

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

HOUSE BILL 2012

4  
5 By: Representative Ferguson  
6 By: Senator Bradford

## For An Act To Be Entitled

10 "AN ACT TO AMEND ARKANSAS CODE TITLE 17-96 PERTAINING TO  
11 PODIATRIC MEDICINE; AND FOR OTHER PURPOSES."

### Subtitle

14 "AN ACT TO AMEND ARKANSAS CODE TITLE 17-  
15 96 PERTAINING TO PODIATRIC MEDICINE; AND  
16 FOR OTHER PURPOSES."

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19  
20 SECTION 1. Arkansas Code 17-96-101 is amended to read as follows:  
21 "§ 17-96-101. Definitions.

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

23 (1) "~~Podiatry~~ Podiatric Medicine" means the diagnosis and medical,  
24 mechanical, and surgical treatment of ailments of the human foot;

25 (2) "Podiatrist" means ~~one practicing podiatry~~ a physician legally  
26 licensed to practice Podiatric Medicine. However, no podiatrist shall amputate  
27 the human foot or administer any anesthetic other than a local anesthetic; and

28 (3) "Board" means the Arkansas ~~State Podiatry Examining Board of~~  
29 Podiatric Medicine."

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31 SECTION 2. Arkansas Code 17-96-103 is amended to read as follows:  
32 "§ 17-96-103. Unlawful acts - Penalties.

33 (a) Any person who shall unlawfully obtain registration under this  
34 chapter, whether by false or untrue statements contained in ~~his~~ the application  
35 to the board or by presenting to the board a fraudulent diploma, certificate  
36 for license, or one fraudulently obtained, or by practicing without any

1 registration or certificate, shall be deemed guilty of a misdemeanor.

2 ~~—— (b) Any person now lawfully authorized to practice podiatry in this~~  
 3 ~~state and registered as such who shall advertise or offer to diagnose or treat~~  
 4 ~~ailments of the human foot shall be deemed guilty of a misdemeanor.~~

5 ~~—— (c)~~ (b) Any person who shall swear falsely to any affidavit or oral  
 6 testimony made or given by virtue of the provisions of this chapter or the  
 7 regulations of the board shall be deemed guilty of perjury and upon conviction  
 8 shall be subject to all the pains and penalties of perjury.

9 ~~—— (d)~~ (c) Any person who shall knowingly violate any of the provisions of  
 10 this chapter, upon conviction, shall be fined a sum not exceeding ~~one hundred~~  
 11 ~~dollars (\$100)~~ one thousand dollars (\$1,000) or be imprisoned in the county  
 12 jail not to exceed thirty (30) days."

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14 SECTION 3. Arkansas Code 17-96-104 is amended to read as follows:

15 "§ 17-96-104. Professional corporations.

16 (a) Podiatrists duly licensed to practice as such by the Arkansas ~~State~~  
 17 ~~Podiatry Examining Board of Podiatric Medicine~~ of Podiatric Medicine may form professional  
 18 corporations and practice ~~podiatry~~ podiatric medicine under and in accordance  
 19 with the Arkansas Professional Corporation Act, § 4-29-201 et seq.

20 (b) It shall be unlawful for any foreign corporation organized to  
 21 practice ~~podiatry~~ podiatric medicine to attempt to practice ~~podiatry~~ podiatric  
 22 medicine in this state. However, this subsection shall not prohibit  
 23 podiatrists from associating themselves together in the same suite of offices  
 24 and practicing ~~podiatry~~ podiatric medicine as partners or individuals."

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26 SECTION 4. Arkansas Code 17-96-201 is amended to read as follows:

27 "§ 17-96-201. Creation - Members.

28 (a) The Governor of the State of Arkansas shall appoint an examining  
 29 board to consist of five (5) members appointed on September 1, for terms of  
 30 three (3) years. All members shall be residents of the state for a period of  
 31 one (1) or more years.

32 (1) Three (3) members shall be podiatrists and shall have been  
 33 actually engaged in the practice of ~~podiatry~~ podiatric medicine immediately  
 34 preceding their appointment. They shall be appointed upon recommendation of  
 35 the Arkansas ~~State Podiatry~~ Podiatric Medical Association.

