

By: Thompson of Harris

H.B. No. 3078

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to transfer of the regulation of podiatry to the Texas  
3 Department of Licensing and Regulation; authorizing a reduction in  
4 fees.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

11 (b) The commission may not adopt a new rule relating to the  
12 scope of practice of, a health-related standard of care for, or the  
13 ethical practice of the profession of podiatry unless the rule has  
14 been proposed by the advisory board. The commission shall adopt  
15 rules prescribing the procedure by which the advisory board may  
16 propose rules described by this subsection.

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

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

1 regarding:

2 (1) continuing education requirements; and

3 (2) the general investigative, enforcement, or  
4 disciplinary procedures of the department or commission.

5 SECTION 2. Section 202.001(a), Occupations Code, is amended  
6 by amending Subdivisions (1) and (2) and adding Subdivisions (1-a)  
7 and (1-b) to read as follows:

8 (1) "Advisory board" ["Board"] means the Podiatric  
9 Medical Examiners Advisory Board [~~Texas State Board of Podiatric~~  
10 ~~Medical Examiners~~].

11 (1-a) "Commission" means the Texas Commission of  
12 Licensing and Regulation.

13 (1-b) "Department" means the Texas Department of  
14 Licensing and Regulation.

15 (2) "Executive director" means the executive director  
16 of the Texas Department of Licensing and Regulation [~~employee of~~  
17 ~~the board who manages the board's day-to-day operations~~].

18 SECTION 3. The heading to Subchapter B, Chapter 202,  
19 Occupations Code, is amended to read as follows:

20 SUBCHAPTER B. [~~TEXAS STATE BOARD OF~~] PODIATRIC MEDICAL EXAMINERS  
21 ADVISORY BOARD

22 SECTION 4. Section 202.051(a), Occupations Code, is amended  
23 to read as follows:

24 (a) The [~~Texas State Board of~~] Podiatric Medical Examiners  
25 Advisory Board consists of nine members appointed by the governor  
26 as follows:

27 (1) six members who are licensed in this state to

1 practice podiatry and [~~are reputable practicing podiatrists who~~  
2 ~~have resided in this state and~~] have been actively engaged in the  
3 practice of podiatry for the five years preceding appointment; and

4 (2) three members who represent the public.

5 SECTION 5. Section [202.053](#), Occupations Code, is amended to  
6 read as follows:

7 Sec. 202.053. PUBLIC MEMBER ELIGIBILITY. A person is not  
8 eligible for appointment as a public member of the advisory board if  
9 the person or the person's spouse:

10 (1) is registered, certified, or licensed by an  
11 occupational regulatory agency in the field of health care;

12 (2) is employed by or participates in the management  
13 of a business entity or other organization regulated by the  
14 department [~~board~~] or receiving funds from the department [~~board~~];

15 (3) owns or controls, directly or indirectly, more  
16 than a 10 percent interest in a business entity or other  
17 organization regulated by the department [~~board~~] or receiving funds  
18 from the department [~~board~~]; or

19 (4) uses or receives a substantial amount of tangible  
20 goods, services, or funds from the department [~~board~~], other than  
21 [~~compensation or~~] reimbursement authorized by law for advisory  
22 board membership, attendance, or expenses.

23 SECTION 6. Sections [202.054](#)(b) and (c), Occupations Code,  
24 are amended to read as follows:

25 (b) A person may not be a member of the advisory board [~~and~~  
26 ~~may not be a board employee employed in a "bona fide executive,~~  
27 ~~administrative, or professional capacity," as that phrase is used~~

1 ~~for purposes of establishing an exemption to the overtime~~  
2 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~  
3 ~~U.S.C. Section 201 et seq.)] if:~~

4 (1) the person is an officer, employee, or paid  
5 consultant of a Texas trade association in the field of health care;  
6 or

7 (2) the person's spouse is an officer, manager, or paid  
8 consultant of a Texas trade association in the field of health care.

9 (c) A person may not be a member of the advisory board [~~or~~  
10 ~~act as the general counsel to the board]~~ if the person is required  
11 to register as a lobbyist under Chapter 305, Government Code,  
12 because of the person's activities for compensation on behalf of a  
13 profession related to the operation of the advisory board.

14 SECTION 7. Section 202.055, Occupations Code, is amended to  
15 read as follows:

16 Sec. 202.055. TERMS; VACANCIES. (a) Members of the  
17 advisory board serve staggered six-year terms, with the term of  
18 three members expiring on February 1 of each odd-numbered year. At  
19 the expiration of the term of each member, the governor shall  
20 appoint a successor.

21 (b) If a vacancy occurs during a term, the governor shall  
22 appoint a replacement who meets the qualifications of the vacated  
23 position to serve for the remainder of the term.

24 SECTION 8. Section 202.056, Occupations Code, is amended to  
25 read as follows:

26 Sec. 202.056. GROUND FOR REMOVAL. (a) It is a ground for  
27 removal from the advisory board that a member:

1 (1) does not have at the time of taking office the  
2 qualifications required by Section 202.051 or 202.053;

3 (2) does not maintain during service on the advisory  
4 board the qualifications required by Section 202.051 or 202.053;

5 (3) is ineligible for membership under Section  
6 202.054;

7 (4) cannot, because of illness or disability,  
8 discharge the member's duties for a substantial part of the member's  
9 term; or

10 (5) is absent from more than half of the regularly  
11 scheduled advisory board meetings that the member is eligible to  
12 attend during a calendar year unless the absence is excused by a  
13 majority vote of the advisory board.

14 (b) The validity of an action of the advisory board is not  
15 affected by the fact that the action is taken when a ground for  
16 removal of an advisory [a] board member exists.

17 (c) If the executive director has knowledge that a potential  
18 ground for removal exists, the executive director shall notify the  
19 ~~[president of the board of the potential ground. The president~~  
20 ~~shall then notify the]~~ governor and the attorney general that a  
21 potential ground for removal exists. ~~[If the potential ground for~~  
22 ~~removal involves the president, the executive director shall notify~~  
23 ~~the next highest ranking officer of the board, who shall then notify~~  
24 ~~the governor and the attorney general that a potential ground for~~  
25 ~~removal exists.]~~

26 SECTION 9. Section 202.057, Occupations Code, is amended to  
27 read as follows:

1           Sec. 202.057. COMPENSATION [~~PER DIEM~~]; REIMBURSEMENT OF  
2 EXPENSES. An advisory board member may not receive compensation  
3 but is entitled to [~~(a) Each board member is entitled to a per diem~~  
4 ~~as set by legislative appropriation for each day the member engages~~  
5 ~~in the business of the board.~~

6           [~~(b) A member may receive~~] reimbursement for actual and  
7 necessary expenses incurred in performing the functions of the  
8 advisory board, subject to [~~travel expenses, including expenses for~~  
9 ~~meals, lodging, and transportation, as prescribed by~~] the General  
10 Appropriations Act.

