

By: Thompson of Harris

H.B. No. 3078

A BILL TO BE ENTITLED

AN ACT

1  
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 or a health-related standard of care for  
13 podiatry unless the rule has been proposed by the advisory board.  
14 The commission shall adopt rules prescribing the procedure by which  
15 the advisory board may propose rules described by this subsection.

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

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

1 procedures of the department or commission.

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

5 (1) "Advisory board" [~~"Board"~~] means the Podiatric  
6 Medical Examiners Advisory Board [~~Texas State Board of Podiatric~~  
7 ~~Medical Examiners~~].

8 (1-a) "Commission" means the Texas Commission of  
9 Licensing and Regulation.

10 (1-b) "Department" means the Texas Department of  
11 Licensing and Regulation.

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

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

17 SUBCHAPTER B. [~~TEXAS STATE BOARD OF~~] PODIATRIC MEDICAL EXAMINERS  
18 ADVISORY BOARD

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

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

24 (1) six members who are licensed in this state to  
25 practice podiatry and [~~are reputable practicing podiatrists who~~  
26 ~~have resided in this state and~~] have been actively engaged in the  
27 practice of podiatry for the five years preceding appointment; and

1 (2) three members who represent the public.

2 SECTION 5. Section 202.053, Occupations Code, is amended to  
3 read as follows:

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

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

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

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

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

20 SECTION 6. Sections 202.054(b) and (c), Occupations Code,  
21 are amended to read as follows:

22 (b) A person may not be a member of the advisory board [~~and~~  
23 ~~may not be a board employee employed in a "bona fide executive,~~  
24 ~~administrative, or professional capacity," as that phrase is used~~  
25 ~~for purposes of establishing an exemption to the overtime~~  
26 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~  
27 ~~U.S.C. Section 201 et seq.)~~] if:

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

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

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

11           SECTION 7. Section 202.055, Occupations Code, is amended to  
12 read as follows:

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

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

21           SECTION 8. Section 202.056, Occupations Code, is amended to  
22 read as follows:

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

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

27           (2) does not maintain during service on the advisory

1 board the qualifications required by Section 202.051 or 202.053;

2 (3) is ineligible for membership under Section  
3 202.054;

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

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

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

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

23 SECTION 9. Section 202.057, Occupations Code, is amended to  
24 read as follows:

25 Sec. 202.057. COMPENSATION ~~[PER DIEM]~~; REIMBURSEMENT OF  
26 EXPENSES. An advisory board member may not receive compensation  
27 but is entitled to ~~[(a) Each board member is entitled to a per diem~~

1 ~~as set by legislative appropriation for each day the member engages~~  
2 ~~in the business of the board.~~

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

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

11 SECTION 10. Section 202.058, Occupations Code, is amended  
12 to read as follows:

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

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

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

24 (a) The advisory board shall meet at the call of the  
25 presiding officer of the commission or the executive director ~~[hold~~  
26 ~~regular meetings at least twice a year and special meetings as~~  
27 ~~necessary. The board shall hold the meetings at times and places~~

1 ~~the board considers most convenient for applicants for license~~  
2 ~~examinations].~~

3 SECTION 12. Section 202.061, Occupations Code, is amended  
4 to read as follows:

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

10 (b) The training program must provide the person with  
11 information regarding:

12 (1) this chapter;

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

15 (3) ~~(2)~~ the results of the most recent formal audit  
16 of the department with respect to this chapter ~~[board]~~;

17 (4) the scope and limitations on the rulemaking  
18 authority of the advisory board;

19 (5) ~~(3)~~ the requirements of:

20 (A) laws relating to open meetings, public  
21 information, administrative procedure, and disclosing conflicts of  
22 interest; and

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

25 (6) ~~(4)~~ any applicable ethics policies adopted by  
26 the commission ~~[board]~~ or the Texas Ethics Commission.

27 (c) The executive director shall create a training manual

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

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

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

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

18 SUBCHAPTER D. ~~BOARD~~ POWERS AND DUTIES

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

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

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

25 SECTION 16. Section 202.160, Occupations Code, is amended  
26 to read as follows:

27 Sec. 202.160. INFORMATION PROVIDED TO LICENSE HOLDERS. At



1 least once each biennium, the department [~~board~~] shall provide to  
2 license holders information on:

3 (1) prescribing and dispensing pain medications, with  
4 particular emphasis on Schedule II and Schedule III controlled  
5 substances;

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

8 (3) common diversion strategies employed by certain  
9 persons who use prescription pain medications, including  
10 fraudulent prescription patterns; and

11 (4) the appropriate use of pain medications and the  
12 differences between addiction, pseudo-addiction, tolerance, and  
13 physical dependence.

