

## **BILL ANALYSIS**

C.S.H.B. 3078  
By: Thompson, Senfronia  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas State Board of Podiatric Medical Examiners is subject to abolishment under the Texas Sunset Act on September 1, 2017, unless continued by the legislature. The Sunset Advisory Commission found that this relatively small agency struggles to carry out its mission effectively, with slow complaint resolution times, unmet performance measures, and nonstandard enforcement practices. To address these concerns and the challenges faced by the board, the Sunset Advisory Commission recommends transferring the regulation of podiatry to the Texas Department of Licensing and Regulation to provide institutional stability, administrative savings, improved licensing and enforcement outcomes, and better protection for the people of Texas. C.S.H.B. 3078 seeks to provide for that transfer.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 1, 15, 22, 32, and 57 of this bill.

### **ANALYSIS**

C.S.H.B. 3078 repeals certain Occupations Code provisions relating to the Texas State Board of Podiatric Medical Examiners and the regulation of podiatrists. The bill abolishes the board, transfers all functions and activities performed by the board and makes certain other specified transfers to the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation (TDLR), as applicable, and establishes that a reference to the board in a law or administrative rule means the commission or TDLR, as applicable. The bill establishes that all full-time equivalent employee positions at the board that primarily concern the administration or enforcement of statutory provisions relating to the regulation of podiatrists become positions at TDLR. The bill requires TDLR to post the positions for hiring and, when filling the positions, to give first consideration to an applicant who, as of August 31, 2017, was an employee at the board primarily involved in administering or enforcing those provisions but does not require TDLR to hire such an applicant. The bill establishes that all rules, fees, policies, procedures, decisions, and forms adopted by the board are continued in effect as rules, fees, policies, procedures, decisions, and forms of the commission or TDLR, as applicable, and remain in effect until amended or replaced. The bill transfers a complaint, investigation, contested case, or other proceeding before the board that is pending on the bill's effective date to TDLR or the commission, as appropriate, without change in status. The bill transfers all money, contracts, leases, property, and obligations of the board, all property in the custody of the board, and the unexpended and unobligated balance of any money appropriated by the legislature for the board to TDLR. The bill requires the board to provide TDLR with access to any systems or

information necessary for TDLR to accept the program transferred under the bill. The bill continues in effect a license or certificate issued by the board as a license or certificate of TDLR.

C.S.H.B. 3078 amends the Occupations Code to require the executive director of TDLR to administer and enforce statutory provisions relating to the regulation of podiatrists and requires the commission to adopt rules necessary to administer those provisions. The bill removes the restriction on the establishment of the amount of a fee to cover the cost of administering those provisions and removes the prohibition against maintaining unnecessary fund balances. The bill creates the Podiatric Medical Examiners Advisory Board to provide advice and recommendations to TDLR on technical matters relevant to the administration of those provisions and sets out provisions relating to the advisory board, including membership, public member eligibility, membership restrictions, member terms and vacancies, grounds for removal, compensation and expense reimbursement, the presiding officer, meetings, member training, and the development and distribution of a training manual. The bill requires the governor, not later than December 1, 2017, to appoint members to the advisory board, establishes that a member of the Texas State Board of Podiatric Medical Examiners whose term expired on the bill's effective date is eligible for reappointment to the advisory board, and requires members of the abolished board to continue to provide advice to TDLR until a majority of the advisory board members are appointed and qualified.

C.S.H.B. 3078 prohibits the commission from adopting a new rule relating to the scope of practice of, a health-related standard of care for, or the ethical practice of the profession of podiatry unless the rule has been proposed by the advisory board and requires the commission to adopt rules prescribing the procedure by which the advisory board may propose such rules. The bill requires the commission, for each rule proposed by the advisory board, to either adopt the rule as proposed or return the rule to the advisory board for revision. The bill clarifies that the commission retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process. The bill requires the commission to adopt rules clearly specifying the manner in which TDLR and the commission will solicit input from, and on request provide information to, the advisory board regarding continuing education requirements and the general investigative, enforcement, or disciplinary procedures of TDLR or the commission.