11           [~~(c) The secretary of the board is entitled to reimbursement~~  
12 ~~for the secretary's necessary expenses incurred in the performance~~  
13 ~~of services for the board.~~]

14           SECTION 10. Section 202.058, Occupations Code, is amended  
15 to read as follows:

16           Sec. 202.058. PRESIDING OFFICER [~~OFFICERS~~]. [~~(a)~~] The  
17 governor shall appoint one [~~designate a member~~] of the advisory  
18 board members to serve as presiding officer [~~the president~~] of the  
19 advisory board at the pleasure of the governor. The presiding  
20 officer may vote on any matter before the advisory board [~~to serve~~  
21 ~~in that capacity at the pleasure of the governor~~].

22           [~~(b) At the first regular scheduled meeting of each~~  
23 ~~biennium, the board shall elect from its members a vice president~~  
24 ~~and secretary.~~]

25           SECTION 11. Section 202.059(a), Occupations Code, is  
26 amended to read as follows:

27           (a) The advisory board shall meet at the call of the

1 presiding officer of the commission or the executive director [~~hold~~  
2 ~~regular meetings at least twice a year and special meetings as~~  
3 ~~necessary. The board shall hold the meetings at times and places~~  
4 ~~the board considers most convenient for applicants for license~~  
5 ~~examinations~~].

6 SECTION 12. Section 202.061, Occupations Code, is amended  
7 to read as follows:

8 Sec. 202.061. TRAINING. (a) A person who is appointed to  
9 and qualifies for office as a member of the advisory board may not  
10 vote, deliberate, or be counted as a member in attendance at a  
11 meeting of the advisory board until the person completes a training  
12 program that complies with this section.

13 (b) The training program must provide the person with  
14 information regarding:

15 (1) this chapter;

16 (2) [~~and~~] the department's programs, functions, and  
17 rules with respect to this chapter [~~, and budget of the board~~];

18 (3) [~~(2)~~] the results of the most recent formal audit  
19 of the department with respect to this chapter [~~board~~];

20 (4) the scope and limitations on the rulemaking  
21 authority of the advisory board;

22 (5) [~~(3)~~] the requirements of:

23 (A) laws relating to open meetings, public  
24 information, administrative procedure, and disclosing conflicts of  
25 interest; and

26 (B) other laws applicable to members of the  
27 advisory board in performing the members' duties; and

1           (6) [~~(4)~~] any applicable ethics policies adopted by  
2 the commission [~~board~~] or the Texas Ethics Commission.

3           (c) The executive director shall create a training manual  
4 that includes the information required by Subsection (b). The  
5 executive director shall distribute a copy of the training manual  
6 annually to each advisory board member. On receipt of the training  
7 manual, each advisory board member shall sign and submit to the  
8 executive director a statement acknowledging receipt of the  
9 training manual. [A person appointed to the board may be entitled  
10 to reimbursement, as provided by the General Appropriations Act,  
11 for the travel expenses incurred in attending the training program  
12 regardless of whether the attendance at the program occurs before  
13 or after the person qualifies for office.]

14           SECTION 13. Subchapter B, Chapter 202, Occupations Code, is  
15 amended by adding Section 202.062 to read as follows:

16           Sec. 202.062. DUTIES OF ADVISORY BOARD. The advisory board  
17 shall provide advice and recommendations to the department on  
18 technical matters relevant to the administration of this chapter.

19           SECTION 14. The heading to Subchapter D, Chapter 202,  
20 Occupations Code, is amended to read as follows:

21                   SUBCHAPTER D. [~~BOARD~~] POWERS AND DUTIES

22           SECTION 15. Subchapter D, Chapter 202, Occupations Code, is  
23 amended by adding Section 202.1515 to read as follows:

24           Sec. 202.1515. GENERAL POWERS AND DUTIES. (a) The  
25 executive director shall administer and enforce this chapter.

26           (b) The commission shall adopt rules necessary to  
27 administer and enforce this chapter.



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

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

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

11 SECTION 17. Section 202.160, Occupations Code, is amended  
12 to read as follows:

13 Sec. 202.160. INFORMATION PROVIDED TO LICENSE HOLDERS. At  
14 least once each biennium, the department [~~board~~] shall provide to  
15 license holders information on:

16 (1) prescribing and dispensing pain medications, with  
17 particular emphasis on Schedule II and Schedule III controlled  
18 substances;

19 (2) abusive and addictive behavior of certain persons  
20 who use prescription pain medications;

21 (3) common diversion strategies employed by certain  
22 persons who use prescription pain medications, including  
23 fraudulent prescription patterns; and

24 (4) the appropriate use of pain medications and the  
25 differences between addiction, pseudo-addiction, tolerance, and  
26 physical dependence.

27 SECTION 18. Section 202.161, Occupations Code, is amended



1 sufficient information to identify the source or the name of the  
2 person who filed the complaint.

3 (2) "Insurance agent" means a person licensed under  
4 Chapter 4054, Insurance Code.

5 (3) "Insurer" means an insurance company or other  
6 entity authorized to engage in the business of insurance under  
7 Subtitle C, Title 6, Insurance Code.

8 (4) "Third-party administrator" means a person  
9 required to have a certificate of authority under Chapter 4151,  
10 Insurance Code.

11 (b) The department may not accept anonymous complaints.

12 (c) Notwithstanding any confidentiality requirements under  
13 Chapter 552, Government Code, or this chapter, a complaint filed  
14 with the department by an insurance agent, insurer, pharmaceutical  
15 company, or third-party administrator against a license holder must  
16 include the name and address of the insurance agent, insurer,  
17 pharmaceutical company, or third-party administrator filing the  
18 complaint.

19 (d) Not later than the 15th day after the date the complaint  
20 is filed with the department, the department shall notify the  
21 license holder who is the subject of the complaint of the name and  
22 address of the insurance agent, insurer, pharmaceutical company, or  
23 third-party administrator who filed the complaint, unless the  
24 notice would jeopardize an investigation.

25 SECTION 22. Sections 202.252(a), (b), (e), and (f),  
26 Occupations Code, are amended to read as follows:

27 (a) An application for a license under this chapter must be

1 submitted in the manner and on a form prescribed by the executive  
2 director [~~A person who desires to practice podiatry in this state~~  
3 ~~shall apply in writing to the board for a license on a form~~  
4 ~~prescribed by the board~~].

5 (b) The commission by rule shall establish the information  
6 and documentation required to be submitted as part of an  
7 application for a license under this chapter [~~applicant shall~~  
8 ~~submit any information reasonably required by the board~~], including  
9 evidence satisfactory to the commission or department [~~board~~] that  
10 the applicant:

11 (1) is at least 21 years of age;

12 (2) [~~is of good moral character,~~

13 [~~(3)~~] has completed at least 90 semester hours of  
14 college courses acceptable at the time of completion for credit  
15 toward a bachelor's degree at an institution of higher education  
16 determined by the department to have acceptable standards [~~The~~  
17 ~~University of Texas~~];

18 (3) [~~(4)~~] is a graduate of a reputable school of  
19 podiatry or chiropody; and

20 (4) [~~(5)~~] has successfully completed any other course  
21 of training reasonably required by commission [~~board~~] rule relating  
22 to the safe care and treatment of patients.