14 SECTION 17. Section 202.161, Occupations Code, is amended  
15 to read as follows:

16 Sec. 202.161. POISON CONTROL CENTER INFORMATION. The  
17 department [~~board~~] shall provide to license holders information  
18 regarding the services provided by poison control centers.

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

21 SUBCHAPTER E. [~~PUBLIC INTEREST INFORMATION AND~~] COMPLAINT  
22 PROCEDURES

23 SECTION 19. Subchapter E, Chapter 202, Occupations Code, is  
24 amended by adding Section 202.2025 to read as follows:

25 Sec. 202.2025. COMPLAINT PRIORITY. The executive director  
26 shall develop, implement, and enforce a written policy for  
27 determining the complaints filed under this chapter that will be

1 given priority for investigation and resolution by the department.

2 SECTION 20. Subchapter E, Chapter 202, Occupations Code, is  
3 amended by adding Sections 202.2031 and 202.2032 to read as  
4 follows:

5 Sec. 202.2031. NOTIFICATION TO PARTIES REGARDING  
6 COMPLAINT. (a) The department shall notify a license holder who is  
7 the subject of a complaint filed with the department that a  
8 complaint has been filed and shall notify the license holder of the  
9 nature of the complaint.

10 (b) The department is not required to provide notice under  
11 this section if the notice would jeopardize an investigation.

12 Sec. 202.2032. REQUIREMENTS FOR CERTAIN COMPLAINTS. (a)  
13 In this section:

14 (1) "Anonymous complaint" means a complaint that lacks  
15 sufficient information to identify the source or the name of the  
16 person who filed the complaint.

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

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

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

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

26 (c) Notwithstanding any confidentiality requirements under  
27 Chapter 552, Government Code, or this chapter, a complaint filed

1 with the department by an insurance agent, insurer, pharmaceutical  
2 company, or third-party administrator against a license holder must  
3 include the name and address of the insurance agent, insurer,  
4 pharmaceutical company, or third-party administrator filing the  
5 complaint.

6 (d) Not later than the 15th day after the date the complaint  
7 is filed with the department, the department shall notify the  
8 license holder who is the subject of the complaint of the name and  
9 address of the insurance agent, insurer, pharmaceutical company, or  
10 third-party administrator who filed the complaint, unless the  
11 notice would jeopardize an investigation.

12 SECTION 21. Sections 202.252(a), (b), (e), and (f),  
13 Occupations Code, are amended to read as follows:

14 (a) An application for a license under this chapter must be  
15 submitted in the manner and on a form prescribed by the executive  
16 director [~~A person who desires to practice podiatry in this state~~  
17 ~~shall apply in writing to the board for a license on a form~~  
18 ~~prescribed by the board].~~

19 (b) The commission by rule shall establish the information  
20 and documentation required to be submitted as part of an  
21 application for a license under this chapter [~~applicant shall~~  
22 ~~submit any information reasonably required by the board], including  
23 evidence satisfactory to the commission or department [~~board] that~~  
24 the applicant:~~

- 25 (1) is at least 21 years of age;
- 26 (2) [~~is of good moral character,~~
- 27 [~~3~~] has completed at least 90 semester hours of

1 college courses acceptable at the time of completion for credit  
2 toward a bachelor's degree at an institution of higher education  
3 determined by the department to have acceptable standards [~~The~~  
4 ~~University of Texas~~];

5 (3) [~~(4)~~] is a graduate of a reputable school of  
6 podiatry or chiropody; and

7 (4) [~~(5)~~] has successfully completed any other course  
8 of training reasonably required by commission [~~board~~] rule relating  
9 to the safe care and treatment of patients.

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

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

17 (1) the course of instruction consists of four terms  
18 of approximately eight months each, or the substantial equivalent;  
19 and

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

21 SECTION 22. Subchapter F, Chapter 202, Occupations Code, is  
22 amended by adding Section 202.2525 to read as follows:

23 Sec. 202.2525. CRIMINAL HISTORY RECORD INFORMATION FOR  
24 LICENSE ISSUANCE. (a) The department shall require that an  
25 applicant for a license submit a complete and legible set of  
26 fingerprints, on a form prescribed by the executive director, to  
27 the department or to the Department of Public Safety for the purpose

1 of obtaining criminal history record information from the  
2 Department of Public Safety and the Federal Bureau of  
3 Investigation.

