

State Licensure: The Up-and- Running and the Up-and- Coming

By Christine Umbrell

State licensure of O&P professionals continues to be a hot topic across the United States, one that the *O&P Almanac* has been following for several years. In states all around the country, practitioners are working vigorously to get licensure laws passed for two main reasons: to protect O&P consumers and to increase professional recognition for the industry.

Since the *Almanac* last reported on this topic, two additional states—Alabama and Georgia—have passed licensure laws. And two states that passed laws but were previously not implementing them—New Jersey and Oklahoma—are now in the beginning stages of licensing O&P professionals. California anticipates that a licensure law will be passed any day now. And two Southern states, North and South Carolina, are actively studying the concept.

Here are updates from the individuals “in the know” in those states with recent licensure activity.

Alabama: A smooth transition

The most recent state to pass and implement a licensure law is Alabama, where legislators agreed to a fast track for licensing qualified practitioners.

Alabama’s Prosthetics and/or Orthotics Act was signed by the governor last April, and applications are already available as of this month.

“It took us three years—three legislative sessions—to get it passed, but we had the advantage of watching Texas, Florida, Illinois and Washington get their programs up and running,” said Joseph C. Elliott, CP, secretary of the newly formed Alabama State Board of Prosthetists and Orthotists. “Our people were ready for it,” he added.



To prevent unnecessary time lags in implementing the program, deadlines were added. "We wrote it into the law that there were time restraints—that applications would be out by January 2003," Elliott said.

As of last November, nine of the 11 board members had been appointed, an executive director had been hired, and the proposed rules had been published. In December, the board met to consider the written and verbal comments it received, and the rules were scheduled for adoption by mid-December. Applications should be available now.

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—Joseph C. Elliott, CP

The Alabama rules allow for a one-year grandfathering period, during which ABC-certified and BOC-certified practitioners may apply for licensure. In addition, clinicians who have practiced full time as prosthetists or orthotists for five of the past six years may also apply to be grandfathered.

After the grandfathering period, practitioners who do not meet certain criteria will be required to pass an examination to be licensed. Details on the content and administration of the exam have not yet been determined, but are scheduled to be finalized within the next couple of months.

Alabama's law is comprehensive in that it also requires registration of orthotic suppliers. In addition, it allows individuals who have been licensed in other states to have reciprocal privileges in Alabama—but only if those states have comparable licensing requirements.

Fortunately, says Elliott, Alabama practitioners traversed a relatively easy road to licensure—at least compared with many other states. "We didn't get very much resistance from many

of the people in our field; there was great cooperation between ABC, BOC and non-certified practitioners," he asserted.

In fact, the law requires that of the six practitioners included on the board, three must be ABC certified and three must be BOC certified.

In the end, it is all for the patients. "The only interest group we had was the consumers," Elliott said. "Our goal is to protect consumers from those people who are not qualified to be treating them."

Georgia: Waiting for the funds

Although Georgia's licensure bill was signed into law one year ago, it will not become effective until the funds to implement it have been appropriated. Backers of the bill are expecting the budget to be finalized in this congressional term.

"Once the funds are appropriated, a voluntary advisory committee will be appointed," said Dan Zenas, CP, president of the Georgia Society of Prosthetics and Orthotics (GSOP). "We are hopeful licensure in Georgia will be effective by July 2003."

Zenas and other GSOP members who led the licensure push feel fortunate the law passed through the legislature as quickly as it did. The real effort began in January 2001, and a working group comprised of both ABC- and BOC-certified practitioners was formed that spring to work out the language of the bill. They submitted the bill in fall 2001; when nothing happened, the group hired a lobbyist the following January who was "instrumental" in passing the law.

Though there was substantial resistance from the National Orthotic Manufacturers Association (NOMA), the bill made it through the House with one week left in the legislative session. GSOP's lobbyist helped put it through the Senate the following week.

Though some of the language in the bill was modified in the process to relax some of the original, more stringent, requirements, Zenas is glad Georgia has a law to offer consumers some measure of protection. The law allows grandfathering for approximately one year, during which time anyone who has certification from a nationally recognized credentialing organization may be licensed. The grandfathering clause will also enable anyone who can demonstrate they've been practicing for at least seven years to be granted the opportunity for licensure.

Once the grandfathering phase is complete, applicants must have a bachelor's degree, complete an accredited program and a residency and pass an examination that is yet to be determined by the board.

Georgia also plans to accept licensure from any other state whose requirements meet or exceed its own.

New Jersey: Up and running at last

It's been almost 10 years since New Jersey practitioners first waged the battle to bring licensure to prosthetists and orthotists in their state, but their day has finally come. Last November, the first applications for practitioners to be grandfathered under the New Jersey licensure law were made available.

New Jersey was the first state to approach licensure, according to Bob Manfredi Sr., CPO, vice chair of the New Jersey Board of Examiners for Prosthetics and Orthotics. During the time it took New Jersey to come this far, several other states have passed their own laws and are already active in licensing practitioners. So, why the drawn-out process in New Jersey?