23 (e) All educational attainments or credits for evaluation  
24 under this chapter must be completed within the United States. The  
25 department [~~board~~] may not accept educational credits attained in a  
26 foreign country that are not approved by the department [~~acceptable~~  
27 ~~to The University of Texas for credit toward a bachelor's degree~~].

1 (f) For purposes of this section, a podiatry or chiropody  
2 school is reputable if:

3 (1) the course of instruction consists of four terms  
4 of approximately eight months each, or the substantial equivalent;  
5 and

6 (2) the school is approved by the department [~~board~~].

7 SECTION 23. Subchapter F, Chapter 202, Occupations Code, is  
8 amended by adding Section 202.2525 to read as follows:

9 Sec. 202.2525. CRIMINAL HISTORY RECORD INFORMATION FOR  
10 LICENSE ISSUANCE. (a) The department shall require that an  
11 applicant for a license submit a complete and legible set of  
12 fingerprints, on a form prescribed by the executive director, to  
13 the department or to the Department of Public Safety for the purpose  
14 of obtaining criminal history record information from the  
15 Department of Public Safety and the Federal Bureau of  
16 Investigation.

17 (b) The department may not issue a license to a person who  
18 does not comply with the requirement of Subsection (a).

19 (c) The department shall conduct a criminal history record  
20 information check of each applicant for a license using  
21 information:

22 (1) provided by the individual under this section; and

23 (2) made available to the department by the Department  
24 of Public Safety, the Federal Bureau of Investigation, and any  
25 other criminal justice agency under Chapter 411, Government Code.

26 (d) The department may:

27 (1) enter into an agreement with the Department of

1 Public Safety to administer a criminal history record information  
2 check required under this section; and

3 (2) authorize the Department of Public Safety to  
4 collect from each applicant the costs incurred by the Department of  
5 Public Safety in conducting the criminal history record information  
6 check.

7 SECTION 24. Section 202.253, Occupations Code, is amended  
8 to read as follows:

9 Sec. 202.253. GROUNDS FOR DENIAL OF LICENSE. (a) The  
10 commission may refuse to issue a license or certificate to a person  
11 who violates this chapter, a rule adopted under this chapter, or an  
12 order of the commission or executive director.

13 (a-1) The commission or department [~~board~~] may refuse to  
14 admit a person to an examination, and may refuse to issue a license  
15 to practice podiatry to a person, for:

16 (1) presenting [~~to the board~~] a license, certificate,  
17 or diploma that was illegally or fraudulently obtained or engaging  
18 in fraud or deception in passing the examination;

19 (2) being convicted of:

20 (A) a felony;

21 (B) a crime that involves moral turpitude; or

22 (C) an offense under Section 202.606;

23 (3) engaging in habits of intemperance or drug  
24 addiction that in the department's [~~board's~~] opinion would endanger  
25 the health, well-being, or welfare of patients;

26 (4) engaging in grossly unprofessional or  
27 dishonorable conduct of a character that in the department's

1 [~~board's~~] opinion is likely to deceive or defraud the public;

2 (5) directly or indirectly violating or attempting to  
3 violate this chapter or a rule adopted under this chapter as a  
4 principal, accessory, or accomplice;

5 (6) using any advertising statement of a character  
6 tending to mislead or deceive the public;

7 (7) advertising professional superiority or the  
8 performance of professional service in a superior manner;

9 (8) purchasing, selling, bartering, or using or  
10 offering to purchase, sell, barter, or use a podiatry degree,  
11 license, certificate, diploma, or a transcript of a license,  
12 certificate, or diploma, in or incident to an application [~~to the~~  
13 ~~board~~] for a license to practice podiatry;

14 (9) altering, with fraudulent intent, a podiatry  
15 license, certificate, diploma, or a transcript of a podiatry  
16 license, certificate, or diploma;

17 (10) using a podiatry license, certificate, or  
18 diploma, or a transcript of a podiatry license, certificate, or  
19 diploma, that has been fraudulently purchased, issued,  
20 counterfeited, or materially altered;

21 (11) impersonating, or acting as proxy for, another  
22 person in a podiatry license examination;

23 (12) impersonating a license holder, or permitting  
24 another person to use the license holder's license to practice  
25 podiatry in this state, to treat or offer to treat, by any method,  
26 conditions and ailments of human feet;

27 (13) directly or indirectly employing a person whose

1 license to practice podiatry has been suspended or associating in  
2 the practice of podiatry with a person whose license to practice  
3 podiatry has been suspended or who has been convicted of the  
4 unlawful practice of podiatry in this state or elsewhere;

5 (14) wilfully making in the application for a license  
6 to practice podiatry a material misrepresentation or material  
7 untrue statement;

8 (15) being unable to practice podiatry with reasonable  
9 skill and safety to a patient because of age, illness, drunkenness,  
10 or excessive use of drugs, narcotics, chemicals, or other  
11 substances or as a result of a mental or physical condition;

12 (16) failing to practice podiatry in an acceptable  
13 manner consistent with public health and welfare;

14 (17) being removed, suspended, or disciplined in  
15 another manner by the podiatrist's peers in a professional podiatry  
16 association or society, whether local, regional, state, or national  
17 in scope, or being disciplined by a licensed hospital or the medical  
18 staff of a hospital, including removal, suspension, limitation of  
19 hospital privileges, or other disciplinary action, if the  
20 commission or department [~~board~~] determines that the action was:

21 (A) based on unprofessional conduct or  
22 professional incompetence likely to harm the public; and

23 (B) appropriate and reasonably supported by  
24 evidence submitted to the association, society, hospital, or  
25 medical staff; or

26 (18) having repeated or recurring meritorious health  
27 care liability claims filed against the podiatrist that in the



1 commission's or department's [~~board's~~] opinion are evidence of  
2 professional incompetence likely to injure the public.

3 (b) In enforcing Subsection (a-1)(15) [~~(a)(15)~~], the  
4 department [~~board~~], on probable cause, shall request the affected  
5 podiatrist to submit to a mental or physical examination by a  
6 physician designated by the department [~~board~~]. If the podiatrist  
7 refuses to submit to the examination, the commission or executive  
8 director [~~board~~] shall issue an order requiring the podiatrist to  
9 show cause why the podiatrist will not submit to the examination and  
10 shall schedule a hearing on the order not later than the 30th day  
11 after the date notice is served on the podiatrist. The podiatrist  
12 shall be notified by either personal service or certified mail with  
13 return receipt requested.

14 (c) At the hearing, the podiatrist and the podiatrist's  
15 attorney may present testimony and other evidence to show why the  
16 podiatrist should not be required to submit to the examination.  
17 After a complete hearing, the commission or executive director  
18 [~~board~~] shall issue an order either requiring the podiatrist to  
19 submit to the examination or withdrawing the request for  
20 examination.

