

# Governor's Office of Management and Budget

Alexis Sturm

Director



## IL Regulatory Sunset Act Review of The Orthotics, Prosthetics, and Pedorthics Practice Act

April 8, 2019

**To the Honorable JB Pritzker  
Governor of Illinois**

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB) in collaboration with the Illinois Department of Financial and Professional Regulation (IDFPR), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Orthotics, Prosthetics, and Pedorthics Practice Act (225 ILCS 84), which is scheduled to sunset on January 1, 2020. The following recommendation is pursuant to this review:

The Orthotics, Prosthetics, and Pedorthics Practice Act (225 ILCS 84) should be continued with the following modifications to its existing statutory and administrative rule framework.

- Allow applicants to apply for "Licensure by Endorsement" without providing education or test information to IDFPR, if: (1) the applicant has been licensed for 10 consecutive years in another state, (2) the other state sends verification of consecutive licensure of the applicant, and (3) the applicant has never been disciplined.
- Add a definition of "Email address of record," standardizing IDFPR's initiative to become more efficient and paperless.

The examination of this Act considered the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm  
Director  
Governor's Office of Management and Budget

**Criteria (1) “The extent to which the agency or program has permitted qualified applicants to serve the public.”**

Orthotists, prosthetists and pedorthists are responsible for the design, evaluation and fitting of various prosthetic, therapeutic and correctional devices. As of September 2018, there are 220 licensed orthotists, 172 licensed prosthetists and 86 licensed pedorthists in Illinois. There are no data readily available on the number of persons who would wish to participate in this profession but are prevented due to either education requirements or fee structures.

| License Type         | 2014 | 2015 | 2016 | 2017 | 2018 |
|----------------------|------|------|------|------|------|
| Licensed Prosthetist | 169  | 179  | 168  | 181  | 166  |
| Licensed Pedorthist  | 95   | 98   | 91   | 94   | 81   |
| Licensed Orthotist   | 210  | 220  | 220  | 221  | 210  |

Licensed orthotists, prosthetists and pedorthists have the same licensure fee structure. The current licensure fee structure is as follows:

| Type                    | Fee Amount                             |
|-------------------------|--|
| Initial Application     | \$400                                  |
| Renewal Fee             | \$125/year                             |
| Restoration After Lapse | \$50 fee, plus all lapsed renewal fees |

Licensed orthotists, prosthetists and pedorthists must take an examination and meet initial education requirements, as well as continuing education requirements as set forth in Title 68, Section 1325.80 of the Illinois Administrative Code. Fifteen states license orthotists and prosthetists; 12 of these states also license pedorthists. There are two states that require only national certification for orthotists and prosthetists. The state of Michigan does not license these professions, but does require a prescription from a physician or chiropractor to obtain orthotic or prosthetic equipment. There are no data readily available on the number of persons who would wish to participate in this profession but are prevented due to either education requirements or fee structures.

**Criteria (2) “The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services.”**

IDFPR adheres to strict guidelines and requirements established for each profession regulated by the Department. Licensing decisions are based on an applicant’s ability to meet the requirements established by statute and administrative rule. Neither race nor any other identifier is a consideration for licensure under any of the professional licenses regulated by the Department. Consequently, the Department does not collect information from applicants to disclose their race or other social identifiers that could potentially lead to the act or perception of discrimination in licensing decisions.

**Criteria (3) “The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters.”**

IDFPR is tasked with processing applications for licenses and renewal licenses for over 1 million professionals

practicing in the state of Illinois. As resources continue to be strained in the state of Illinois, the Department has adopted internal policies, sought legislative and administrative rule changes, and developed enhanced licensing processes to maintain efficiency and efficacy. Though these changes have proved to be successful, there is no substitute for the labor resources needed to maintain and improve licensing efficiencies. Over the last calendar year, IDFPR completed 80 new hires. However, in spite of the new hires, the agency ended the year with a net decrease in headcount. The agency maintains that personnel rules and laws often make it difficult to fill vacant positions in a timely manner.

***Criteria (4) "The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates."***

In 2017, IDFPR sponsored Public Act 100-262, the purpose of which was to streamline and modernize the Agency's licensure and administrative case process. The Act enhances the Department's e-license initiative to streamline the initial licensure and renewal as well as allow recipients to know the results of an administrative case with greater immediacy so they can react more quickly and appropriately. This helps ensure that regulated professions are able to use their time to address the needs of their clients, rather than addressing regulatory requirements. Furthermore, this benefits the members of the public at large in that it enables the department to more efficiently suspend the licenses determined to be in violation of rules and statutes. That agency maintains that this ensures a fairer marketplace for the consumer.

In 2018, IDFPR supported Public Act 100-872, which removed the requirement that IDFPR refuse professional licenses to individuals who default on student loan debt that is guaranteed by the state. The agency believes this change removed a barrier to employment that can help people pay such debts.

***Criteria (5) "The extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service."***

IDFPR establishes rules and makes regulatory decisions through the process established by the Joint Committee on Administrative Rules (JCAR), the administrative body responsible for approving rule proposals by state agencies. This process allows for input from industry and community stakeholders impacted by the Department's proposed changes. The Department works with lawmakers, community stakeholders and members of industry to ensure that regulations effectively protect Illinois citizens.

***Criteria (6) "The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public."***

Full information on this criterion was not available at the time of this report.

***Criteria (7) "The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority."***

IDFPR adheres to the guidelines and requirements established by the Joint Committee on Administrative Rules (JCAR) and the Illinois General Assembly (ILGA) for approving rule proposals, legislative changes and internal

policies. In addition, the Department adheres to the requirements established in the Illinois Open Meetings Act (5 ILCS 120).

***Criteria (8) “The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government.”***

IDFPR accepts public complaints via its website and by phone. The average time from a complaint being received to an investigation being opened is five days. The average time to complete an investigation varies according to how the investigation proceeds:

- Average time to close a case at Investigations: 9 months
- Average time to refer a case from Investigations to Prosecutions: 4 months
- Average time to close a case at Prosecutions: 13 months
- Average time to close a case at Prosecutions with Discipline: 35 months

These average times represent Department complaints overall. Individual complaint data for each regulated profession are not available.

***Criteria (9) “The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section.”***

IDFPR recommends that any proposed language for sunset extension provide for modernizations necessary to implement more streamlined and efficient regulation of this profession, which will ensure public safety and ease the burden of regulatory compliance:

- Allow applicants to apply for “Licensure by Endorsement” without providing education or test information to IDFPR, if: (1) the applicant has been licensed for 10 consecutive years in another state, (2) the other state sends verification of consecutive licensure of the applicant, and (3) the applicant has never been disciplined.
- Add a definition of “Email address of record,” standardizing IDFPR’s initiative to become more efficient and paperless.

**Conclusion:**

Orthotists, prosthetists and pedorthists are responsible for the design, evaluation and fitting of various prosthetic, therapeutic and correctional devices that are critical to the health and wellbeing of a growing and vulnerable population of Illinois citizens. Unregulated and irresponsible dispensing of orthotic, prosthetic or pedorthic care can seriously impact the health, safety and welfare of the public. There is currently not sufficient evidence to suggest the burdens imposed by regulation outweigh the benefits to the health, safety and welfare of the people of Illinois in continuing the regulation of this profession.