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

6 (c) The department shall conduct a criminal history record  
7 information check of each applicant for a license using  
8 information:

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

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

13 (d) The department may:

14 (1) enter into an agreement with the Department of  
15 Public Safety to administer a criminal history record information  
16 check required under this section; and

17 (2) authorize the Department of Public Safety to  
18 collect from each applicant the costs incurred by the Department of  
19 Public Safety in conducting the criminal history record information  
20 check.

21 SECTION 23. Section 202.253, Occupations Code, is amended  
22 to read as follows:

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

27 (a-1) The commission or department [~~board~~] may refuse to

1 admit a person to an examination, and may refuse to issue a license  
2 to practice podiatry to a person, for:

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

6 (2) being convicted of:

7 (A) a felony;

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

9 (C) an offense under Section 202.606;

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

13 (4) engaging in grossly unprofessional or  
14 dishonorable conduct of a character that in the department's  
15 [~~board's~~] opinion is likely to deceive or defraud the public;

16 (5) directly or indirectly violating or attempting to  
17 violate this chapter or a rule adopted under this chapter as a  
18 principal, accessory, or accomplice;

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

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

23 (8) purchasing, selling, bartering, or using or  
24 offering to purchase, sell, barter, or use a podiatry degree,  
25 license, certificate, diploma, or a transcript of a license,  
26 certificate, or diploma, in or incident to an application [~~to the~~  
27 ~~board~~] for a license to practice podiatry;

1           (9) altering, with fraudulent intent, a podiatry  
2 license, certificate, diploma, or a transcript of a podiatry  
3 license, certificate, or diploma;

4           (10) using a podiatry license, certificate, or  
5 diploma, or a transcript of a podiatry license, certificate, or  
6 diploma, that has been fraudulently purchased, issued,  
7 counterfeited, or materially altered;

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

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

14          (13) directly or indirectly employing a person whose  
15 license to practice podiatry has been suspended or associating in  
16 the practice of podiatry with a person whose license to practice  
17 podiatry has been suspended or who has been convicted of the  
18 unlawful practice of podiatry in this state or elsewhere;

19          (14) wilfully making in the application for a license  
20 to practice podiatry a material misrepresentation or material  
21 untrue statement;

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

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

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

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

10 (B) appropriate and reasonably supported by  
11 evidence submitted to the association, society, hospital, or  
12 medical staff; or

13 (18) having repeated or recurring meritorious health  
14 care liability claims filed against the podiatrist that in the  
15 commission's or department's [~~board's~~] opinion are evidence of  
16 professional incompetence likely to injure the public.

17 (b) In enforcing Subsection (a-1)(15) [~~(a)(15)~~], the  
18 department [~~board~~], on probable cause, shall request the affected  
19 podiatrist to submit to a mental or physical examination by a  
20 physician designated by the department [~~board~~]. If the podiatrist  
21 refuses to submit to the examination, the commission or executive  
22 director [~~board~~] shall issue an order requiring the podiatrist to  
23 show cause why the podiatrist will not submit to the examination and  
24 shall schedule a hearing on the order not later than the 30th day  
25 after the date notice is served on the podiatrist. The podiatrist  
26 shall be notified by either personal service or certified mail with  
27 return receipt requested.



1 (c) At the hearing, the podiatrist and the podiatrist's  
2 attorney may present testimony and other evidence to show why the  
3 podiatrist should not be required to submit to the examination.  
4 After a complete hearing, the commission or executive director  
5 [~~board~~] shall issue an order either requiring the podiatrist to  
6 submit to the examination or withdrawing the request for  
7 examination.

8 SECTION 24. Sections 202.254(a), (b), and (c), Occupations  
9 Code, are amended to read as follows:

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

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

21 (c) The license examination must consist of a written and  
22 practical component. The department [~~board~~] shall determine the  
23 passing score for the examination using accepted  
24 criterion-referenced methods. The department [~~board~~] shall have  
25 the examination validated by an independent testing professional.