21 SECTION 25. Sections [202.254](#)(a), (b), and (c), Occupations  
22 Code, are amended to read as follows:

23 (a) Except as provided by Section [202.261](#), each applicant  
24 for a license to practice podiatry in this state must pass an  
25 examination approved by the department [~~board~~]. [~~Each applicant~~  
26 ~~shall pay to the board an examination fee at least 15 days before~~  
27 ~~the date of the scheduled examination.~~]

1 (b) The department shall recognize, prepare, administer, or  
2 arrange for the administration of an examination under this chapter  
3 ~~[board may adopt and enforce rules of procedure for administering~~  
4 ~~this section. A public board member may not participate in any part~~  
5 ~~of the examination process for applicants for a license issued by~~  
6 ~~the board that requires knowledge of the practice of podiatry].~~

7 (c) The license examination must consist of a written and  
8 practical component. The department ~~[board]~~ shall determine the  
9 passing score for the examination using accepted  
10 criterion-referenced methods. The department ~~[board]~~ shall have  
11 the examination validated by an independent testing professional.

12 SECTION 26. Section 202.257, Occupations Code, is amended  
13 to read as follows:

14 Sec. 202.257. ISSUANCE OF LICENSE. The department ~~[board]~~  
15 shall issue a license to each applicant who possesses the  
16 qualifications required for a license and passes the examination.

17 SECTION 27. Section 202.259(a), Occupations Code, is  
18 amended to read as follows:

19 (a) The commission ~~[board]~~ by rule may adopt a procedure for  
20 the issuance of a temporary license to an applicant other than an  
21 applicant for a provisional license under Section 202.260.

22 SECTION 28. Sections 202.260(a), (b), (c), and (d),  
23 Occupations Code, are amended to read as follows:

24 (a) On application, the department ~~[board]~~ shall grant a  
25 provisional license to practice podiatry to an applicant who:

26 (1) is licensed in good standing as a podiatrist in  
27 another state that has licensing requirements that are

1 substantially equivalent to the requirements of this chapter;

2 (2) has passed a national or other examination  
3 recognized by the department [~~board~~] relating to the practice of  
4 podiatry; and

5 (3) is sponsored by a person licensed under this  
6 chapter with whom the provisional license holder may practice under  
7 this section.

8 (b) The department [~~board~~] may excuse an applicant for a  
9 provisional license from the requirement of Subsection (a)(3) if  
10 the department [~~board~~] determines that compliance with that  
11 subdivision [~~subsection~~] constitutes a hardship to the applicant.

12 (c) A provisional license is valid until the date the  
13 department [~~board~~] approves or denies the provisional license  
14 holder's application for a license. Except as provided by  
15 Subsection (e), the department [~~board~~] shall issue a license under  
16 this chapter to the holder of a provisional license under this  
17 section if:

18 (1) the provisional license holder passes the  
19 examination required by Section [202.254](#);

20 (2) the department [~~board~~] verifies that the  
21 provisional license holder has the academic and experience  
22 requirements for a license under this chapter; and

23 (3) the provisional license holder satisfies any other  
24 license requirements under this chapter.

25 (d) The department [~~board~~] shall complete the processing of  
26 a provisional license holder's application for a license not later  
27 than the 180th day after the date the provisional license is issued.

1 The department [~~board~~] may extend that deadline to allow for the  
2 receipt of pending examination results.

3 SECTION 29. Sections 202.261(a) and (b), Occupations Code,  
4 are amended to read as follows:

5 (a) The department [~~board~~] may issue a license to practice  
6 podiatry without administering the examination under Section  
7 202.254 to a podiatrist who:

8 (1) at the time of applying for a license has accepted  
9 an appointment or is serving as a full-time member of the faculty of  
10 an educational institution in this state offering an approved or  
11 accredited course of study or training leading to a degree in  
12 podiatry;

13 (2) is licensed to practice podiatry in another state  
14 that has licensing requirements substantially equivalent to those  
15 established by this state; and

16 (3) otherwise satisfies the requirements of Section  
17 202.252.

18 (b) For purposes of Subsection (a)(1), a course of study,  
19 training, or education is considered to be approved or accredited  
20 if it is approved or accredited by the department [~~board~~] as  
21 constituting a reputable course of study, training, or education.  
22 In deciding whether to approve or accredit a course of study,  
23 training, or education, the department [~~board~~] shall consider  
24 whether the course is approved or accredited by the Council on  
25 Podiatric Medical Education of the American Podiatric Medical  
26 Association or its successor organization.

27 SECTION 30. Section 202.262, Occupations Code, is amended

1 to read as follows:

2           Sec. 202.262. DISPLAY OF LICENSE. (a) A person licensed  
3 under this chapter must conspicuously display both the license and  
4 an unexpired [~~an annual~~] renewal certificate [~~for the current year~~  
5 ~~of practice~~] at the location where the person practices.

6           (b) The person shall exhibit the license and renewal  
7 certificate to a department [~~board~~] representative on the  
8 representative's official request for examination or inspection.

9           SECTION 31. Section [202.263](#), Occupations Code, is amended  
10 to read as follows:

11           Sec. 202.263. ISSUANCE OF DUPLICATE OR AMENDED LICENSE.

12 (a) If a license issued by the department [~~board~~] is lost,  
13 destroyed, or stolen from the person to whom it was issued, the  
14 license holder shall report the fact to the department and [~~board in~~  
15 ~~an affidavit. The affidavit must~~] include detailed information as  
16 to the loss, destruction, or theft, giving dates, place, and  
17 circumstances.

18           (b) A license holder may apply to the department [~~board~~] for  
19 an amended license because of a lawful change in the person's name  
20 or degree designation or for any other lawful and sufficient  
21 reason. The license holder must state the reasons that the issuance  
22 of an amended license is requested.

23           (c) The department [~~board~~] shall issue a duplicate or  
24 amended license on application by a license holder and payment of a  
25 fee set by the commission [~~board~~] for the duplicate or amended  
26 license. The department [~~board~~] may not issue a duplicate or  
27 amended license unless:

1           (1) the license holder submits sufficient evidence to  
2 prove the license has been lost, destroyed, or stolen or  
3 establishes the lawful reason that an amended license should be  
4 issued; and

5           (2) the department's [~~board's~~] records show a license  
6 had been issued and was in effect at the time of the loss,  
7 destruction, or theft or on the date of the request for an amended  
8 license.

9           (d) If an amended license is issued, the license holder  
10 shall return the original license to the department [~~board~~].

11           SECTION 32. Subchapter G, Chapter 202, Occupations Code, is  
12 amended by adding Section 202.3015 to read as follows:

13           Sec. 202.3015. TERM AND RENEWAL. (a) A license issued  
14 under this chapter is valid for one or two years as determined by  
15 commission rule.

16           (b) The commission by rule shall establish the requirements  
17 for renewing a license and issuing a renewal certificate under this  
18 chapter, including payment of applicable fees.

19           SECTION 33. Subchapter G, Chapter 202, Occupations Code, is  
20 amended by adding Section 202.3025 to read as follows:

21           Sec. 202.3025. CRIMINAL HISTORY RECORD INFORMATION  
22 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a  
23 license issued under this chapter shall submit a complete and  
24 legible set of fingerprints for purposes of performing a criminal  
25 history record information check of the applicant as provided by  
26 Section 202.2525.