"We were really a pilot program," explained Manfredi. "Six states had acting licensure laws before us—but they all saw what we did and made changes as necessary."

For example, significant portions of the language in the original New Jersey bill had to be reworked to win the support of several parties affected by it.

Although the individuals who initiated the movement toward licensure a decade ago pushed for limits to license only those individuals who were ABC certified, the state would not allow such a restriction. Subsequently, all practitioners who can attest to having practiced O&P for a significant time period were allowed to apply for licensure during the grandfathering period, which ended last month.

Practitioners in New Jersey who apply for licensure from now on cannot be grandfathered and will need to apply and meet the more stringent qualifications outlined in the law. ABC will be the examining body for New Jersey licensure.

Manfredi concedes a small percentage of individuals have remained opposed, but most practitioners have come around to the fact that licensure is a way of life.

"Most realize licensure brings them to a pro- ➤

Licensure in Florida: Five Years Strong

Those leading the efforts to pass laws in other states are carefully watching Florida, which passed O&P licensure in 1998, hoping to mimic its successes and avoid some of the setbacks it has encountered.

Although the Florida law has come under criticism from some practitioners within the state, the program, for the most part, is proving effective. "The entire process works well," asserted Morris Gallo, CPO, of Advanced Rehabilitation Technologies in Fort Myers, Fla. "We did have growing pains; the [Florida Board of O&P] had to learn the intricacies of state government, and the practitioners had to learn the difference between licensure and certification."

According to Gallo, the most criticized part of licensure is that the state has not been aggressive enough in prosecuting unlicensed individuals and those working outside their scopes of practice.

James Newberry Jr., BOCPO, LPO, past chairman of BOC, expresses a great deal of concern over enforcement of licensure laws. "The states don't have the budgets right now—unless it's a life-or-death situation—to discipline and identify problem areas," he said. "The investigators are overworked as it is. It's not just the state of Florida—it's all the states [that have licensure laws]."

Gallo emphasizes that this problem is being addressed in Florida by collaborative efforts between the Florida Board of O&P, the Florida Association of Orthotists and Prosthetists and the Department of Health. "The board continues to address the concerns of the public and the licensed practitioners. When a problem becomes evident, the board reacts by fashioning rules to control or alleviate the problem," he explained.

One additional downside to licensure voiced by some practitioners is its cost. The prices for applications and licensing fees can be "exorbitant," says Newberry. In Florida, the fees must be high to counterbalance the costs of implementing the program. Newberry cites the example of individuals working in shoe orthotics, who typically earn between \$7 and \$10 an hour, yet can expect to pay nearly \$4,000 to finance the appropriate courses, applications and licenses. While this may not be a problem for practitioners in large companies that reimburse individuals for licensing, the majority of practitioners in Florida work at much smaller practices, Newberry says, where the fees make a greater impact on a company's—or employee's—bottom line.

"It's a problem we wished upon ourselves," he said. "We don't have enough practitioners in the state of Florida to pay for licensure since the state says we must break even... These are things you don't foresee at the outset of the process."

Still, many feel Florida's licensure is a success. "The consumer now has an avenue to have any grievances heard and adjudicated," Gallo stated. "They also are assured that anyone treating them has a minimum level of education and training."

"The state has benefited from a curtailment of fraud and abuse of the Medicaid system due to the limiting of services to licensed persons," he added.

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professional level," he stressed. "And licensure ensures those providing orthotic and prosthetic care are doing so in a manner in which to protect the consumers."

Oklahoma: Ironing out the details

Oklahoma's licensure law, which was signed by the governor in May 2001, became effective in November 2001. A grandfathering period of 90 days followed, during which time the Advisory Committee on Orthotics and Prosthetics reviewed applications and approved the licensure of many individuals who were ABC certified, BOC certified or who could document practice experience of several years.

In the past few months, the Advisory Committee has met five times to review the applications of those who have applied for licensure since the grandfathering period ended. At this time, practitioners may apply for licensure if they possess a bachelor's degree, complete a clinical residency accredited by NCOPE, complete education by CAAHEP and pass an exam. If they do not meet these requirements, applicants may be eligible for licensure by taking the state licensing exam.

Oklahoma is also working with other states to establish agreements for "endorsement" of other state's licensure.

The verdict is still out on how licensure will affect the future of the profession in Oklahoma. "I think it takes several years for a profession that becomes licensed to gain the respect of the public—over the years, that will happen," said Bill Barringer, CO, FAAOP, from University of Oklahoma Orthotics & Prosthetics, Oklahoma City, Okla. "The point of licensure is to keep unqualified people from practicing orthotics and prosthetics."

For the most part, Barringer continued, practitioners in Oklahoma are happy there is a minimum standard to practice in the state, which gives some protection for the public. What's more, Oklahoma practitioners have found that being licensed gives them a voice at the legislative level.