26 SECTION 25. Section 202.257, Occupations Code, is amended  
27 to read as follows:

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

4           SECTION 26. Section 202.259(a), Occupations Code, is  
5 amended to read as follows:

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

9           SECTION 27. Sections 202.260(a), (b), (c), and (d),  
10 Occupations Code, are amended to read as follows:

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

13               (1) is licensed in good standing as a podiatrist in  
14 another state that has licensing requirements that are  
15 substantially equivalent to the requirements of this chapter;

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

19               (3) is sponsored by a person licensed under this  
20 chapter with whom the provisional license holder may practice under  
21 this section.

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

26           (c) A provisional license is valid until the date the  
27 department [~~board~~] approves or denies the provisional license

1 holder's application for a license. Except as provided by  
2 Subsection (e), the department [~~board~~] shall issue a license under  
3 this chapter to the holder of a provisional license under this  
4 section if:

5 (1) the provisional license holder passes the  
6 examination required by Section 202.254;

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

10 (3) the provisional license holder satisfies any other  
11 license requirements under this chapter.

12 (d) The department [~~board~~] shall complete the processing of  
13 a provisional license holder's application for a license not later  
14 than the 180th day after the date the provisional license is issued.  
15 The department [~~board~~] may extend that deadline to allow for the  
16 receipt of pending examination results.

17 SECTION 28. Sections 202.261(a) and (b), Occupations Code,  
18 are amended to read as follows:

19 (a) The department [~~board~~] may issue a license to practice  
20 podiatry without administering the examination under Section  
21 202.254 to a podiatrist who:

22 (1) at the time of applying for a license has accepted  
23 an appointment or is serving as a full-time member of the faculty of  
24 an educational institution in this state offering an approved or  
25 accredited course of study or training leading to a degree in  
26 podiatry;

27 (2) is licensed to practice podiatry in another state

1 that has licensing requirements substantially equivalent to those  
2 established by this state; and

3 (3) otherwise satisfies the requirements of Section  
4 202.252.

5 (b) For purposes of Subsection (a)(1), a course of study,  
6 training, or education is considered to be approved or accredited  
7 if it is approved or accredited by the department [~~board~~] as  
8 constituting a reputable course of study, training, or education.  
9 In deciding whether to approve or accredit a course of study,  
10 training, or education, the department [~~board~~] shall consider  
11 whether the course is approved or accredited by the Council on  
12 Podiatric Medical Education of the American Podiatric Medical  
13 Association or its successor organization.

14 SECTION 29. Section 202.262, Occupations Code, is amended  
15 to read as follows:

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

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

23 SECTION 30. Section 202.263, Occupations Code, is amended  
24 to read as follows:

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

26 (a) If a license issued by the department [~~board~~] is lost,  
27 destroyed, or stolen from the person to whom it was issued, the

1 license holder shall report the fact to the department and [~~board in~~  
2 ~~an affidavit. The affidavit must~~] include detailed information as  
3 to the loss, destruction, or theft, giving dates, place, and  
4 circumstances.

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

10 (c) The department [~~board~~] shall issue a duplicate or  
11 amended license on application by a license holder and payment of a  
12 fee set by the commission [~~board~~] for the duplicate or amended  
13 license. The department [~~board~~] may not issue a duplicate or  
14 amended license unless:

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

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

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

25 SECTION 31. Subchapter G, Chapter 202, Occupations Code, is  
26 amended by adding Section 202.3015 to read as follows:

27 Sec. 202.3015. TERM AND RENEWAL. (a) A license issued

1 under this chapter is valid for one or two years as determined by  
2 commission rule.

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

6 SECTION 32. Subchapter G, Chapter 202, Occupations Code, is  
7 amended by adding Section 202.3025 to read as follows:

8 Sec. 202.3025. CRIMINAL HISTORY RECORD INFORMATION  
9 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a  
10 license issued under this chapter shall submit a complete and  
11 legible set of fingerprints for purposes of performing a criminal  
12 history record information check of the applicant as provided by  
13 Section 202.2525.

14 (b) The department may administratively suspend or refuse  
15 to renew the license of a person who does not comply with the  
16 requirement of Subsection (a).

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

20 (1) Section 202.2525 for the initial issuance of the  
21 license; or

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

23 SECTION 33. Section 202.303, Occupations Code, is amended  
24 to read as follows:

25 Sec. 202.303. PRACTICE WITHOUT RENEWING LICENSE. A person  
26 who practices podiatry with [~~without~~] an expired [~~annual~~] renewal  
27 certificate [~~for the current year~~] is considered to be practicing

1 without a license and is subject to all the penalties of the  
2 practice of podiatry without a license.

