to promote the welfare of the physically challenged and advance the highest levels of competency and ethics in the practice of orthotics and prosthetics, it is necessary for this State to regulate and license the practice of orthotics and prosthetics.

II. DEFINITIONS

Board - the [state] Board of Orthotics and Prosthetics.

Person - for the purposes of this Act, an individual.

Orthotics - the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting or servicing an orthosis under an order from a licensed physician, chiropractor or podiatrist for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury or deformity.

Prosthetics - the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting or servicing a prosthesis under an order from a licensed physician.

Orthosis – a custom-fabricated or custom-fitted brace or support designed to provide for alignment, correction or prevention of neuromuscular or musculoskeletal dysfunction, disease, injury or deformity. The term does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hose, canes, crutches, cervical collars, dental appliances or other similar devices carried in stock and sold by a drug store, department store, corset shop or surgical supply facility.

Prosthesis – an artificial medical device that is not surgically implanted and that is used to replace a missing limb, appendage, or any other external human body part including an artificial limb, hand or foot. The term does not include artificial eyes or ears, dental appliances, cosmetic devices such as eyelashes or wigs, or other devices that do not have significant impact on the musculoskeletal functioning of the body.

Orthotist – a person who measures, designs, fabricates, fits and services orthoses prescribed by a licensed physician, or a physician licensed to practice podiatric medicine, for the support or correction of disabilities caused by neuromusculoskeletal diseases, injuries or deformities.

Prosthetist – a person who measures, designs, fabricates, fits and services prostheses prescribed by a licensed physician, for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences.

Prosthetist/Orthotist – any person who practices both disciplines of prosthetics and orthotics and who represents himself to the public by title or by description of services.

Licensed Orthotist – a person licensed under this Act who practices orthotics and represents the person to the public by title or description of services that includes the term “orthotic(s)”, “orthotist”, “brace(s)” or similar title or description of services.

Licensed Prosthetist – a person licensed under this Act who practices prosthetics and represents the person to the public by title or description of services that includes the term “prosthetic(s)”, “prosthetist”, “artificial limb(s)” or a similar title or description of services.

Licensed Prosthetist/Orthotist – a person licensed under this Act who practices both prosthetics and orthotics and represents the person to the public by the title or description of services that includes the term “prosthetic(s)”, “orthotics (s)”, “prosthetist/orthotist”, “artificial limb(s)”, “brace(s)” or a similar title or description of services.

Scope of Practice – Scope of practice should be defined.

III. LICENSING BOARD

- The (insert name of state) State Board of Orthotists and Prosthetists is created as a part of the Department of _____.
- The Board shall consist of ___ members to be appointed by the Governor. ___ member/s shall be [a] practicing Orthotist/s; ___ member/s shall be [a] practicing Prosthetist/s; ___ member/s shall be [] practicing Prosthetist/Orthotist/s; ___ member/s shall be members of the public, including consumers of orthotic and prosthetics professional services; and ___ member/s shall be licensed by the State as a doctor of medicine or doctor of osteopathy, specializing in orthopaedic medicine/surgery, or a doctor of podiatry.
- The administrative director of the Board may serve as an ex-officio member of the Board, without vote.
- Each member of the Board, except the ex-officio member, shall serve a term of ___ years and shall hold office and execute his/her Board responsibilities until the qualification and appointment of his/her successor. Except for the ex-officio member, no member of the Board shall serve more than ___ consecutive years or two full terms, whichever is greater.
- The ex-officio member of the Board shall serve only so long as he/she occupies the incumbent’s position as administrative director of the Board. In the event of a vacancy within the administrative director’s position, the acting administrative director may serve on the Board, in the interim.

- Except for the ex-officio member, all members of the Board shall serve with or without compensation. The ex-officio member shall be compensated according to the State's compensation program for his/her duties and responsibilities.
- All Board members shall be reimbursed for necessary and reasonable expenses, including travel and out-of-pocket costs, for fulfilling his/her duties and responsibilities as a member of the Board pursuant to established State procedures.
- Except for the ex-officio member, a member may be removed from the Board by the Governor for:
 - Loss of license as an orthotist, prosthetist or prosthetist/orthotist;
 - Loss of license as a doctor of medicine, doctor of osteopathy or doctor of podiatry;
 - Failure to fulfill his/her duties and responsibilities as a Board member; or
 - Having been found to be culpable for committing acts of moral turpitude, malfeasance in office, or criminal behavior.
- The ex-officio member may be removed only if he/she is removed from or vacates the position of administrative director of the Board.

IV. SCOPE OF AUTHORITY FOR LICENSING BOARD

- The Board shall be responsible for the licensure of orthotics, prosthetics, and prosthetics/orthotics, orthotic and/or prosthetic assistants, and person eligible to be licensed in the disciplines of orthotics and/or prosthetics as licensed orthotists, prosthetists, prosthetists/orthotists, or assistants.
- The Board shall review applications for licenses at least once a year. The Board may collect license application fees, renewal fees, examination fees and other administrative fees. The Board shall set the fees in amounts reasonable and necessary to carry out the program.
- The Board shall approve any examination required for a license under this Act.
- The Board may:
 1. investigate complaints

2. issue, suspend, deny and revoke licenses,
 3. reprimand license holders and place them on probation
 4. issue subpoenas
 5. hold hearings
 6. delegate authority for all or a portion of the above activities to a qualified contractor
 7. determine fines
- The Board shall adopt rules and regulations in accordance with the Administrative Procedures Act of this State in order to carry out its mission.
 - The Board shall maintain an information file about each complaint filed with the Board. The Board shall also notify parties to the complaint quarterly as to the status of the complaint unless such action would jeopardize an ongoing investigation.
 - The Board shall assist legal authorities in the prosecution of any person violating this Act.
 - The Board shall prepare or approve continuing education programs for license holders and shall adopt rules requiring license holders to participate in such programs as a condition of renewing a license under this Act.
 - The Board may make arrangements to accept practitioners who have been duly licensed by another state without further examination.