27           (b) The department may administratively suspend or refuse

1 to renew the license of a person who does not comply with the  
2 requirement of Subsection (a).

3 (c) A license holder is not required to submit fingerprints  
4 under this section for the renewal of the license if the license  
5 holder has previously submitted fingerprints under:

6 (1) Section 202.2525 for the initial issuance of the  
7 license; or

8 (2) this section as part of a prior license renewal.

9 SECTION 34. Section 202.303, Occupations Code, is amended  
10 to read as follows:

11 Sec. 202.303. PRACTICE WITHOUT RENEWING LICENSE. A person  
12 who practices podiatry with [~~without~~] an expired [~~annual~~] renewal  
13 certificate [~~for the current year~~] is considered to be practicing  
14 without a license and is subject to all the penalties of the  
15 practice of podiatry without a license.

16 SECTION 35. Sections 202.304(a) and (b), Occupations Code,  
17 are amended to read as follows:

18 (a) Except as provided by Subsection (c), this section  
19 applies to a podiatrist whose license has been suspended or  
20 revoked, or whose most recently issued [~~annual~~] renewal certificate  
21 has expired, while the podiatrist has been:

22 (1) engaged in federal service or on active duty with:

23 (A) the United States Army;

24 (B) the United States Navy;

25 (C) the United States Marine Corps;

26 (D) the United States Coast Guard; or

27 (E) the United States Air Force;

1           (2) called into service or training of the United  
2 States; or

3           (3) in training or education under the supervision of  
4 the United States before induction into military service.

5           (b) A podiatrist subject to this section may renew the  
6 podiatrist's license without paying a renewal fee for the expired  
7 license or passing an examination if, not later than the first  
8 anniversary of the date of the termination of service, training, or  
9 education described by Subsection (a), other than by dishonorable  
10 discharge, the podiatrist furnishes to the department [~~board~~] an  
11 affidavit stating that the podiatrist has been so engaged and that  
12 the service, training, or education has terminated.

13           SECTION 36. Section 202.305, Occupations Code, is amended  
14 to read as follows:

15           Sec. 202.305. CONTINUING EDUCATION. (a) The commission by  
16 rule shall establish the minimum number of hours of continuing  
17 education required for license renewal.

18           (a-1) The department [~~board~~] shall develop a mandatory  
19 continuing education program in accordance with commission rules.  
20 In developing its program, the department [~~board~~] shall:

21           (1) [~~establish by rule the minimum hours of continuing~~  
22 ~~education required for license renewal,~~

23           [~~(2)~~] identify the key factors that lead to the  
24 competent performance of professional duties;

25           (2) [~~(3)~~] develop a process to evaluate and approve  
26 continuing education courses; and

27           (3) [~~(4)~~] develop a process to assess the



1 participation and performance of license holders in continuing  
2 education courses to enable the department [~~board~~] to evaluate the  
3 overall effectiveness of the program.

4 (b) The department [~~board~~] may assess the continuing  
5 education needs of a license holder and require the license holder  
6 to attend continuing education courses specified by the department  
7 [~~board~~].

8 SECTION 37. The heading to Section 202.352, Occupations  
9 Code, is amended to read as follows:

10 Sec. 202.352. [~~BOARD~~] APPROVAL OF NAMES UNDER WHICH  
11 PODIATRIST MAY PRACTICE.

12 SECTION 38. Sections 202.352(a) and (b), Occupations Code,  
13 are amended to read as follows:

14 (a) The commission [~~board~~] may adopt rules establishing  
15 standards or guidelines for the name, including a trade name or  
16 assumed name, under which a podiatrist may conduct a practice in  
17 this state. In its rules, the commission [~~board~~] may also establish  
18 procedures to review and make determinations approving or  
19 disapproving a specific name submitted to the department [~~board~~] by  
20 one or more podiatrists desiring to practice under a particular  
21 name.

22 (b) The authority granted to the commission and department  
23 [~~board~~] by this section includes any form of business organization  
24 under which a podiatrist conducts a practice, including:

- 25 (1) a sole proprietorship;  
26 (2) an association;  
27 (3) a partnership;

- 1 (4) a professional corporation;
- 2 (5) a clinic;
- 3 (6) a health maintenance organization; and
- 4 (7) a group practice with a practitioner of another
- 5 branch of the healing art.

6 SECTION 39. Sections 202.353(a), (c), (d), (e), (f), (g),  
7 (h), and (i), Occupations Code, are amended to read as follows:

8 (a) An insurer who delivers or issues for delivery in this  
9 state professional liability insurance coverage to a podiatrist who  
10 practices in this state shall furnish to the department [~~board~~] the  
11 information specified in Subsection (b) relating to:

12 (1) a notice of claim letter or a complaint filed  
13 against the insured in a court, if the notice of claim letter or the  
14 complaint seeks the recovery of damages based on the insured's  
15 conduct in providing or failing to provide medical or health care  
16 services; or

17 (2) a settlement of a claim or other legal action made  
18 by the insurer on behalf of the insured.

19 (c) If a podiatrist who practices in this state is not  
20 covered by professional liability insurance or is insured by an  
21 insurer who is not authorized to write professional liability  
22 insurance for podiatrists in this state, the affected podiatrist  
23 shall submit information to the department [~~board~~] relating to any  
24 malpractice action brought against that podiatrist. The podiatrist  
25 shall submit the information as required by rules adopted by the  
26 commission [~~board~~] under Subsections (d)-(f).

27 (d) In consultation with the commissioner of insurance, the

1 commission [~~board~~] shall adopt rules for reporting the information  
2 required under Subsections (a) and (b) and any additional  
3 information required by the department [~~board~~].

4 (e) The department [~~board~~] shall consider other claim  
5 reports required under state or federal law in determining:

- 6 (1) any additional information to be reported;
- 7 (2) the form of the report; and
- 8 (3) reasonable reporting intervals.

9 (f) The department [~~board~~] may require additional  
10 information, including:

- 11 (1) the date of a judgment, dismissal, or settlement  
12 of a malpractice action;
- 13 (2) whether an appeal has been taken and the identity  
14 of the party appealing; and
- 15 (3) the amount of any judgment or settlement.

16 (g) An insurer, an agent or employee of the insurer, a  
17 commission [~~board~~] member, or an employee or representative of the  
18 department [~~board~~] is not liable or subject to a cause of action for  
19 an action taken as required under this section.

20 (h) A report or information submitted to the department  
21 [~~board~~] under this section or the fact that a report or information  
22 has been submitted may not be offered in evidence or in any manner  
23 used in the trial of an action brought against a podiatrist based on  
24 the podiatrist's conduct in providing or failing to provide medical  
25 or health care services.

26 (i) The department [~~board~~] shall review the information  
27 relating to a podiatrist against whom three or more malpractice

1 claims have been reported during any five-year period in the same  
2 manner as if a complaint against that podiatrist had been made to  
3 the department [~~board~~] under Subchapter E.