3 SECTION 34. Sections 202.304(a) and (b), Occupations Code,  
4 are amended to read as follows:

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

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

10 (A) the United States Army;

11 (B) the United States Navy;

12 (C) the United States Marine Corps;

13 (D) the United States Coast Guard; or

14 (E) the United States Air Force;

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

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

19 (b) A podiatrist subject to this section may renew the  
20 podiatrist's license without paying a renewal fee for the expired  
21 license or passing an examination if, not later than the first  
22 anniversary of the date of the termination of service, training, or  
23 education described by Subsection (a), other than by dishonorable  
24 discharge, the podiatrist furnishes to the department ~~[board]~~ an  
25 affidavit stating that the podiatrist has been so engaged and that  
26 the service, training, or education has terminated.

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

1 to read as follows:

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

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

8           (1) [~~establish by rule the minimum hours of continuing~~  
9 ~~education required for license renewal;~~

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

12           (2) [~~(3)~~] develop a process to evaluate and approve  
13 continuing education courses; and

14           (3) [~~(4)~~] develop a process to assess the  
15 participation and performance of license holders in continuing  
16 education courses to enable the department [~~board~~] to evaluate the  
17 overall effectiveness of the program.

18           (b) The department [~~board~~] may assess the continuing  
19 education needs of a license holder and require the license holder  
20 to attend continuing education courses specified by the department  
21 [~~board~~].

22           SECTION 36. The heading to Section 202.352, Occupations  
23 Code, is amended to read as follows:

24           Sec. 202.352. [~~BOARD~~] APPROVAL OF NAMES UNDER WHICH  
25 PODIATRIST MAY PRACTICE.

26           SECTION 37. Sections 202.352(a) and (b), Occupations Code,  
27 are amended to read as follows:



1           (a) The commission [~~board~~] may adopt rules establishing  
2 standards or guidelines for the name, including a trade name or  
3 assumed name, under which a podiatrist may conduct a practice in  
4 this state. In its rules, the commission [~~board~~] may also establish  
5 procedures to review and make determinations approving or  
6 disapproving a specific name submitted to the department [~~board~~] by  
7 one or more podiatrists desiring to practice under a particular  
8 name.

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

- 12           (1) a sole proprietorship;
- 13           (2) an association;
- 14           (3) a partnership;
- 15           (4) a professional corporation;
- 16           (5) a clinic;
- 17           (6) a health maintenance organization; and
- 18           (7) a group practice with a practitioner of another  
19 branch of the healing art.

20           SECTION 38. Sections [202.353](#)(a), (c), (d), (e), (f), (g),  
21 (h), and (i), Occupations Code, are amended to read as follows:

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

- 26           (1) a notice of claim letter or a complaint filed  
27 against the insured in a court, if the notice of claim letter or the

1 complaint seeks the recovery of damages based on the insured's  
2 conduct in providing or failing to provide medical or health care  
3 services; or

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

6 (c) If a podiatrist who practices in this state is not  
7 covered by professional liability insurance or is insured by an  
8 insurer who is not authorized to write professional liability  
9 insurance for podiatrists in this state, the affected podiatrist  
10 shall submit information to the department [~~board~~] relating to any  
11 malpractice action brought against that podiatrist. The podiatrist  
12 shall submit the information as required by rules adopted by the  
13 commission [~~board~~] under Subsections (d)-(f).

14 (d) In consultation with the commissioner of insurance, the  
15 commission [~~board~~] shall adopt rules for reporting the information  
16 required under Subsections (a) and (b) and any additional  
17 information required by the department [~~board~~].

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

- 20 (1) any additional information to be reported;  
21 (2) the form of the report; and  
22 (3) reasonable reporting intervals.

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

25 (1) the date of a judgment, dismissal, or settlement  
26 of a malpractice action;

27 (2) whether an appeal has been taken and the identity

1 of the party appealing; and

2 (3) the amount of any judgment or settlement.

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

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

13 (i) The department [~~board~~] shall review the information  
14 relating to a podiatrist against whom three or more malpractice  
15 claims have been reported during any five-year period in the same  
16 manner as if a complaint against that podiatrist had been made to  
17 the department [~~board~~] under Subchapter E.

18 SECTION 39. Subchapter H, Chapter 202, Occupations Code, is  
19 amended by adding Section 202.354 to read as follows:

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

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

27 (1) opioids;

1           (2) benzodiazepines;

2           (3) barbiturates; or

3           (4) carisoprodol.