36 (2) Two (2) members of the board shall not be actively engaged in

1 or retired from the profession of ~~podiatry~~ podiatric medicine. One (1) member  
 2 shall represent consumers, and one (1) member shall be sixty (60) years of age  
 3 or older and shall represent the elderly. Both shall be appointed from the  
 4 state at large subject to confirmation by the Senate. The two (2) positions  
 5 may not be held by the same person. Both shall be full voting members but  
 6 shall not participate in the grading of examinations.

7 (b) All vacancies on the board shall be filled by the Governor to serve  
 8 for the unexpired term of the member whose place is rendered vacant."

9

10 SECTION 5. Arkansas Code 17-96-202 is amended to read as follows:

11 "§ 17-96-202. Organization and proceedings.

12 (a)(1) The Arkansas ~~State Podiatry Examining Board~~ of Podiatric  
 13 Medicine shall choose one of its members as president and one as secretary-  
 14 treasurer at each annual meeting to be held in June.

15 (2) The board may meet more often if necessary in the discretion of  
 16 the board at such times and places as it may deem proper for the examination  
 17 of applicants who may wish to practice in this state and for the transaction  
 18 of any other business that may come before it.

19 (3) The board shall make and adopt all necessary rules, regulations,  
 20 and bylaws necessary or convenient to perform its duties and to transact  
 21 business as required by law.

22 (b) The secretary-treasurer shall execute to the board a bond with  
 23 approved security for the faithful performance of his duty.

24 (c)(1) The board shall keep a record book in which shall be registered  
 25 the names, addresses, and license numbers of all persons legally entitled to  
 26 practice in the State of Arkansas.

27 (2) Proceedings of the board shall be recorded in a minute book to  
 28 be open at all reasonable times to public inspection.

29 ~~All the members of the board shall at all times constitute a quorum~~  
 30 ~~for the transaction of business~~ Three (3) members of the board of which two  
 31 (2) shall be podiatrists shall constitute a quorum for the transaction of  
 32 business."

33

34 SECTION 6. Arkansas Code 17-96-301 is amended to read as follows:

35 "§ 17-96-301. License required - Penalty for unlawful practice.

36 (a) It shall be unlawful for any person to profess to be a podiatrist

1 or to practice or assume the duties incident to ~~podiatry~~ podiatric medicine  
 2 unless licensed to do so by the board.

3 (b)(1) If any person shall use the name or title "podiatrist,"  
 4 "chiroprapist," "D.S.C.," "D.P.M.," "foot specialist," or any other word,  
 5 abbreviation, or title to ~~his~~that persons name indicating or designed to  
 6 indicate ~~that he was or is qualified~~the qualifications to practice ~~podiatry~~  
 7 podiatric medicine, without first obtaining from the board a license  
 8 authorizing the practice of ~~podiatry~~ podiatric medicine in this state, it  
 9 shall be deemed prima facie evidence of practicing ~~podiatry~~ podiatric medicine  
 10 within the meaning of this chapter.

11 (2) Upon conviction, the person shall be fined not less than one  
 12 hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned  
 13 for not less than three (3) months nor more than one (1) year, or both. The  
 14 fine and imprisonment are to be at the discretion of the court or jury.

15 (3) Each separate day on which any person so practices or attempts  
 16 to practice or holds ~~himself~~ out to so practice, or does both without such  
 17 registration and certificate as provided in this chapter shall constitute a  
 18 separate and distinct offense."

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20 SECTION 7. Arkansas Code 17-96-302 is amended to read as follows:

21 "§ 17-96-302. Application.

22 (a) All persons who may wish to practice ~~podiatry~~ podiatric medicine in  
 23 this state shall make application, upon a form authorized by the board and  
 24 furnished by it, to the secretary of the board for a license, to be subscribed  
 25 to by the applicant.

26 (b) The applicant shall file with the secretary of the board, at least  
 27 two (2) months prior to an examination, an approved application, on a form  
 28 furnished by the board, covering ~~his~~the applicants personal history and ~~his~~  
 29 preliminary and professional education and such other evidence of  
 30 qualification as the board may require.

