

1-1 By: Thompson of Harris H.B. No. 3078
 1-2 (Senate Sponsor - Schwertner)
 1-3 (In the Senate - Received from the House May 8, 2017;
 1-4 May 9, 2017, read first time and referred to Committee on Health &
 1-5 Human Services; May 18, 2017, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-7 May 18, 2017, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	Schwertner	X		
1-11	Uresti	X		
1-12	Buckingham	X		
1-13	Burton	X		
1-14	Kolkhorst	X		
1-15	Miles	X		
1-16	Perry	X		
1-17	Taylor of Collin	X		
1-18	Watson	X		

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 3078 By: Perry

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to sunset review of the Texas Commission of Licensing and
 1-23 Regulation and the Texas Department of Licensing and Regulation and
 1-24 the transfer of the regulation of podiatry to the Texas Department
 1-25 of Licensing and Regulation; authorizing a reduction in fees.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 51.002, Occupations Code, is amended to
 1-28 read as follows:

1-29 Sec. 51.002. APPLICATION OF SUNSET ACT. The Texas
 1-30 Commission of Licensing and Regulation and the Texas Department of
 1-31 Licensing and Regulation are subject to Chapter 325, Government
 1-32 Code (Texas Sunset Act). Unless continued in existence as provided
 1-33 by that chapter, the commission and the department are abolished
 1-34 September 1, 2021 [~~2019~~].

1-35 SECTION 2. Subchapter D, Chapter 51, Occupations Code, is
 1-36 amended by adding Section 51.2032 to read as follows:

1-37 Sec. 51.2032. RULES REGARDING PODIATRY; PROVISION OF
 1-38 INFORMATION. (a) In this section, "advisory board" means the
 1-39 Podiatric Medical Examiners Advisory Board.

1-40 (b) The commission may not adopt a new rule relating to the
 1-41 scope of practice of, a health-related standard of care for, or the
 1-42 ethical practice of the profession of podiatry unless the rule has
 1-43 been proposed by the advisory board. The commission shall adopt
 1-44 rules prescribing the procedure by which the advisory board may
 1-45 propose rules described by this subsection.

1-46 (c) For each rule proposed under Subsection (b), the
 1-47 commission shall either adopt the rule as proposed or return the
 1-48 rule to the advisory board for revision. The commission retains
 1-49 authority for final adoption of all rules and is responsible for
 1-50 ensuring compliance with all laws regarding the rulemaking process.

1-51 (d) The commission shall adopt rules clearly specifying the
 1-52 manner in which the department and commission will solicit input
 1-53 from, and on request provide information to, the advisory board
 1-54 regarding:

- 1-55 (1) continuing education requirements; and
- 1-56 (2) the general investigative, enforcement, or
 1-57 disciplinary procedures of the department or commission.

1-58 SECTION 3. Section 202.001(a), Occupations Code, is amended
 1-59 by amending Subdivisions (1) and (2) and adding Subdivisions (1-a)
 1-60 and (1-b) to read as follows:

2-1 (1) "Advisory board" [~~"Board"~~] means the Podiatric
2-2 Medical Examiners Advisory Board [~~Texas State Board of Podiatric~~
2-3 ~~Medical Examiners~~].

2-4 (1-a) "Commission" means the Texas Commission of
2-5 Licensing and Regulation.

2-6 (1-b) "Department" means the Texas Department of
2-7 Licensing and Regulation.

2-8 (2) "Executive director" means the executive director
2-9 of the Texas Department of Licensing and Regulation [~~employee of~~
2-10 ~~the board who manages the board's day-to-day operations~~].