C.S.H.B. 3078 requires the executive director of TDLR to develop, implement, and enforce a written policy for determining the complaints filed under provisions relating to the regulation of podiatrists that will be given priority for investigation and resolution by TDLR. The bill requires TDLR to notify a licensed podiatrist who is the subject of a complaint filed with TDLR that a complaint has been filed and to notify the license holder of the nature of the complaint. The bill establishes that TDLR is not required to provide notice if the notice would jeopardize an investigation and prohibits TDLR from accepting anonymous complaints. The bill requires a complaint filed with TDLR by an insurance agent, insurer, pharmaceutical company, or third-party administrator against a license holder to include the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator filing the complaint. The bill requires TDLR, not later than the 15th day after the date the complaint is filed with TDLR, to notify the license holder who is the subject of the complaint of the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator who filed the complaint, unless the notice would jeopardize an investigation.

C.S.H.B. 3078 revises provisions relating to the submission of an application for a license, license eligibility, and examination requirements for a license to practice podiatry and in making those revisions requires the commission by rule to establish the information and documentation required to be submitted as part of an application for the license, requires TDLR to recognize, prepare, administer, or arrange for the administration of the examination, removes the requirement that a license applicant submit satisfactory evidence that the applicant is of good moral character, and replaces the requirement that the applicant has completed at least 90 semester hours of college courses for credit toward a bachelor's degree at The University of

Texas with a requirement that such credit be toward a bachelor's degree at an institution of higher education determined by TDLR to have acceptable standards. The bill requires the commission to adopt the rules necessary to implement provisions relating to podiatry license application requirements. The bill authorizes the commission to refuse to issue a license or certificate to a person who violates provisions relating to the regulation of podiatrists, a rule adopted under those provisions, or an order of the commission or the executive director of TDLR.

C.S.H.B. 3078 requires TDLR to require that an applicant for a license to practice podiatry submit a complete and legible set of fingerprints, on a form prescribed by the executive director of TDLR, to TDLR or to the Department of Public Safety (DPS) for the purpose of obtaining criminal history record information from DPS and the FBI. The bill prohibits TDLR from issuing a license to a person who does not comply with this fingerprint requirement and requires TDLR to conduct a criminal history record information check of each applicant for such a license using information provided by the individual and information made available to TDLR by DPS, the FBI, and any other criminal justice agency under statutory provisions relating to DPS. The bill authorizes TDLR to enter into an agreement with DPS to administer a criminal history record information check and authorizes DPS to collect from each applicant the costs incurred by DPS in conducting the check. The bill requires TDLR, not later than September 1, 2019, to obtain criminal history record information on each person who, on the bill's effective date, holds a license to practice podiatry and did not undergo a criminal history record information check based on the license holder's fingerprints on initial application for the license and authorizes TDLR to suspend the license of a license holder who does not provide the required criminal history record information.

C.S.H.B. 3078 requires an applicant renewing a license to practice podiatry to submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by the bill. The bill authorizes TDLR to administratively suspend or refuse to renew the license of a person who does not comply with this fingerprint requirement and establishes that a license holder is not required to submit fingerprints for the renewal of the license if the license holder has previously submitted fingerprints for the initial issuance of the license or as part of a prior license renewal under the bill's provisions. The bill transfers to the commission rulemaking authority previously granted to the Texas State Board of Podiatric Medical Examiners to establish the minimum number of hours of continuing education required for license renewal.

C.S.H.B. 3078 makes a license to practice podiatry valid for one year or two years as determined by commission rule and requires the commission by rule to establish the requirements for renewing such a license and issuing a renewal certificate. The bill removes the requirement that a license holder submit an affidavit if a license is lost, destroyed, or stolen from the person to whom it was issued but requires the license holder to report the fact that the license was lost, destroyed or stolen to TDLR.