4 SECTION 40. Subchapter H, Chapter 202, Occupations Code, is  
5 amended by adding Section 202.354 to read as follows:

6 Sec. 202.354. DUTIES RELATED TO CERTAIN PRESCRIPTIONS. (a)  
7 A podiatrist may not prescribe a drug listed in Subsection (b) to a  
8 patient unless the podiatrist has reviewed the patient's  
9 prescription history by accessing the prescription information  
10 submitted to the Texas State Board of Pharmacy as authorized by  
11 Section 481.076(a)(5), Health and Safety Code.

12 (b) Subsection (a) applies only to the prescribing of:

- 13 (1) opioids;  
14 (2) benzodiazepines;  
15 (3) barbiturates; or  
16 (4) carisoprodol.

17 (c) Failure by a podiatrist to comply with the requirements  
18 of this section is grounds for disciplinary action under  
19 Subchapters F and G, Chapter 51.

20 SECTION 41. Sections 202.404(d) and (e), Occupations Code,  
21 are amended to read as follows:

22 (d) The privilege and confidentiality requirements under  
23 this subchapter do not apply in a criminal investigation of or  
24 criminal proceeding against a podiatrist in which the department  
25 [~~board~~] is participating or assisting by providing certain records  
26 obtained from the podiatrist. This subsection does not authorize  
27 the release of any confidential information to instigate or

1 substantiate criminal charges against a patient.

2 (e) The department [~~board~~] shall protect the identity of a  
3 patient whose podiatric records are examined or provided under  
4 Subsection (c) or (d), other than a patient who:

5 (1) is covered under Subsection (a)(1); or

6 (2) has submitted written consent to the release of  
7 the patient's podiatric records as provided by Section 202.406.

8 SECTION 42. Section 202.452(a), Occupations Code, is  
9 amended to read as follows:

10 (a) Written or oral communications made to a podiatric peer  
11 review committee and the records and proceedings of a peer review  
12 committee may be disclosed to:

13 (1) another podiatric peer review committee;

14 (2) an appropriate state or federal agency;

15 (3) a national accreditation body; or

16 (4) the department [~~board~~] or the state board of  
17 registration or licensing of podiatrists in another state.

18 SECTION 43. Section 202.453, Occupations Code, is amended  
19 to read as follows:

20 Sec. 202.453. INFORMATION PROVIDED TO AFFECTED PODIATRIST.

21 A podiatric peer review committee that takes action that could  
22 result in censure or suspension, restriction, limitation, or  
23 revocation of a license by the commission or executive director  
24 [~~board~~] or a denial of a podiatrist's membership or privileges in a  
25 health care entity shall provide the affected podiatrist a written  
26 copy of the committee's recommendation and a copy of the final  
27 decision, including a statement of the basis for the decision.

1 SECTION 44. Section 202.455(f), Occupations Code, is  
2 amended to read as follows:

3 (f) The disclosure of documents or information under a  
4 subpoena issued by the department [~~board~~] does not constitute a  
5 waiver of the confidentiality privilege associated with a podiatric  
6 peer review committee proceeding.

7 SECTION 45. Section 202.456(b), Occupations Code, is  
8 amended to read as follows:

9 (b) A person, including a health care entity or podiatric  
10 peer review committee, that participates in podiatric peer review  
11 activity or furnishes records, information, or assistance to a  
12 podiatric peer review committee or to the department [~~board~~] is  
13 immune from civil liability arising from those acts if the person  
14 acted in good faith and without malice.

15 SECTION 46. The heading to Section 202.501, Occupations  
16 Code, is amended to read as follows:

17 Sec. 202.501. [~~BOARD~~] DISCIPLINARY POWERS; ADMINISTRATIVE  
18 PROCEDURE.

19 SECTION 47. Sections 202.501(a) and (d), Occupations Code,  
20 are amended to read as follows:

21 (a) The commission or executive director [~~board~~] shall  
22 revoke or suspend a license, place on probation a person whose  
23 license has been suspended, or reprimand a license holder for  
24 violating the law regulating the practice of podiatry or a rule  
25 adopted by the commission under this chapter [~~board~~].

26 (d) A person whose license to practice podiatry has been  
27 revoked or suspended by order of the commission or executive

1 director [~~board~~] may appeal the action to a district court in Travis  
2 County. The [~~board's~~] decision of the commission or the executive  
3 director may not be enjoined or stayed except on application to the  
4 district court after notice to the department [~~board~~].

5 SECTION 48. Section 202.502, Occupations Code, is amended  
6 to read as follows:

7 Sec. 202.502. REVOCATION AND SUSPENSION OF LICENSE FOR  
8 DRUG-RELATED FELONY CONVICTION. (a) The commission or executive  
9 director [~~board~~] shall suspend a person's license after an  
10 administrative hearing conducted in accordance with Chapter 2001,  
11 Government Code, in which the commission or executive director  
12 [~~board~~] determines that the license holder has been convicted of a  
13 felony under Chapter 481 or 483, Health and Safety Code, or Section  
14 485.033, Health and Safety Code.

15 (b) On the person's final conviction, the commission or  
16 executive director [~~board~~] shall revoke the person's license.

17 (c) The department [~~board~~] may not reinstate or reissue a  
18 license to a person whose license is suspended or revoked under this  
19 section except on an express determination based on substantial  
20 evidence contained in an investigative report indicating that the  
21 reinstatement or reissuance of the license is in the best interests  
22 of the public and of the person whose license has been suspended or  
23 revoked.

24 SECTION 49. The heading to Section 202.503, Occupations  
25 Code, is amended to read as follows:

26 Sec. 202.503. PROBATION[~~, HEARING~~].

27 SECTION 50. Section 202.503(a), Occupations Code, is

1 amended to read as follows:

2 (a) The commission or executive director [~~board, on~~  
3 ~~majority vote,~~] may probate an order revoking [~~or suspending~~] a  
4 podiatrist's license conditioned on the podiatrist conforming to  
5 any order or rule the commission [~~board~~] adopts as the condition of  
6 probation. The commission or executive director [~~board~~], at the  
7 time of probation, shall set the term of the probationary period.

8 SECTION 51. Section 202.504, Occupations Code, is amended  
9 to read as follows:

10 Sec. 202.504. REISSUANCE OF LICENSE. (a) On application,  
11 the department [~~board~~] may reissue a license to practice podiatry  
12 to a person whose license has been revoked or suspended.

13 (b) A person whose license has been revoked may not apply  
14 for a reissued license before the first anniversary of the date of  
15 the revocation. The person shall apply for the license in the  
16 manner and form required by the department [~~board~~].

17 SECTION 52. Section 202.505, Occupations Code, is amended  
18 to read as follows:

19 Sec. 202.505. REEXAMINATION IF LICENSE SUSPENDED OR  
20 REVOKED. The department [~~board~~] may refuse to reinstate a license  
21 or to issue a new license until a podiatrist has passed the regular  
22 license examination if the commission or executive director [~~board~~]  
23 suspended or revoked the license for:

24 (1) failure to satisfy continuing education  
25 requirements under Section 202.305; or

26 (2) nonpayment of the [~~annual~~] license renewal fee.