2-11 SECTION 4. The heading to Subchapter B, Chapter 202,
2-12 Occupations Code, is amended to read as follows:

2-13 SUBCHAPTER B. [~~TEXAS STATE BOARD OF~~] PODIATRIC MEDICAL EXAMINERS
2-14 ADVISORY BOARD

2-15 SECTION 5. Section 202.051(a), Occupations Code, is amended
2-16 to read as follows:

2-17 (a) The [~~Texas State Board of~~] Podiatric Medical Examiners
2-18 Advisory Board consists of nine members appointed by the governor
2-19 as follows:

2-20 (1) six members who are licensed in this state to
2-21 practice podiatry and [~~are reputable practicing podiatrists who~~
2-22 ~~have resided in this state and~~] have been actively engaged in the
2-23 practice of podiatry for the five years preceding appointment; and

2-24 (2) three members who represent the public.

2-25 SECTION 6. Section 202.053, Occupations Code, is amended to
2-26 read as follows:

2-27 Sec. 202.053. PUBLIC MEMBER ELIGIBILITY. A person is not
2-28 eligible for appointment as a public member of the advisory board if
2-29 the person or the person's spouse:

2-30 (1) is registered, certified, or licensed by an
2-31 occupational regulatory agency in the field of health care;

2-32 (2) is employed by or participates in the management
2-33 of a business entity or other organization regulated by the
2-34 department [~~board~~] or receiving funds from the department [~~board~~];

2-35 (3) owns or controls, directly or indirectly, more
2-36 than a 10 percent interest in a business entity or other
2-37 organization regulated by the department [~~board~~] or receiving funds
2-38 from the department [~~board~~]; or

2-39 (4) uses or receives a substantial amount of tangible
2-40 goods, services, or funds from the department [~~board~~], other than
2-41 [~~compensation or~~] reimbursement authorized by law for advisory
2-42 board membership, attendance, or expenses.

2-43 SECTION 7. Sections 202.054(b) and (c), Occupations Code,
2-44 are amended to read as follows:

2-45 (b) A person may not be a member of the advisory board [~~and~~
2-46 ~~may not be a board employee employed in a "bona fide executive,~~
2-47 ~~administrative, or professional capacity," as that phrase is used~~
2-48 ~~for purposes of establishing an exemption to the overtime~~
2-49 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~
2-50 ~~U.S.C. Section 201 et seq.)~~] if:

2-51 (1) the person is an officer, employee, or paid
2-52 consultant of a Texas trade association in the field of health care;
2-53 or

2-54 (2) the person's spouse is an officer, manager, or paid
2-55 consultant of a Texas trade association in the field of health care.

2-56 (c) A person may not be a member of the advisory board [~~or~~
2-57 ~~act as the general counsel to the board~~] if the person is required
2-58 to register as a lobbyist under Chapter 305, Government Code,
2-59 because of the person's activities for compensation on behalf of a
2-60 profession related to the operation of the advisory board.

2-61 SECTION 8. Section 202.055, Occupations Code, is amended to
2-62 read as follows:

2-63 Sec. 202.055. TERMS; VACANCIES. (a) Members of the
2-64 advisory board serve staggered six-year terms, with the term of
2-65 three members expiring on February 1 of each odd-numbered year. At
2-66 the expiration of the term of each member, the governor shall
2-67 appoint a successor.

2-68 (b) If a vacancy occurs during a term, the governor shall
2-69 appoint a replacement who meets the qualifications of the vacated

3-1 position to serve for the remainder of the term.

3-2 SECTION 9. Section 202.056, Occupations Code, is amended to
3-3 read as follows:

3-4 Sec. 202.056. GROUND FOR REMOVAL. (a) It is a ground for
3-5 removal from the advisory board that a member:

3-6 (1) does not have at the time of taking office the
3-7 qualifications required by Section 202.051 or 202.053;

3-8 (2) does not maintain during service on the advisory
3-9 board the qualifications required by Section 202.051 or 202.053;

3-10 (3) is ineligible for membership under Section
3-11 202.054;

3-12 (4) cannot, because of illness or disability,
3-13 discharge the member's duties for a substantial part of the member's
3-14 term; or

3-15 (5) is absent from more than half of the regularly
3-16 scheduled advisory board meetings that the member is eligible to
3-17 attend during a calendar year unless the absence is excused by a
3-18 majority vote of the advisory board.