31 (c) All applicants for examination who shall furnish the board with  
 32 proper proof of their education and qualifications, upon payment of a fee to  
 33 be established by the board in an amount not to exceed two hundred dollars  
 34 (\$200), shall be examined and, if found qualified, shall be registered and  
 35 receive in testimony thereof a certificate signed by the members of the  
 36 board."

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SECTION 8. Arkansas Code 17-96-303 is amended to read as follows:

"§ 17-96-303. Qualification of applicants.

(a) ~~Except the persons entitled to registration under § 17-96-305, no person shall be entitled to take any examination for such registration unless he shall furnish the board with satisfactory proof that he~~ No person shall be entitled to take any examination for such registration unless that person shall furnish the board with satisfactory proof that he or she:

- (1) Is twenty-one (21) years of age or over;
- (2) Is of good moral character; and
- (3) Has received a license or certificate of graduation from a legally incorporated, regularly established, ~~and recognized~~ school of ~~podiatry~~ podiatric medicine recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association within the states, territories, districts, and provinces of the United States, or within any foreign country.

(b) No applicant shall be entitled to such registration and certificate unless the applicant shall have completed, prior to the beginning of ~~his~~ the applicant's course in ~~podiatry~~ podiatric medicine:

- ~~(1) A minimum requirement of a four-year course in a recognized and reputable high school, or its equivalent, in accordance with the standard set by the board; and~~
- ~~(2)~~ (1) A minimum of three (3) years in an accredited university, or college, of the liberal arts or the sciences.

~~(c) A higher requirement of professional education shall not apply to those graduates of legally organized and recognized schools of podiatry who had graduated from such schools prior to July 1, 1936.~~

~~(d)~~ (c) A diploma issued by an accredited school of ~~podiatry~~ podiatric medicine, approved by the American ~~Podiatry~~ Podiatric Medical Association, bestowing the degree "Doctor of Podiatric Medicine" shall be recognized as a qualification under this chapter only in the event that the diploma represents the actual standards of preliminary and professional education established by the board.

(d) A certificate issued by an accredited podiatric residency program approved by the council on podiatric medical education of the American Podiatric Medical Association as proof of the satisfactory completion of a

1 minimum of a one (1) year post graduate residency program.

2 (1) A podiatrist who graduated prior to 1990 and can show proof of  
 3 continuous practice since graduation is exempt from the residency requirement.

4 (2) Podiatrists who are licensed to practice in the State of  
 5 Arkansas prior to 1997 are exempt from the residency requirement.

6

7 SECTION 9. Arkansas Code 17-96-304 is amended to read as follows:

8 "§ 17-96-304. Examinations.

9 (a) The board may make such rules and regulations governing the conduct  
 10 of the examinations as it shall deem necessary, and willful violation of such  
 11 rules and regulations shall subject the applicant to the loss of the  
 12 examination fee.

13 (b)(1) Examinations shall be in the English language and shall be  
 14 written and clinical.

15 ~~(2) The examinations shall embrace the subjects of histology,~~  
 16 ~~surgery, hygiene, dermatology, anatomy, physiology, materia medica and~~  
 17 ~~therapeutics, foot orthopedics, chemistry, bacteriology, pathology, diagnosis,~~  
 18 ~~and treatment, and such other added subjects as shall be pertinent to~~  
 19 ~~podiatry. However, the examinations shall be limited in their scope as to~~  
 20 ~~cover only the requirements for podiatry education as provided in § 17-96-303~~  
 21 The board shall approve and designate the examinations to be given to those  
 22 individuals who desire a license to practice Podiatric Medicine in the State  
 23 of Arkansas. The board shall set forth the standards for successful  
 24 completion of the examination for licensure.