C.S.H.B. 3078 prohibits a podiatrist from prescribing opioids, benzodiazepines, barbiturates, or carisoprodol to a patient unless the podiatrist has reviewed the patient's prescription history by accessing certain prescription information submitted to the Texas State Board of Pharmacy as authorized by the Texas Controlled Substances Act. The bill makes the failure by a podiatrist to comply with this prohibition grounds for disciplinary action. This prohibition against prescribing certain drugs applies only to a prescription issued on or after September 1, 2018. The bill authorizes TDLR to issue a subpoena. The bill revises the circumstances under which a licensed podiatrist may be required to pay a refund to a consumer. The bill, for purposes of the entities to which investigative information in the possession of TDLR that relates to a disciplinary action regarding a license holder may be disclosed, includes a person involved with TDLR in a disciplinary action against the license holder, a peer assistance program approved by the commission, a law enforcement agency, and a person engaged in bona fide research, provided all individual-identifying information has been deleted. The bill establishes that disclosure by

TDLR of certain information relating to the confidentiality and disclosure of investigative information, of information under the bill's provisions relating to the notification to parties regarding a complaint, and of information under the bill's provisions relating to requirements for certain complaints does not constitute a waiver of privilege or confidentiality under provisions relating to the regulation of podiatrists or any other law. The bill requires TDLR to protect the identity of a complainant to the extent possible.

C.S.H.B. 3078 requires the commission by rule to develop a standardized penalty schedule, including recommended penalty amounts for each category of punishable conduct listed in the schedule, based on the criteria listed in statutory provisions relating to administrative penalty amounts set by the commission or executive director. The bill requires TDLR to periodically check certain prescribing information submitted to the Texas State Board of Pharmacy as authorized by the Texas Controlled Substances Act to determine whether a licensed podiatrist is engaging in potentially harmful prescribing patterns or practices. The bill requires TDLR, in coordination with the advisory board and the Texas State Board of Pharmacy, to determine, subject to approval by the commission, the conduct that constitutes a potentially harmful prescribing pattern or practice. The bill requires TDLR, in determining such conduct, to consider the number of times a podiatrist prescribes opioids, benzodiazepines, barbiturates, or carisoprodol and, for such prescriptions, patterns of prescribing combinations of those drugs and other dangerous combinations of drugs identified by TDLR in coordination with the advisory board. The bill authorizes TDLR, if TDLR suspects a licensed podiatrist may be engaging in potentially harmful prescribing patterns or practices, to notify the podiatrist of the potentially harmful prescribing pattern or practice. The bill authorizes TDLR to initiate a complaint against a podiatrist based on the information obtained under these provisions.

C.S.H.B. 3078 amends the Health and Safety Code to include the executive director of TDLR or the executive director's designee as a member of the interagency prescription monitoring work group.

C.S.H.B. 3078 repeals the following provisions of the Occupations Code:

- Section 202.002
- Section 202.052
- Sections 202.059(b) and (c)
- Section 202.060
- Subchapter C, Chapter 202
- Section 202.151
- Section 202.152
- Section 202.1525
- Section 202.154
- Section 202.1545
- Section 202.155
- Section 202.156
- Section 202.157
- Section 202.158
- Section 202.162
- Section 202.163
- Section 202.201

- Section 202.202
- Section 202.203
- Section 202.204
- Section 202.205
- Sections 202.252(c) and (d)
- Section 202.254(e)
- Section 202.255
- Section 202.264
- Section 202.301
- Section 202.302
- Section 202.501(b)
- Sections 202.503(b), (c), (d), and (e)
- Section 202.507
- Section 202.508
- Section 202.510
- Subchapter L, Chapter 202
- Section 202.601
- Section 202.6015

**EFFECTIVE DATE**

September 1, 2017.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3078 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter D, Chapter 51, Occupations Code, is amended by adding Section 51.2032 to read as follows:

Sec. 51.2032. RULES REGARDING PODIATRY; PROVISION OF INFORMATION. (a) In this section, "advisory board" means the Podiatric Medical Examiners Advisory Board.