3-19 (b) The validity of an action of the advisory board is not
3-20 affected by the fact that the action is taken when a ground for
3-21 removal of an advisory [a] board member exists.

3-22 (c) If the executive director has knowledge that a potential
3-23 ground for removal exists, the executive director shall notify the
3-24 [~~president of the board of the potential ground. The president~~
3-25 ~~shall then notify the~~] governor and the attorney general that a
3-26 potential ground for removal exists. [~~If the potential ground for~~
3-27 ~~removal involves the president, the executive director shall notify~~
3-28 ~~the next highest ranking officer of the board, who shall then notify~~
3-29 ~~the governor and the attorney general that a potential ground for~~
3-30 ~~removal exists.]~~

3-31 SECTION 10. Section 202.057, Occupations Code, is amended
3-32 to read as follows:

3-33 Sec. 202.057. COMPENSATION [PER DIEM]; REIMBURSEMENT OF
3-34 EXPENSES. An advisory board member may not receive compensation
3-35 but is entitled to [(a) Each board member is entitled to a per diem
3-36 as set by legislative appropriation for each day the member engages
3-37 in the business of the board.

3-38 [(b) A member may receive] reimbursement for actual and
3-39 necessary expenses incurred in performing the functions of the
3-40 advisory board, subject to [~~travel expenses, including expenses for~~
3-41 ~~meals, lodging, and transportation, as prescribed by]~~ the General
3-42 Appropriations Act.

3-43 [(c) The secretary of the board is entitled to reimbursement
3-44 for the secretary's necessary expenses incurred in the performance
3-45 of services for the board.]

3-46 SECTION 11. Section 202.058, Occupations Code, is amended
3-47 to read as follows:

3-48 Sec. 202.058. PRESIDING OFFICER [OFFICERS]. [(a)] The
3-49 governor shall appoint one [designate a member] of the advisory
3-50 board members to serve as presiding officer [the president] of the
3-51 advisory board at the pleasure of the governor. The presiding
3-52 officer may vote on any matter before the advisory board [to serve
3-53 in that capacity at the pleasure of the governor].

3-54 [(b) At the first regular scheduled meeting of each
3-55 biennium, the board shall elect from its members a vice president
3-56 and secretary.]

3-57 SECTION 12. Section 202.059(a), Occupations Code, is
3-58 amended to read as follows:

3-59 (a) The advisory board shall meet at the call of the
3-60 presiding officer of the commission or the executive director [hold
3-61 regular meetings at least twice a year and special meetings as
3-62 necessary. The board shall hold the meetings at times and places
3-63 the board considers most convenient for applicants for license
3-64 examinations].

3-65 SECTION 13. Section 202.061, Occupations Code, is amended
3-66 to read as follows:

3-67 Sec. 202.061. TRAINING. (a) A person who is appointed to
3-68 and qualifies for office as a member of the advisory board may not
3-69 vote, deliberate, or be counted as a member in attendance at a

4-1 meeting of the advisory board until the person completes a training
 4-2 program that complies with this section.

4-3 (b) The training program must provide the person with
 4-4 information regarding:

4-5 (1) this chapter;

4-6 (2) [and] the department's programs, functions, and
 4-7 rules with respect to this chapter[, and budget of the board];

4-8 (3) [~~(2)~~] the results of the most recent formal audit
 4-9 of the department with respect to this chapter [board];

4-10 (4) the scope and limitations on the rulemaking
 4-11 authority of the advisory board;

4-12 (5) [~~(3)~~] the requirements of:

4-13 (A) laws relating to open meetings, public
 4-14 information, administrative procedure, and disclosing conflicts of
 4-15 interest; and

4-16 (B) other laws applicable to members of the
 4-17 advisory board in performing the members' duties; and

4-18 (6) [~~(4)~~] any applicable ethics policies adopted by
 4-19 the commission [board] or the Texas Ethics Commission.