25 ~~(3) The minimum registration requirements of applicants under this~~  
 26 ~~subchapter shall be based on an average of seventy-five percent (75%) in each~~  
 27 ~~of the subjects involved.~~

28 ~~(4) The board may accept the successful completion of the~~  
 29 ~~examination administered by the National Board of Podiatry Examiners in~~  
 30 ~~satisfaction of the foregoing requirements.~~

31 (c)(1) An applicant who fails to pass an examination satisfactory to  
 32 the board and is therefore refused registration shall be entitled, within six  
 33 (6) months after the refusal, to a reexamination.

34 (2) The examination shall be at a meeting of the board called for  
 35 the examination of applicants.

36 (3) The applicant shall make payment of an additional fee to be

1 established by the board in an amount not to exceed one hundred dollars (\$100)  
2 for each reexamination.

3 (4) Two (2) such reexaminations shall exhaust ~~his~~the privilege under  
4 ~~his~~the original application."

5

6 SECTION 10. Arkansas Code 17-96-305 is amended to read as follows:

7 "§ 17-96-305. ~~Practicing podiatrists.~~ Temporary license.

8 ~~———— (a)(1) Every practitioner of podiatry twenty-one (21) years of age or~~  
9 ~~over and of good moral character shall be registered and issued a certificate~~  
10 ~~of qualification or license without examination, provided that the~~  
11 ~~practitioner shall present proof to the satisfaction of the board that he has~~  
12 ~~been legally engaged in the practice of podiatry in this state prior to the~~  
13 ~~passage of this act.~~

14 ~~———— (2) He shall immediately receive, in the testimony thereof, a~~  
15 ~~certificate signed by the members of the board.~~

16 ~~———— (b) The term "legally engaged in the practice of podiatry" shall be~~  
17 ~~construed to cover those practitioners who have heretofore been engaged in the~~  
18 ~~practice of podiatry and licensed under the provisions of this chapter.~~

19 (a) A temporary license to practice Podiatric Medicine in this state  
20 may be issued to a person who meets all the qualifications for licensure, with  
21 the exception of the residency requirement, while participating in a full-time  
22 podiatric residency program. This program must be approved by the council on  
23 podiatric medical education of the American Podiatric Medical Association.  
24 This person shall practice under the supervision of a licensed and qualified  
25 Podiatrist of this state. The board must be notified in writing of this  
26 supervisory status by the Residency Director of the program. The board shall  
27 also receive in writing, the name of the podiatrist who will act as the  
28 supervisor and an agreement to act in the capacity of a supervisor.

29 (b) The temporary license will be in effect for a period of one year  
30 after the date of issue. The board shall not issue a certificate to practice  
31 podiatric medicine if the applicant does not present proof of the successful  
32 completion of the residency program.

33 (c) A podiatrist practicing podiatric medicine with a temporary license  
34 may be suspended or may have the temporary license revoked under the same  
35 provisions for the revocation of licensure or suspension of a fully licensed  
36 podiatrist.

1        (d) The board shall not issue a certificate to practice podiatric  
 2 medicine if the applicant does not present proof of the successful completion  
 3 of the residency program. The proof of residency completion accompanied by  
 4 the licensing renewal fee must be presented to the board within thirty (30)  
 5 days of completion of the residency program or the applicant shall be required  
 6 to submit a new application for licensure."

7

8        SECTION 11. Arkansas Code 17-96-306 is amended to read as follows:

9        "§ 17-96-306. Renewal - Continuing education requirement.

10        (a) A renewal fee to be established by the board in an amount not to  
 11 exceed one hundred dollars (\$100) shall be paid annually on July 1 each year.  
 12 If the fee is not paid within three (3) months, the license may be suspended  
 13 or revoked, and. If the license is revoked it shall only be reissued upon  
 14 original application and examination.

15        (1) A penalty may be established by the board and it shall not  
 16 exceed one-half (1/2) of the renewal fee for renewal fees not paid before July  
 17 15th of each year.

18        (b) For renewal of license, each licensee must present to the board a  
 19 certificate of attendance at seminars or other continuing professional  
 20 education courses in the health sciences as approved by the board. The number  
 21 of hours of continuing education to be earned annually shall be set by the  
 22 board. However, the requirement of continuing education may be waived by the  
 23 board upon application by the licensee and proof of extenuating circumstances,  
 24 as approved by the board."