(b) The commission may not adopt a new rule relating to the scope of practice of or a health-related standard of care for podiatry unless the rule has been proposed by the advisory board. The commission shall adopt rules prescribing the procedure by which the advisory board may propose rules

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter D, Chapter 51, Occupations Code, is amended by adding Section 51.2032 to read as follows:

Sec. 51.2032. RULES REGARDING PODIATRY; PROVISION OF INFORMATION. (a) In this section, "advisory board" means the Podiatric Medical Examiners Advisory Board.

(b) The commission may not adopt a new rule relating to the scope of practice of, a health-related standard of care for, or the ethical practice of the profession of podiatry unless the rule has been proposed by the advisory board. The commission shall adopt rules prescribing the procedure by

described by this subsection.

(c) For each rule proposed under Subsection (b), the commission shall either adopt the rule as proposed or return the rule to the advisory board for revision. The commission retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process.

(d) The commission shall adopt rules clearly specifying the manner in which the department and commission will solicit input from, and on request provide information to, the advisory board regarding the general investigative, enforcement, or disciplinary procedures of the department or commission.

SECTION 2. Section 202.001(a), Occupations Code, is amended.

SECTION 3. The heading to Subchapter B, Chapter 202, Occupations Code, is amended.

SECTION 4. Section 202.051(a), Occupations Code, is amended.

SECTION 5. Section 202.053, Occupations Code, is amended.

SECTION 6. Sections 202.054(b) and (c), Occupations Code, are amended.

SECTION 7. Section 202.055, Occupations Code, is amended.

SECTION 8. Section 202.056, Occupations Code, is amended.

SECTION 9. Section 202.057, Occupations Code, is amended.

SECTION 10. Section 202.058, Occupations Code, is amended.

SECTION 11. Section 202.059(a), Occupations Code, is amended.

SECTION 12. Section 202.061, Occupations Code, is amended.

which the advisory board may propose rules described by this subsection.

(c) For each rule proposed under Subsection (b), the commission shall either adopt the rule as proposed or return the rule to the advisory board for revision. The commission retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process.

(d) The commission shall adopt rules clearly specifying the manner in which the department and commission will solicit input from, and on request provide information to, the advisory board regarding:

(1) continuing education requirements; and  
(2) the general investigative, enforcement, or disciplinary procedures of the department or commission.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 13. Subchapter B, Chapter 202, Occupations Code, is amended.

SECTION 13. Same as introduced version.

SECTION 14. The heading to Subchapter D, Chapter 202, Occupations Code, is amended.

SECTION 14. Same as introduced version.

SECTION 15. Subchapter D, Chapter 202, Occupations Code, is amended.

SECTION 15. Same as introduced version.

No equivalent provision.

SECTION 16. Section 202.153, Occupations Code, is amended to read as follows:

Sec. 202.153. FEES. ~~[(a)]~~ The commission ~~[board]~~ by rule shall establish fees in amounts reasonable and necessary to cover the cost of administering this chapter. ~~[The board may not set a fee that existed on September 1, 1993, in an amount less than the amount of that fee on that date.~~

~~[(b) The board may not maintain unnecessary fund balances, and fee amounts shall be established in accordance with this requirement.]~~

SECTION 16. Section 202.160, Occupations Code, is amended.

SECTION 17. Same as introduced version.

SECTION 17. Section 202.161, Occupations Code, is amended.

SECTION 18. Same as introduced version.

SECTION 18. The heading to Subchapter E, Chapter 202, Occupations Code, is amended.

SECTION 19. Same as introduced version.

SECTION 19. Subchapter E, Chapter 202, Occupations Code, is amended.

SECTION 20. Same as introduced version.

SECTION 20. Subchapter E, Chapter 202, Occupations Code, is amended.

SECTION 21. Same as introduced version.