4-20 (c) The executive director shall create a training manual
 4-21 that includes the information required by Subsection (b). The
 4-22 executive director shall distribute a copy of the training manual
 4-23 annually to each advisory board member. On receipt of the training
 4-24 manual, each advisory board member shall sign and submit to the
 4-25 executive director a statement acknowledging receipt of the
 4-26 training manual. [A person appointed to the board may be entitled
 4-27 to reimbursement, as provided by the General Appropriations Act,
 4-28 for the travel expenses incurred in attending the training program
 4-29 regardless of whether the attendance at the program occurs before
 4-30 or after the person qualifies for office.]

4-31 SECTION 14. Subchapter B, Chapter 202, Occupations Code, is
 4-32 amended by adding Section 202.062 to read as follows:

4-33 Sec. 202.062. DUTIES OF ADVISORY BOARD. The advisory board
 4-34 shall provide advice and recommendations to the department on
 4-35 technical matters relevant to the administration of this chapter.

4-36 SECTION 15. The heading to Subchapter D, Chapter 202,
 4-37 Occupations Code, is amended to read as follows:

4-38 SUBCHAPTER D. ~~[BOARD]~~ POWERS AND DUTIES

4-39 SECTION 16. Subchapter D, Chapter 202, Occupations Code, is
 4-40 amended by adding Section 202.1515 to read as follows:

4-41 Sec. 202.1515. GENERAL POWERS AND DUTIES. (a) The
 4-42 executive director shall administer and enforce this chapter.

4-43 (b) The commission shall adopt rules necessary to
 4-44 administer and enforce this chapter.

4-45 SECTION 17. Section 202.153, Occupations Code, is amended
 4-46 to read as follows:

4-47 Sec. 202.153. FEES. [~~(a)~~] The commission [board] by rule
 4-48 shall establish fees in amounts reasonable and necessary to cover
 4-49 the cost of administering this chapter. [The board may not set a
 4-50 fee that existed on September 1, 1993, in an amount less than the
 4-51 amount of that fee on that date.

4-52 [~~(b)~~ The board may not maintain unnecessary fund balances,
 4-53 and fee amounts shall be established in accordance with this
 4-54 requirement.]

4-55 SECTION 18. Section 202.160, Occupations Code, is amended
 4-56 to read as follows:

4-57 Sec. 202.160. INFORMATION PROVIDED TO LICENSE HOLDERS. At
 4-58 least once each biennium, the department [board] shall provide to
 4-59 license holders information on:

4-60 (1) prescribing and dispensing pain medications, with
 4-61 particular emphasis on Schedule II and Schedule III controlled
 4-62 substances;

4-63 (2) abusive and addictive behavior of certain persons
 4-64 who use prescription pain medications;

4-65 (3) common diversion strategies employed by certain
 4-66 persons who use prescription pain medications, including
 4-67 fraudulent prescription patterns; and

4-68 (4) the appropriate use of pain medications and the
 4-69 differences between addiction, pseudo-addiction, tolerance, and

5-1 physical dependence.

5-2 SECTION 19. Section 202.161, Occupations Code, is amended
5-3 to read as follows:

5-4 Sec. 202.161. POISON CONTROL CENTER INFORMATION. The
5-5 department [board] shall provide to license holders information
5-6 regarding the services provided by poison control centers.

5-7 SECTION 20. The heading to Subchapter E, Chapter 202,
5-8 Occupations Code, is amended to read as follows:

5-9 SUBCHAPTER E. ~~[PUBLIC INTEREST INFORMATION AND]~~ COMPLAINT
5-10 PROCEDURES

5-11 SECTION 21. Subchapter E, Chapter 202, Occupations Code, is
5-12 amended by adding Section 202.2025 to read as follows:

5-13 Sec. 202.2025. COMPLAINT PRIORITY. The executive director
5-14 shall develop, implement, and enforce a written policy for
5-15 determining the complaints filed under this chapter that will be
5-16 given priority for investigation and resolution by the department.