27 SECTION 53. Subchapter K, Chapter 202, Occupations Code, is



1 amended by adding Section 202.5071 to read as follows:

2 Sec. 202.5071. SUBPOENA AUTHORITY. The department may  
3 issue a subpoena as provided by Section 51.3512.

4 SECTION 54. Section 202.5085, Occupations Code, is amended  
5 to read as follows:

6 Sec. 202.5085. REFUND. (a) Subject to Subsection (b), the  
7 commission or executive director [~~board~~] may order a person  
8 licensed under this chapter to pay a refund to a consumer as  
9 provided in an agreed settlement, default order, or commission  
10 order [~~agreement resulting from an informal settlement conference~~]  
11 instead of or in addition to imposing an administrative penalty  
12 against the person [~~under this chapter~~].

13 (b) The amount of a refund ordered [~~as provided in an~~  
14 ~~agreement resulting from an informal settlement conference~~] may not  
15 exceed the amount the consumer paid to the person for a service  
16 regulated by this chapter. The commission or executive director  
17 [~~board~~] may not require payment of other damages or estimate harm in  
18 a refund order.

19 SECTION 55. Section 202.509, Occupations Code, is amended  
20 to read as follows:

21 Sec. 202.509. CONFIDENTIALITY AND DISCLOSURE OF  
22 INVESTIGATIVE INFORMATION. (a) Except as provided by Subsections  
23 (b), (d), and (f) of this section, Section 202.2031, and Section  
24 202.2032, a [A] complaint, report, investigation file, or other  
25 investigative information in the possession of or received or  
26 gathered by the department [~~board~~] or an employee or agent of the  
27 department [~~board~~] that relates to a license holder, a license

1 application, or a criminal investigation or proceeding is  
2 privileged, confidential, and not subject to discovery, subpoena,  
3 or any other legal method of compelling release.

4 (b) Subject to any other privilege or restriction  
5 established by law, not later than the 30th day after the date the  
6 department [~~board~~] receives a written request from a license  
7 holder, or the license holder's attorney, who is the subject of a  
8 formal complaint, the department [~~board~~] shall provide the license  
9 holder with access to all information in the department's [~~board's~~]  
10 possession that the department [~~board~~] intends to offer into  
11 evidence at the contested case hearing on the complaint. The  
12 department [~~board~~] may provide access to the information to the  
13 license holder after the 30th day after the date the department  
14 [~~board~~] receives a request only on a showing of good cause.

15 (c) The department [~~board~~] is not required under Subsection  
16 (b) to provide access to the department's [~~board's~~] investigative  
17 reports or memoranda, release the identity of a complainant who  
18 will not testify at the hearing, or release information that is an  
19 attorney's work product or protected by the attorney-client  
20 privilege or another privilege recognized by the Texas Rules of  
21 Civil Procedure or Texas Rules of Evidence. [~~The furnishing of~~  
22 ~~information under Subsection (b) does not constitute a waiver of~~  
23 ~~any privilege or confidentiality provision under law.~~]

24 (d) Investigative information in the department's [~~board's~~]  
25 possession that relates to a disciplinary action regarding a  
26 license holder may be disclosed to:

27 (1) a licensing agency regulating the practice of

1 podiatry in another state or country in which the license holder is  
2 also licensed or has applied for a license; ~~[or]~~

3 (2) a peer review committee reviewing a license  
4 holder's application for privileges or the license holder's  
5 qualifications with regard to retaining the privileges;

6 (3) a person involved with the department in a  
7 disciplinary action against the license holder;

8 (4) a peer assistance program approved by the  
9 commission under Chapter 467, Health and Safety Code;

10 (5) a law enforcement agency; and

11 (6) a person engaged in bona fide research, provided  
12 all individual-identifying information has been deleted.

13 (e) The department ~~[board]~~ shall report to the appropriate  
14 law enforcement agency information obtained by the department  
15 ~~[board]~~ in the course of an investigation that indicates that a  
16 crime may have been committed. The department ~~[board]~~ shall  
17 cooperate and assist a law enforcement agency conducting a criminal  
18 investigation of a license holder by providing relevant information  
19 to the agency. Information provided to a law enforcement agency by  
20 the department ~~[board]~~ is confidential and may not be disclosed  
21 except as necessary to conduct the investigation.

22 (f) The department ~~[board]~~ shall provide information to a  
23 health care entity on the written request of the entity concerning:

24 (1) a complaint filed against a license holder that  
25 was resolved after an investigation by the department ~~[board]~~ or  
26 resolved by an agreed settlement; and

27 (2) the basis for and status of an active

1 investigation concerning a license holder.

2 (g) The department's disclosure of information under  
3 Subsection (b), (d), or (f) of this section, Section 202.2031, or  
4 Section 202.2032 does not constitute a waiver of privilege or  
5 confidentiality under this chapter or any other law.

6 (h) The department shall protect the identity of a  
7 complainant to the extent possible.

8 SECTION 56. The heading to Subchapter M, Chapter 202,  
9 Occupations Code, is amended to read as follows:

10 SUBCHAPTER M. [~~OTHER~~] PENALTIES AND ENFORCEMENT PROVISIONS

11 SECTION 57. Subchapter M, Chapter 202, Occupations Code, is  
12 amended by adding Section 202.6011 to read as follows:

13 Sec. 202.6011. PENALTY SCHEDULE. The commission by rule  
14 shall develop a standardized penalty schedule, including  
15 recommended penalty amounts for each category of punishable conduct  
16 listed in the schedule, based on the criteria listed in Section  
17 51.302(b).

18 SECTION 58. Section 202.602, Occupations Code, is amended  
19 to read as follows:

20 Sec. 202.602. MONITORING AND INSPECTION OF LICENSE HOLDER.

21 (a) The commission [~~board~~] by rule shall develop a system to  
22 monitor a podiatrist's compliance with this chapter. The system  
23 must include:

24 (1) procedures for determining whether a podiatrist is  
25 in compliance with an order issued by the commission or executive  
26 director [~~board~~]; and

27 (2) a method of identifying and monitoring each

1 podiatrist who represents a risk to the public.

2 (b) The department [~~board~~], during reasonable business  
3 hours, may enter the business premises of a person regulated by the  
4 department under this chapter [~~board~~] without notice to:

5 (1) investigate a complaint filed with the department  
6 [~~board~~]; or

7 (2) determine compliance with an order of the  
8 commission or executive director issued under this chapter [~~board~~].

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

11 Sec. 202.6025. MONITORING HARMFUL PRESCRIBING PATTERNS.

12 (a) The department shall periodically check the prescribing  
13 information submitted to the Texas State Board of Pharmacy as  
14 authorized by Section 481.076(a)(1), Health and Safety Code, to  
15 determine whether a podiatrist licensed under this chapter is  
16 engaging in potentially harmful prescribing patterns or practices.

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

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

26 (2) for prescriptions described by Subdivision (1),  
27 patterns of prescribing combinations of those drugs and other

1 dangerous combinations of drugs identified by the department in  
2 coordination with the advisory board.