SECTION 21. Sections 202.252(a), (b), (e), and (f), Occupations Code, are amended.

SECTION 22. Same as introduced version.

SECTION 22. Subchapter F, Chapter 202, Occupations Code, is amended.

SECTION 23. Same as introduced version.

SECTION 23. Section 202.253, Occupations Code, is amended.

SECTION 24. Same as introduced version.

SECTION 24. Sections 202.254(a), (b), and (c), Occupations Code, are amended.

SECTION 25. Same as introduced version.

SECTION 25. Section 202.257,

SECTION 26. Same as introduced version.

Occupations Code, is amended.

SECTION 26. Section 202.259(a), Occupations Code, is amended.

SECTION 27. Sections 202.260(a), (b), (c), and (d), Occupations Code, are amended.

SECTION 28. Sections 202.261(a) and (b), Occupations Code, are amended.

SECTION 29. Section 202.262, Occupations Code, is amended.

SECTION 30. Section 202.263, Occupations Code, is amended.

SECTION 31. Subchapter G, Chapter 202, Occupations Code, is amended.

SECTION 32. Subchapter G, Chapter 202, Occupations Code, is amended.

SECTION 33. Section 202.303, Occupations Code, is amended.

SECTION 34. Sections 202.304(a) and (b), Occupations Code, are amended.

SECTION 35. Section 202.305, Occupations Code, is amended.

SECTION 36. The heading to Section 202.352, Occupations Code, is amended.

SECTION 37. Sections 202.352(a) and (b), Occupations Code, are amended.

SECTION 38. Sections 202.353(a), (c), (d), (e), (f), (g), (h), and (i), Occupations Code, are amended.

SECTION 39. Subchapter H, Chapter 202, Occupations Code, is amended.

SECTION 40. Sections 202.404(d) and (e), Occupations Code, are amended.

SECTION 41. Section 202.452(a), Occupations Code, is amended.

SECTION 42. Section 202.453, Occupations Code, is amended.

SECTION 27. Same as introduced version.

SECTION 28. Same as introduced version.

SECTION 29. Same as introduced version.

SECTION 30. Same as introduced version.

SECTION 31. Same as introduced version.

SECTION 32. Same as introduced version.

SECTION 33. Same as introduced version.

SECTION 34. Same as introduced version.

SECTION 35. Same as introduced version.

SECTION 36. Same as introduced version.

SECTION 37. Same as introduced version.

SECTION 38. Same as introduced version.

SECTION 39. Same as introduced version.

SECTION 40. Same as introduced version.

SECTION 41. Same as introduced version.

SECTION 42. Same as introduced version.

SECTION 43. Same as introduced version.



SECTION 43. Section 202.455(f), Occupations Code, is amended.

SECTION 44. Section 202.456(b), Occupations Code, is amended.

SECTION 45. The heading to Section 202.501, Occupations Code, is amended.

SECTION 46. Sections 202.501(a) and (d), Occupations Code, are amended.

SECTION 47. Section 202.502, Occupations Code, is amended.

SECTION 48. The heading to Section 202.503, Occupations Code, is amended.

SECTION 49. Section 202.503(a), Occupations Code, is amended.

SECTION 50. Section 202.504, Occupations Code, is amended.

SECTION 51. Section 202.505, Occupations Code, is amended.

SECTION 52. Subchapter K, Chapter 202, Occupations Code, is amended.

SECTION 53. Section 202.5085, Occupations Code, is amended.

SECTION 54. Section 202.509, Occupations Code, is amended.

SECTION 55. The heading to Subchapter M, Chapter 202, Occupations Code, is amended.

SECTION 56. Subchapter M, Chapter 202, Occupations Code, is amended.

SECTION 57. Section 202.602, Occupations Code, is amended.

SECTION 58. Subchapter M, Chapter 202, Occupations Code, is amended by adding Section 202.6025 to read as follows:

Sec. 202.6025. MONITORING HARMFUL PRESCRIBING PATTERNS. (a) The department shall periodically check the prescribing information submitted to the Texas State Board of Pharmacy as

SECTION 44. Same as introduced version.