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

7           SECTION 40. Sections 202.404(d) and (e), Occupations Code,  
8 are amended to read as follows:

9           (d) The privilege and confidentiality requirements under  
10 this subchapter do not apply in a criminal investigation of or  
11 criminal proceeding against a podiatrist in which the department  
12 [~~board~~] is participating or assisting by providing certain records  
13 obtained from the podiatrist. This subsection does not authorize  
14 the release of any confidential information to instigate or  
15 substantiate criminal charges against a patient.

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

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

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

22           SECTION 41. Section 202.452(a), Occupations Code, is  
23 amended to read as follows:

24           (a) Written or oral communications made to a podiatric peer  
25 review committee and the records and proceedings of a peer review  
26 committee may be disclosed to:

27                   (1) another podiatric peer review committee;

- 1           (2) an appropriate state or federal agency;  
2           (3) a national accreditation body; or  
3           (4) the department [~~board~~] or the state board of  
4 registration or licensing of podiatrists in another state.

5           SECTION 42. Section 202.453, Occupations Code, is amended  
6 to read as follows:

7           Sec. 202.453. INFORMATION PROVIDED TO AFFECTED PODIATRIST.  
8 A podiatric peer review committee that takes action that could  
9 result in censure or suspension, restriction, limitation, or  
10 revocation of a license by the commission or executive director  
11 [~~board~~] or a denial of a podiatrist's membership or privileges in a  
12 health care entity shall provide the affected podiatrist a written  
13 copy of the committee's recommendation and a copy of the final  
14 decision, including a statement of the basis for the decision.

15           SECTION 43. Section 202.455(f), Occupations Code, is  
16 amended to read as follows:

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

21           SECTION 44. Section 202.456(b), Occupations Code, is  
22 amended to read as follows:

23           (b) A person, including a health care entity or podiatric  
24 peer review committee, that participates in podiatric peer review  
25 activity or furnishes records, information, or assistance to a  
26 podiatric peer review committee or to the department [~~board~~] is  
27 immune from civil liability arising from those acts if the person

1 acted in good faith and without malice.

2 SECTION 45. The heading to Section 202.501, Occupations  
3 Code, is amended to read as follows:

4 Sec. 202.501. ~~[BOARD]~~ DISCIPLINARY POWERS; ADMINISTRATIVE  
5 PROCEDURE.

6 SECTION 46. Sections 202.501(a) and (d), Occupations Code,  
7 are amended to read as follows:

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

13 (d) A person whose license to practice podiatry has been  
14 revoked or suspended by order of the commission or executive  
15 director ~~[board]~~ may appeal the action to a district court in Travis  
16 County. The ~~[board's]~~ decision of the commission or the executive  
17 director may not be enjoined or stayed except on application to the  
18 district court after notice to the department ~~[board]~~.

19 SECTION 47. Section 202.502, Occupations Code, is amended  
20 to read as follows:

21 Sec. 202.502. REVOCATION AND SUSPENSION OF LICENSE FOR  
22 DRUG-RELATED FELONY CONVICTION. (a) The commission or executive  
23 director ~~[board]~~ shall suspend a person's license after an  
24 administrative hearing conducted in accordance with Chapter 2001,  
25 Government Code, in which the commission or executive director  
26 ~~[board]~~ determines that the license holder has been convicted of a  
27 felony under Chapter 481 or 483, Health and Safety Code, or Section

1 485.033, Health and Safety Code.

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

4 (c) The department [~~board~~] may not reinstate or reissue a  
5 license to a person whose license is suspended or revoked under this  
6 section except on an express determination based on substantial  
7 evidence contained in an investigative report indicating that the  
8 reinstatement or reissuance of the license is in the best interests  
9 of the public and of the person whose license has been suspended or  
10 revoked.

11 SECTION 48. The heading to Section 202.503, Occupations  
12 Code, is amended to read as follows:

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

14 SECTION 49. Section 202.503(a), Occupations Code, is  
15 amended to read as follows:

16 (a) The commission or executive director [~~board, on~~  
17 ~~majority vote,~~] may probate an order revoking [~~or suspending~~] a  
18 podiatrist's license conditioned on the podiatrist conforming to  
19 any order or rule the commission [~~board~~] adopts as the condition of  
20 probation. The commission or executive director [~~board~~], at the  
21 time of probation, shall set the term of the probationary period.