California: Poised for victory

A heavily populated state that is home to several orthotic manufacturing companies, California will surely serve as an example to others once a licensure law is passed. And those leading the effort for licensure are hoping the Orthotic and Prosthetic Licensure Bill is ratified during the session that begins this month.

The California Orthotic/Prosthetic Association (COPA) has been a driving force behind efforts to establish a licensure law in California. "Currently, there is really no vehicle for consumer complaints, since this is an unregulated field," explained Ed Arnold, vice president and legislative chair for COPA. "The concept is to build on what the accrediting bodies are already doing—to work with them, not render them irrelevant, and to create a forum for the consumers."

Though a bill has been brought before the legislature twice already, it has faced opposition from NOMA and other groups. "We see [licensure] as standard-setting for patient care," said Arnold, "and those who are not subject to any standards right now don't want any standard in the future."

But Arnold believes the outlook is good for the bill to pass this session. "There's been a groundswell of patient advocacy," he reported.

The bill's supporters have collected histories of patient complaints and similar back-up materials to demonstrate to legislators that licensure

The Keys to Success in the Legislature

Practitioners who have become intimately acquainted with the workings of their state legislatures in seeking to pass O&P licensure laws offer these words of advice for moving a bill through the process in an efficient manner:

- **Start with a collaborative effort.** Seek the input of many qualified practitioners to finalize verbiage before the bill goes to the legislature. A united front is essential.

- **Discuss your plans with other allied health professionals.** Head off possible opposition by meeting with outside medical groups to make sure they understand your goals. Allay their fears so they know you do not intend to interfere with their professions.

- **Hire an experienced lobbyist.** An individual who knows the "players" in the state House and Senate and understands that particular state's procedures can mean the difference between passing a law in one session and not passing it at all.

- **Come prepared.** Legislators need to hear first-hand accounts of patients who would have benefited from the protection offered by a licensed practitioner. Invite consumers who have had problems to speak before subcommittees and share their stories.

- **Expect delays.** Anyone who has worked with a state legislative process will tell you that you will encounter many unforeseen obstacles along the way. Patience and persistence are key.

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is needed as a vehicle for holding practitioners accountable.

If the bill is passed this session, California consumers could see licensed practitioners by early next year. The proposed law calls for a three-year grandfathering period, during which time any practitioner who can attest to his or her work in the field may become licensed. Once the grandfathering period is over, the bill's language limits new licenses to individuals with certification from a recognized national accrediting body. Details concerning the state exam and how reciprocity will work will be determined once the law is implemented.

The Carolinas: Studying the possibilities

In both North and South Carolina today, practitioners are deciding whether to pursue licensure.

In South Carolina, a licensure bill based on a combination of the Texas, Ohio and Tennessee laws has already been drafted, and a lobbying agent is on standby, says Frank Friddle Jr., CO, of Friddle's Orthopedic Appliances Inc., Honea Path, S.C. However, supporters have been unable to obtain consensus among the practitioners in their state on whether to proceed.

"We suspect that the outcome of negotiated rulemaking (NRM) will have a direct impact on when and how we will proceed with licensure in South Carolina," said Friddle.

NRM is a result of the Benefits Improvement and Protection Act, a federal law which will define qualified providers for certain custom orthoses.

"As of now, we are sitting on hold, but with all systems in place to continue when NRM is completed," Friddle explained.

Practitioners in North Carolina are not as far along as their counterparts to the south. However, orthotists and prosthetists in North Carolina recently banded together to study the topic. Last November, representatives from several O&P businesses formed the North Carolina Orthotic and Prosthetic Trade Association.

According to the group's president, Eddie White, CP, the trade association is now in the process of becoming incorporated. Any company that employs a full-time ABC- or BOC-certified practitioner or a C.Ped. is eligible to join the state association.

Once it is incorporated, it will begin seriously studying licensure. The group has already hired a

lawyer/lobbyist to investigate the most effective approach to passing a licensure law, should the group determine to pursue it. However, the association is being careful not to get ahead of itself.

"At this point, some members feel we need to do a little more research into what other states have experienced and the problems they have encountered before we dive head-first into it," White explained.

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—Eddie White, CP


Members hope the licensure effort will mean increased leverage with the legislature on issues they wish to influence, such as Medicaid.

"In general, people are positive about licensure," said White. "There are some concerns that arise out of problems other states have had. We want to learn from others' mistakes to avoid problems when we begin the process."

"Most of the group is interested in pursuing licensure, but wants to be sure we do it properly," he added.

More to come

Of course, practitioners in North and South Carolina are not the only ones sitting on the sidelines and watching how the licensure game is being played. There are grassroots efforts to build support for licensure in many areas, as O&P professionals all over the United States consider contacting their legislatures to pass similar laws.

To find out more about state licensure of O&P, visit the ABC Web site at www.abcop.org. As always, the *O&P Almanac* will keep you posted as more happens on this important issue. 

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