SECTION 45. Same as introduced version.

SECTION 46. Same as introduced version.

SECTION 47. Same as introduced version.

SECTION 48. Same as introduced version.

SECTION 49. Same as introduced version.

SECTION 50. Same as introduced version.

SECTION 51. Same as introduced version.

SECTION 52. Same as introduced version.

SECTION 53. Same as introduced version.

SECTION 54. Same as introduced version.

SECTION 55. Same as introduced version.

SECTION 56. Same as introduced version.

SECTION 57. Same as introduced version.

SECTION 58. Same as introduced version.

SECTION 59. Subchapter M, Chapter 202, Occupations Code, is amended by adding Section 202.6025 to read as follows:

Sec. 202.6025. MONITORING HARMFUL PRESCRIBING PATTERNS. (a) The department shall periodically check the prescribing information submitted to the Texas State Board of Pharmacy as

authorized by Section 481.076(a)(1), Health and Safety Code, to determine whether a podiatrist licensed under this chapter is engaging in potentially harmful prescribing patterns or practices.

(b) The commission, in coordination with the advisory board and the Texas State Board of Pharmacy, shall determine the conduct that constitutes a potentially harmful prescribing pattern or practice for purposes of Subsection (a). In determining the conduct that constitutes a potentially harmful prescribing pattern or practice, the commission shall consider:

(1) the number of times a podiatrist prescribes a drug listed in Section 202.354(b); and

(2) for prescriptions described by Subdivision (1), patterns of prescribing combinations of those drugs and other dangerous combinations of drugs identified by the commission in coordination with the advisory board.

(c) If the department suspects that a podiatrist licensed under this chapter may be engaging in potentially harmful prescribing patterns or practices, the department may notify the podiatrist of the potentially harmful prescribing pattern or practice.

(d) The department may initiate a complaint against a podiatrist based on information obtained under this section.

SECTION 59. Section 202.603, Occupations Code, is amended.

SECTION 60. Section 202.604, Occupations Code, is amended.

SECTION 61. Section 481.352, Health and Safety Code, is amended to read as follows: Sec. 481.352. MEMBERS. The work group is composed of:

(1) the executive director of the board or the executive director's designee, who serves as chair of the work group;

(2) the commissioner of state health services or the commissioner's designee;

(3) the executive director of the Texas Medical Board or the executive director's designee;

(4) the executive director of the Texas Board of Nursing or the executive director's designee;

authorized by Section 481.076(a)(1), Health and Safety Code, to determine whether a podiatrist licensed under this chapter is engaging in potentially harmful prescribing patterns or practices.

(b) The department, in coordination with the advisory board and the Texas State Board of Pharmacy, shall determine, subject to approval by the commission, the conduct that constitutes a potentially harmful prescribing pattern or practice for purposes of Subsection (a). In determining the conduct that constitutes a potentially harmful prescribing pattern or practice, the department shall consider:

(1) the number of times a podiatrist prescribes a drug listed in Section 202.354(b); and

(2) for prescriptions described by Subdivision (1), patterns of prescribing combinations of those drugs and other dangerous combinations of drugs identified by the department in coordination with the advisory board.

(c) If the department suspects that a podiatrist licensed under this chapter may be engaging in potentially harmful prescribing patterns or practices, the department may notify the podiatrist of the potentially harmful prescribing pattern or practice.

(d) The department may initiate a complaint against a podiatrist based on information obtained under this section.

SECTION 60. Same as introduced version.

SECTION 61. Same as introduced version.