22 SECTION 50. Section 202.504, Occupations Code, is amended  
23 to read as follows:

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

27 (b) A person whose license has been revoked may not apply

1 for a reissued license before the first anniversary of the date of  
2 the revocation. The person shall apply for the license in the  
3 manner and form required by the department [~~board~~].

4 SECTION 51. Section 202.505, Occupations Code, is amended  
5 to read as follows:

6 Sec. 202.505. REEXAMINATION IF LICENSE SUSPENDED OR  
7 REVOKED. The department [~~board~~] may refuse to reinstate a license  
8 or to issue a new license until a podiatrist has passed the regular  
9 license examination if the commission or executive director [~~board~~]  
10 suspended or revoked the license for:

11 (1) failure to satisfy continuing education  
12 requirements under Section 202.305; or

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

14 SECTION 52. Subchapter K, Chapter 202, Occupations Code, is  
15 amended by adding Section 202.5071 to read as follows:

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

18 SECTION 53. Section 202.5085, Occupations Code, is amended  
19 to read as follows:

20 Sec. 202.5085. REFUND. (a) Subject to Subsection (b), the  
21 commission or executive director [~~board~~] may order a person  
22 licensed under this chapter to pay a refund to a consumer as  
23 provided in an agreed settlement, default order, or commission  
24 order [~~agreement resulting from an informal settlement conference~~]  
25 instead of or in addition to imposing an administrative penalty  
26 against the person [~~under this chapter~~].

27 (b) The amount of a refund ordered [~~as provided in an~~



1 ~~agreement resulting from an informal settlement conference]~~ may not  
2 exceed the amount the consumer paid to the person for a service  
3 regulated by this chapter. The commission or executive director  
4 ~~[board]~~ may not require payment of other damages or estimate harm in  
5 a refund order.

6 SECTION 54. Section 202.509, Occupations Code, is amended  
7 to read as follows:

8 Sec. 202.509. CONFIDENTIALITY AND DISCLOSURE OF  
9 INVESTIGATIVE INFORMATION. (a) Except as provided by Subsections  
10 (b), (d), and (f) of this section, Section 202.2031, and Section  
11 202.2032, a [A] complaint, report, investigation file, or other  
12 investigative information in the possession of or received or  
13 gathered by the department ~~[board]~~ or an employee or agent of the  
14 department ~~[board]~~ that relates to a license holder, a license  
15 application, or a criminal investigation or proceeding is  
16 privileged, confidential, and not subject to discovery, subpoena,  
17 or any other legal method of compelling release.

18 (b) Subject to any other privilege or restriction  
19 established by law, not later than the 30th day after the date the  
20 department ~~[board]~~ receives a written request from a license  
21 holder, or the license holder's attorney, who is the subject of a  
22 formal complaint, the department ~~[board]~~ shall provide the license  
23 holder with access to all information in the department's ~~[board's]~~  
24 possession that the department ~~[board]~~ intends to offer into  
25 evidence at the contested case hearing on the complaint. The  
26 department ~~[board]~~ may provide access to the information to the  
27 license holder after the 30th day after the date the department

1 ~~[board]~~ receives a request only on a showing of good cause.

2 (c) The department ~~[board]~~ is not required under Subsection  
3 (b) to provide access to the department's ~~[board's]~~ investigative  
4 reports or memoranda, release the identity of a complainant who  
5 will not testify at the hearing, or release information that is an  
6 attorney's work product or protected by the attorney-client  
7 privilege or another privilege recognized by the Texas Rules of  
8 Civil Procedure or Texas Rules of Evidence. ~~[The furnishing of  
9 information under Subsection (b) does not constitute a waiver of  
10 any privilege or confidentiality provision under law.]~~

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

14 (1) a licensing agency regulating the practice of  
15 podiatry in another state or country in which the license holder is  
16 also licensed or has applied for a license; ~~[or]~~

17 (2) a peer review committee reviewing a license  
18 holder's application for privileges or the license holder's  
19 qualifications with regard to retaining the privileges;

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

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

24 (5) a law enforcement agency; and

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

27 (e) The department ~~[board]~~ shall report to the appropriate

1 law enforcement agency information obtained by the department  
2 [~~board~~] in the course of an investigation that indicates that a  
3 crime may have been committed. The department [~~board~~] shall  
4 cooperate and assist a law enforcement agency conducting a criminal  
5 investigation of a license holder by providing relevant information  
6 to the agency. Information provided to a law enforcement agency by  
7 the department [~~board~~] is confidential and may not be disclosed  
8 except as necessary to conduct the investigation.