25

26        SECTION 12. Arkansas Code 17-96-308 is amended to read as follows:

27        "§ 17-96-308. Revocation.

28        (a)(1) The board, after hearing, may revoke by majority vote any  
 29 certificate issued by it and cancel or suspend the registration of any  
 30 podiatrist who has been convicted of violation of § 17-96-103.

31        (2) The board, after hearing pursuant to the Arkansas Administrative  
 32 Procedure Act, § 25-15-201 et seq., by a majority vote may also revoke the  
 33 certificate and cancel or suspend the registration of any person of whom the  
 34 court records of a court of any state or territory within the United States or  
 35 of the federal courts, or the records of any court of jurisdiction in any  
 36 foreign country, show that the person has been found guilty of a criminal



1 offense.

2 (3) The board, after hearing, by majority vote may also revoke the  
 3 certificate and cancel or suspend the registration of any person whose  
 4 registration was granted upon mistake of material fact.

5 (b) The board may subsequently, but not earlier than one (1) year  
 6 thereafter, by unanimous vote, reissue any certificate and register anew any  
 7 podiatrist whose certificate was revoked and whose registration was cancelled  
 8 by the board, except as otherwise provided in this subchapter.

9 (c)(1) The board may, after hearing, refuse to issue a certificate and  
 10 cancel or suspend the registration of any person registered under the  
 11 provisions of this chapter who, after investigation and hearing, shall be  
 12 found guilty of grossly unprofessional and dishonest conduct. The board may,  
 13 impose a penalty not to exceed one thousand dollars (\$1,000) for each  
 14 violation, require completion of appropriate educational programs or courses,  
 15 place conditions or restrictions upon the licensee's license or practice, or  
 16 such other requirements or penalties as may be appropriate to the  
 17 circumstances of the case and which would achieve the desired disciplinary  
 18 purposes, but which would not impair the public welfare and morals.

19 (2) Unprofessional and dishonest conduct means, but is not limited  
 20 to:

- 21 (A) The willful betrayal of a professional secret;
- 22 (B) Having professional connections with, or lending the use of  
 23 one's name to, an unregistered podiatrist or having professional connection  
 24 with anyone who has been convicted in any court of any criminal offense  
 25 whatsoever;
- 26 (C) Being guilty of an offense involving moral turpitude;
- 27 (D) Habitual intemperance; ~~or~~
- 28 (E) Being habitually addicted to the use of morphine, opium,  
 29 cocaine, or other drugs for other use than legal and legitimate purposes-i
- 30 (F) Advertising in a false, fraudulent, deceptive or misleading  
 31 manner;
- 32 (G) Becoming physically or mentally incompetent to practice  
 33 Podiatric Medicine as to endanger the public; or
- 34 (H) Gross negligence or malpractice."

35  
 36 SECTION 13. Arkansas Code 25-16-902(47) is amended to read as follows:

1 "Arkansas ~~State Podiatry Examining~~ Board of Podiatric Medicine;"

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3 SECTION 14. All provisions of this act of a general and permanent  
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
5 Code Revision Commission shall incorporate the same in the Code.

6

7 SECTION 15. If any provision of this act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 act are declared to be severable.

12

13 SECTION 16. All laws and parts of laws in conflict with this act are  
14 hereby repealed.

15

16 SECTION 17. EMERGENCY. It is hereby found and determined by the  
17 Eighty-First General Assembly of the State of Arkansas that the statutes  
18 regulating the licensure of podiatrists are outdated in part and that the  
19 passage of the act before June of 1997 is required in order to guarantee that  
20 these laws will apply to persons taking the podiatric medical examination in  
21 June. Therefore, an emergency is declared to exist and this act being  
22 immediately necessary for the preservation of the public peace, health and  
23 safety shall become effective on the date of its approval by the Governor. If  
24 the bill is neither approved nor vetoed by the Governor, it shall become  
25 effective on the expiration of the period of time during which the Governor  
26 may veto the bill. If the bill is vetoed by the Governor and the veto is  
27 overridden, it shall become effective on the date the last house overrides the  
28 veto.

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