SECTION 62. Section 481.352, Health and Safety Code, is amended to read as follows: Sec. 481.352. MEMBERS. The work group is composed of:

(1) the executive director of the board or the executive director's designee, who serves as chair of the work group;

(2) the commissioner of state health services or the commissioner's designee;

(3) the executive director of the Texas Medical Board or the executive director's designee;

(4) the executive director of the Texas Board of Nursing or the executive director's designee;

- (5) the executive director of the Texas Physician Assistant Board or the executive director's designee;
- (6) the executive director of the State Board of Dental Examiners or the executive director's designee;
- (7) the executive director of the Texas Optometry Board or the executive director's designee;
- (8) a member [the executive director] of the [Texas State Board of] Podiatric Medical Examiners Advisory Board or the board's [executive director's] designee;
- (9) the executive director of the State Board of Veterinary Medical Examiners or the executive director's designee; and
- (10) a medical examiner appointed by the board.

SECTION 62. The following provisions of the Occupations Code are repealed:

- (1) Section 202.002;
- (2) Section 202.052;
- (3) Sections 202.059(b) and (c);
- (4) Section 202.060;
- (5) Subchapter C, Chapter 202;
- (6) Section 202.151;
- (7) Section 202.152;
- (8) Section 202.1525;
- (9) Section 202.153;
- (10) Section 202.154;
- (11) Section 202.1545;
- (12) Section 202.155;
- (13) Section 202.156;
- (14) Section 202.157;
- (15) Section 202.158;
- (16) Section 202.162;
- (17) Section 202.163;
- (18) Section 202.201;
- (19) Section 202.202;
- (20) Section 202.203;
- (21) Section 202.204;
- (22) Section 202.205;
- (23) Sections 202.252(c) and (d);
- (24) Section 202.254(e);
- (25) Section 202.255;
- (26) Section 202.264;
- (27) Section 202.301;
- (28) Section 202.302;
- (29) Section 202.501(b);
- (30) Sections 202.503(b), (c), (d), and (e);
- (31) Section 202.507;
- (32) Section 202.508;
- (33) Section 202.510;

- (5) the executive director of the Texas Physician Assistant Board or the executive director's designee;
- (6) the executive director of the State Board of Dental Examiners or the executive director's designee;
- (7) the executive director of the Texas Optometry Board or the executive director's designee;
- (8) the executive director of the Texas Department of Licensing and Regulation [State Board of Podiatric Medical Examiners] or the executive director's designee;
- (9) the executive director of the State Board of Veterinary Medical Examiners or the executive director's designee; and
- (10) a medical examiner appointed by the board.

SECTION 63. The following provisions of the Occupations Code are repealed:

- (1) Section 202.002;
- (2) Section 202.052;
- (3) Sections 202.059(b) and (c);
- (4) Section 202.060;
- (5) Subchapter C, Chapter 202;
- (6) Section 202.151;
- (7) Section 202.152;
- (8) Section 202.1525;
- (9) Section 202.154;
- (10) Section 202.1545;
- (11) Section 202.155;
- (12) Section 202.156;
- (13) Section 202.157;
- (14) Section 202.158;
- (15) Section 202.162;
- (16) Section 202.163;
- (17) Section 202.201;
- (18) Section 202.202;
- (19) Section 202.203;
- (20) Section 202.204;
- (21) Section 202.205;
- (22) Sections 202.252(c) and (d);
- (23) Section 202.254(e);
- (24) Section 202.255;
- (25) Section 202.264;
- (26) Section 202.301;
- (27) Section 202.302;
- (28) Section 202.501(b);
- (29) Sections 202.503(b), (c), (d), and (e);
- (30) Section 202.507;
- (31) Section 202.508;
- (32) Section 202.510;

- (34) Subchapter L, Chapter 202;
- (35) Section 202.601; and
- (36) Section 202.6015.

SECTION 63. (a) In this section:

- (1) "Commission" means the Texas Commission of Licensing and Regulation.
- (2) "Department" means the Texas Department of Licensing and Regulation.
- (3) "Former board" means the Texas State Board of Podiatric Medical Examiners.