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

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

14 (2) the basis for and status of an active  
15 investigation concerning a license holder.

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

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

22 SECTION 55. The heading to Subchapter M, Chapter 202,  
23 Occupations Code, is amended to read as follows:

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

25 SECTION 56. Subchapter M, Chapter 202, Occupations Code, is  
26 amended by adding Section 202.6011 to read as follows:

27 Sec. 202.6011. PENALTY SCHEDULE. The commission by rule

1 shall develop a standardized penalty schedule, including  
2 recommended penalty amounts for each category of punishable conduct  
3 listed in the schedule, based on the criteria listed in Section  
4 51.302(b).

5 SECTION 57. Section 202.602, Occupations Code, is amended  
6 to read as follows:

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

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

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

14 (2) a method of identifying and monitoring each  
15 podiatrist who represents a risk to the public.

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

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

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

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

25 Sec. 202.6025. MONITORING HARMFUL PRESCRIBING PATTERNS.

26 (a) The department shall periodically check the prescribing  
27 information submitted to the Texas State Board of Pharmacy as

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

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

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

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

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

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

23 SECTION 59. Section 202.603, Occupations Code, is amended  
24 to read as follows:

25 Sec. 202.603. PROSECUTION OF VIOLATION. The department  
26 [~~board~~] shall take action to ensure the prosecution of each person  
27 who violates this chapter and may incur reasonably necessary

1 related expenses.

2 SECTION 60. Section 202.604, Occupations Code, is amended  
3 to read as follows:

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

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

13 (1) injunctive relief to restrain the person from  
14 continuing the violation;

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

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

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

21 SECTION 61. Section 481.352, Health and Safety Code, is  
22 amended to read as follows:

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

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

27 (2) the commissioner of state health services or the

1 commissioner's designee;

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

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

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

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

10 (7) the executive director of the Texas Optometry  
11 Board or the executive director's designee;

12 (8) a member [~~the executive director~~] of the [~~Texas~~  
13 ~~State Board of~~] Podiatric Medical Examiners Advisory Board or the  
14 board's [~~executive director's~~] designee;

15 (9) the executive director of the State Board of  
16 Veterinary Medical Examiners or the executive director's designee;

17 and

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

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

21 (1) Section 202.002;

22 (2) Section 202.052;

23 (3) Sections 202.059(b) and (c);

24 (4) Section 202.060;

25 (5) Subchapter C, Chapter 202;

26 (6) Section 202.151;

27 (7) Section 202.152;

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



1 (35) Section 202.601; and

2 (36) Section 202.6015.

3 SECTION 63. (a) In this section:

4 (1) "Commission" means the Texas Commission of  
5 Licensing and Regulation.

6 (2) "Department" means the Texas Department of  
7 Licensing and Regulation.

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

10 (b) On September 1, 2017:

11 (1) all functions and activities performed by the  
12 former board immediately before that date are transferred to the  
13 department;

14 (2) all rules, fees, policies, procedures, decisions,  
15 and forms adopted by the former board are continued in effect as  
16 rules, fees, policies, procedures, decisions, and forms of the  
17 commission or the department, as applicable, and remain in effect  
18 until amended or replaced by the commission or department;

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

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

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

27 (6) the unexpended and unobligated balance of any

1 money appropriated by the legislature for the former board is  
2 transferred to the department.

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

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

7 (2) rights to service contracts and licensing  
8 agreements;

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

11 (4) review and resolution of pending judgments and  
12 outstanding expenditures.

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

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

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

27 SECTION 64. (a) On September 1, 2017, the terms of the

1 members serving on the Texas State Board of Podiatric Medical  
2 Examiners expire, and the Texas State Board of Podiatric Medical  
3 Examiners is abolished.

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

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

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

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

22 (b) Not later than September 1, 2019, the Texas Department  
23 of Licensing and Regulation shall obtain criminal history record  
24 information on each person who, on the effective date of this Act,  
25 holds a license issued under Chapter 202, Occupations Code, and did  
26 not undergo a criminal history record information check based on  
27 the license holder's fingerprints on initial application for the

1 license. The department may suspend the license of a license holder  
2 who does not provide the criminal history record information as  
3 required by the department and this subsection.

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

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

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

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

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