V. LICENSURE ELIGIBILITY STANDARDS

To be eligible for a license to practice orthotics and prosthetics in this State, an individual shall:

- Possess a baccalaureate degree from an accredited college or university;
- Have the amount of formal training, including any hours of classroom education and clinical practice, in areas of study as the Board deems necessary and appropriate;
- Complete a clinical internship/residency in the professional area for which a license is sought in accordance with any standards, guidelines, or procedures for clinical internship inside or outside the State established by the Board;
- Pass all written, practical and oral examinations, which shall be required and approved by the Board, or

- Be qualified to practice in accordance with ABC standards.
- The standards and requirements for licensure established by the Board shall be substantially equal to or in excess of standards commonly accepted in the fields of orthotics and prosthetics.
- (Insert Scope of practice language.)

The Board shall generate any and all rules and regulations necessary to effect these requirements.

VI. GRANDFATHER SECTIONS

The following are two examples of Grandfather sections:

New Jersey

Section 12 – Any person who has practiced full-time for the past five years in an established prosthetic-orthotic facility as an orthotist, prosthetist, or prosthetist-orthotist as of the effective date of this Act may file an application with the Board within 180 days of the effective date of this Act in order to continue to practice orthotics and prosthetics under the provisions of this Act. The applicant may obtain a license to practice orthotics or prosthetics under the provision of this Act without taking an examination, as required under subsection d. of section 11 of this Act, upon receipt of payment of the licensing fee required pursuant to section 21 of this Act and after the Board has completed an investigation into the applicant’s work history. [*] The Board shall complete its investigation for the purposes of this section within six months of the date of the application.

[] Suggested additional language for this type of Grandfather section: Such investigation may include, but not be limited to, completion by the applicant of a questionnaire regarding work history and scope of practice.*

Texas

Sec. 23 (c) A person may apply for an exemption from the license requirements adopted by the Board under this section if the person applies not later than the 181st day after the date the Board’s initial rules under this Act are finally adopted and published and the person is a resident of this state who must have provided comprehensive orthotic, prosthetic, or orthotic and prosthetic care in this state for the three years preceding the date of the application.

(d) A person who has not provided comprehensive orthotic, prosthetics, or orthotic and prosthetics care for the three years required by Subsection (c) of this section may obtain a license to practice in this state by completing and passing all written and practical examinations approved and required by the Board.

VII. TEMPORARY LICENSE/STUDENT REGISTRATION

Temporary License

The Board may issue a temporary license to an individual who has:

- become a resident of the State within the last ___ months or who has moved to the State with the intent to fulfill residency requirements;
- applied for licensing as an orthotist, prosthetist or prosthetist/orthotist; and
- been licensed by a state of former residence which has licensing requirements that equal or exceed the requirements of this Act.

A temporary license is valid for one year from the date of issuance, and may be renewed upon presentation of good cause to the Board for up to one additional year.

Student Registration

The Board may issue a student registration certificate to a person who has a bachelor's degree from a college or university accredited by the National Commission on Orthotic and Prosthetic Education and who is working toward fulfillment of the requirements for licensing as an orthotist, prosthetist, or prosthetist/orthotist provided that:

- a student registrant may only work under the direct and immediate supervision of a licensed orthotist or prosthetist who is responsible for the acts of the student registrant, and
- a student registration certificate is valid for no more than two years from the date of issuance, and may be renewed once for an additional two year period.

VIII. RECIPROCITY

The Board may accept in lieu of the examination requirement, proof that an applicant for licensure holds a current license in a state that has licensing requirements that are equivalent to or exceed those of this State or is certified by a national certification organization whose standards are equal to or exceed the licensing requirements of this State.

IX. PENALTIES

The Board may, on notice and opportunity for a hearing, revoke, suspend, or refuse to renew a license, temporary license, or student registration issued to a person under this Act, on finding:

- that the license was obtained by fraud, misrepresentation, or concealment of a material fact;
- that the person engaged in fraud or deceit in connection with services provided;
- that the person engaged in unprofessional or unethical conduct;
- that the person engaged in gross negligence or malpractice; or
- that the person violated this Act or a rule or regulations adopted under this Act.

A person who violates any provision of this Act, or holds himself or herself out as being able to practice orthotics and/or prosthetics in violation of this section, shall, in addition to any other penalties imposed by the Board, be subject to a civil penalty of \$ _____ for the first violation and \$ _____ for each subsequent violation.

In addition to the penalties imposed above, the Board may take any intermediate steps, including formal censure or reprimand, for violations of this section.

X. EFFECTIVE DATE

This Act takes effect _____, 20__.