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

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

10 SECTION 60. Section 202.603, Occupations Code, is amended  
11 to read as follows:

12 Sec. 202.603. PROSECUTION OF VIOLATION. The department  
13 [~~board~~] shall take action to ensure the prosecution of each person  
14 who violates this chapter and may incur reasonably necessary  
15 related expenses.

16 SECTION 61. Section 202.604, Occupations Code, is amended  
17 to read as follows:

18 Sec. 202.604. CIVIL PENALTY: USE OF TRADE NAME;  
19 INJUNCTION. (a) A person who violates Section 202.352 or a rule  
20 adopted or a determination made by the commission [~~board~~] under  
21 that section is subject to a civil penalty of not less than \$50 or  
22 more than \$500 for each day of violation.

23 (b) If it appears that a person has violated or is violating  
24 Section 202.352 or a rule adopted or determination made by the  
25 commission [~~board~~] under that section, the department [~~board~~] may  
26 institute a civil action in district court for:

27 (1) injunctive relief to restrain the person from

1 continuing the violation;

2 (2) the assessment and recovery of a civil penalty  
3 under Subsection (a); or

4 (3) both injunctive relief and the civil penalty.

5 (c) At the request of the department [~~board~~], the attorney  
6 general shall institute and conduct the action in the name of the  
7 state.

8 SECTION 62. Section 481.352, Health and Safety Code, is  
9 amended to read as follows:

10 Sec. 481.352. MEMBERS. The work group is composed of:

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

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

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

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

20 (5) the executive director of the Texas Physician  
21 Assistant Board or the executive director's designee;

22 (6) the executive director of the State Board of  
23 Dental Examiners or the executive director's designee;

24 (7) the executive director of the Texas Optometry  
25 Board or the executive director's designee;

26 (8) the executive director of the Texas Department of  
27 Licensing and Regulation [~~State Board of Podiatric Medical~~

1 ~~Examiners]~~ or the executive director's designee;

2           (9) the executive director of the State Board of  
3 Veterinary Medical Examiners or the executive director's designee;  
4 and

5           (10) a medical examiner appointed by the board.

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

- 8           (1) Section 202.002;
- 9           (2) Section 202.052;
- 10          (3) Sections 202.059(b) and (c);
- 11          (4) Section 202.060;
- 12          (5) Subchapter C, Chapter 202;
- 13          (6) Section 202.151;
- 14          (7) Section 202.152;
- 15          (8) Section 202.1525;
- 16          (9) Section 202.154;
- 17          (10) Section 202.1545;
- 18          (11) Section 202.155;
- 19          (12) Section 202.156;
- 20          (13) Section 202.157;
- 21          (14) Section 202.158;
- 22          (15) Section 202.162;
- 23          (16) Section 202.163;
- 24          (17) Section 202.201;
- 25          (18) Section 202.202;
- 26          (19) Section 202.203;
- 27          (20) Section 202.204;



- 1 (21) Section 202.205;
- 2 (22) Sections 202.252(c) and (d);
- 3 (23) Section 202.254(e);
- 4 (24) Section 202.255;
- 5 (25) Section 202.264;
- 6 (26) Section 202.301;
- 7 (27) Section 202.302;
- 8 (28) Section 202.501(b);
- 9 (29) Sections 202.503(b), (c), (d), and (e);
- 10 (30) Section 202.507;
- 11 (31) Section 202.508;
- 12 (32) Section 202.510;
- 13 (33) Subchapter L, Chapter 202;
- 14 (34) Section 202.601; and
- 15 (35) Section 202.6015.

16 SECTION 64. (a) In this section:

17 (1) "Commission" means the Texas Commission of  
18 Licensing and Regulation.

19 (2) "Department" means the Texas Department of  
20 Licensing and Regulation.

21 (3) "Former board" means the Texas State Board of  
22 Podiatric Medical Examiners.

23 (b) On September 1, 2017:

24 (1) all functions and activities performed by the  
25 former board immediately before that date are transferred to the  
26 department;

27 (2) all rules, fees, policies, procedures, decisions,

1 and forms adopted by the former board are continued in effect as  
2 rules, fees, policies, procedures, decisions, and forms of the  
3 commission or the department, as applicable, and remain in effect  
4 until amended or replaced by the commission or department;

5 (3) a complaint, investigation, contested case, or  
6 other proceeding before the former board that is pending on  
7 September 1, 2017, is transferred without change in status to the  
8 department or the commission, as appropriate;

9 (4) all money, contracts, leases, property, and  
10 obligations of the former board are transferred to the department;

11 (5) all property in the custody of the former board is  
12 transferred to the department; and

13 (6) the unexpended and unobligated balance of any  
14 money appropriated by the legislature for the former board is  
15 transferred to the department.

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

19 (1) licensing, revenue, and expenditure systems;

20 (2) rights to service contracts and licensing  
21 agreements;

22 (3) use of online renewal and new application systems;

23 and

24 (4) review and resolution of pending judgments and  
25 outstanding expenditures.

26 (d) Unless the context indicates otherwise, a reference to  
27 the former board in a law or administrative rule means the

1 commission or the department, as applicable.

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

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

13 SECTION 65. (a) On September 1, 2017, the terms of the  
14 members serving on the Texas State Board of Podiatric Medical  
15 Examiners expire, and the Texas State Board of Podiatric Medical  
16 Examiners is abolished.

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

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

27 SECTION 66. Section 202.061, Occupations Code, as amended

1 by this Act, applies only to a member of the Podiatric Medical  
2 Examiners Advisory Board appointed on or after the effective date  
3 of this Act.

4 SECTION 67. (a) As soon as possible after the effective  
5 date of this Act, the Texas Commission of Licensing and Regulation  
6 shall adopt the rules necessary to implement Section 202.252,  
7 Occupations Code, as amended by this Act.

8 (b) Not later than September 1, 2019, the Texas Department  
9 of Licensing and Regulation shall obtain criminal history record  
10 information on each person who, on the effective date of this Act,  
11 holds a license issued under Chapter 202, Occupations Code, and did  
12 not undergo a criminal history record information check based on  
13 the license holder's fingerprints on initial application for the  
14 license. The department may suspend the license of a license holder  
15 who does not provide the criminal history record information as  
16 required by the department and this subsection.

17 SECTION 68. Section 202.354, Occupations Code, as added by  
18 this Act, applies only to a prescription issued on or after  
19 September 1, 2018. A prescription issued before September 1, 2018,  
20 is governed by the law in effect on the date the prescription is  
21 issued, and the former law is continued in effect for that purpose.

22 SECTION 69. The changes in law made by this Act do not  
23 affect the validity of a disciplinary action or other proceeding  
24 that was initiated before the effective date of this Act and that is  
25 pending before a court or other governmental entity on the  
26 effective date of this Act.

27 SECTION 70. (a) A violation of a law that is repealed by

1 this Act is governed by the law in effect when the violation was  
2 committed, and the former law is continued in effect for that  
3 purpose.

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

7 SECTION 71. This Act takes effect September 1, 2017.