(b) On September 1, 2017:

- (1) all functions and activities performed by the former board immediately before that date are transferred to the department;
- (2) all rules, fees, policies, procedures, decisions, and forms adopted by the former board are continued in effect as rules, fees, policies, procedures, decisions, and forms of the commission or the department, as applicable, and remain in effect until amended or replaced by the commission or department;
- (3) a complaint, investigation, contested case, or other proceeding before the former board that is pending on September 1, 2017, is transferred without change in status to the department or the commission, as appropriate;
- (4) all money, contracts, leases, property, and obligations of the former board are transferred to the department;
- (5) all property in the custody of the former board is transferred to the department; and
- (6) the unexpended and unobligated balance of any money appropriated by the legislature for the former board is transferred to the department.

(c) The former board shall provide the department with access to any systems or information necessary for the department to accept the program transferred under this Act, including:

- (1) licensing, revenue, and expenditure systems;
- (2) rights to service contracts and licensing agreements;
- (3) use of online renewal and new application systems; and
- (4) review and resolution of pending judgments and outstanding expenditures.

(d) Unless the context indicates otherwise, a reference to the former board in a law or administrative rule means the commission or the department, as applicable.

- (33) Subchapter L, Chapter 202;
- (34) Section 202.601; and
- (35) Section 202.6015.

SECTION 64. Same as introduced version.

(e) A license or certificate issued by the former board is continued in effect as a license or certificate of the department.

(f) On September 1, 2017, all full-time equivalent employee positions at the former board that primarily concern the administration or enforcement of Chapter 202, Occupations Code, become positions at the department. The department shall post the positions for hiring and, when filling the positions, shall give first consideration to, but is not required to hire, an applicant who, as of August 31, 2017, was an employee at the former board primarily involved in administering or enforcing Chapter 202, Occupations Code.

SECTION 64. (a) On September 1, 2017, the terms of the members serving on the Texas State Board of Podiatric Medical Examiners expire, and the Texas State Board of Podiatric Medical Examiners is abolished.

(b) Not later than December 1, 2017, the governor shall appoint members to the Podiatric Medical Examiners Advisory Board in accordance with Section 202.051, Occupations Code, as amended by this Act. A member whose term expired under Subsection (a) of this section is eligible for reappointment to the advisory board.

(c) The members whose terms expire under Subsection (a) of this section shall continue to provide advice to the Texas Department of Licensing and Regulation until a majority of the members of the advisory board are appointed under Subsection (b) of this section and qualified.

SECTION 65. Section 202.061, Occupations Code, as amended by this Act, applies only to a member of the Podiatric Medical Examiners Advisory Board appointed on or after the effective date of this Act.

SECTION 66. (a) As soon as possible after the effective date of this Act, the Texas Commission of Licensing and Regulation shall adopt the rules necessary to implement Section 202.252, Occupations Code, as amended by this Act.

(b) Not later than September 1, 2019, the Texas Department of Licensing and Regulation shall obtain criminal history

SECTION 65. Same as introduced version.

SECTION 66. Same as introduced version.

SECTION 67. Same as introduced version.

record information on each person who, on the effective date of this Act, holds a license issued under Chapter 202, Occupations Code, and did not undergo a criminal history record information check based on the license holder's fingerprints on initial application for the license. The department may suspend the license of a license holder who does not provide the criminal history record information as required by the department and this subsection.

SECTION 67. Section 202.354, Occupations Code, as added by this Act, applies only to a prescription issued on or after September 1, 2018. A prescription issued before September 1, 2018, is governed by the law in effect on the date the prescription is issued, and the former law is continued in effect for that purpose.

SECTION 68. The changes in law made by this Act do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on the effective date of this Act.

SECTION 69. (a) A violation of a law that is repealed by this Act is governed by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

(b) For purposes of this section, a violation was committed before the effective date of this Act if any element of the violation occurred before that date.

SECTION 70. This Act takes effect September 1, 2017.

SECTION 68. Same as introduced version.

SECTION 69. Same as introduced version.

SECTION 70. Same as introduced version.

SECTION 71. Same as introduced version.