5-17 SECTION 22. Subchapter E, Chapter 202, Occupations Code, is
5-18 amended by adding Sections 202.2031 and 202.2032 to read as
5-19 follows:

5-20 Sec. 202.2031. NOTIFICATION TO PARTIES REGARDING
5-21 COMPLAINT. (a) The department shall notify a license holder who is
5-22 the subject of a complaint filed with the department that a
5-23 complaint has been filed and shall notify the license holder of the
5-24 nature of the complaint.

5-25 (b) The department is not required to provide notice under
5-26 this section if the notice would jeopardize an investigation.

5-27 Sec. 202.2032. REQUIREMENTS FOR CERTAIN COMPLAINTS. (a)
5-28 In this section:

5-29 (1) "Anonymous complaint" means a complaint that lacks
5-30 sufficient information to identify the source or the name of the
5-31 person who filed the complaint.

5-32 (2) "Insurance agent" means a person licensed under
5-33 Chapter 4054, Insurance Code.

5-34 (3) "Insurer" means an insurance company or other
5-35 entity authorized to engage in the business of insurance under
5-36 Subtitle C, Title 6, Insurance Code.

5-37 (4) "Third-party administrator" means a person
5-38 required to have a certificate of authority under Chapter 4151,
5-39 Insurance Code.

5-40 (b) The department may not accept anonymous complaints.

5-41 (c) Notwithstanding any confidentiality requirements under
5-42 Chapter 552, Government Code, or this chapter, a complaint filed
5-43 with the department by an insurance agent, insurer, pharmaceutical
5-44 company, or third-party administrator against a license holder must
5-45 include the name and address of the insurance agent, insurer,
5-46 pharmaceutical company, or third-party administrator filing the
5-47 complaint.

5-48 (d) Not later than the 15th day after the date the complaint
5-49 is filed with the department, the department shall notify the
5-50 license holder who is the subject of the complaint of the name and
5-51 address of the insurance agent, insurer, pharmaceutical company, or
5-52 third-party administrator who filed the complaint, unless the
5-53 notice would jeopardize an investigation.

5-54 SECTION 23. Sections 202.252(a), (b), (e), and (f),
5-55 Occupations Code, are amended to read as follows:

5-56 (a) An application for a license under this chapter must be
5-57 submitted in the manner and on a form prescribed by the executive
5-58 director [A person who desires to practice podiatry in this state
5-59 shall apply in writing to the board for a license on a form
5-60 prescribed by the board].

5-61 (b) The commission by rule shall establish the information
5-62 and documentation required to be submitted as part of an
5-63 application for a license under this chapter [applicant shall
5-64 submit any information reasonably required by the board], including
5-65 evidence satisfactory to the commission or department [board] that
5-66 the applicant:

5-67 (1) is at least 21 years of age;

5-68 (2) [is of good moral character,

5-69 (-3-)] has completed at least 90 semester hours of

6-1 college courses acceptable at the time of completion for credit
6-2 toward a bachelor's degree at an institution of higher education
6-3 determined by the department to have acceptable standards [~~The~~
6-4 ~~University of Texas~~];

6-5 (3) [~~(4)~~] is a graduate of a reputable school of
6-6 podiatry or chiropody; and
6-7 (4) [~~(5)~~] has successfully completed any other course
6-8 of training reasonably required by commission [~~board~~] rule relating
6-9 to the safe care and treatment of patients.

6-10 (e) All educational attainments or credits for evaluation
6-11 under this chapter must be completed within the United States. The
6-12 department [~~board~~] may not accept educational credits attained in a
6-13 foreign country that are not approved by the department [~~acceptable~~
6-14 ~~to The University of Texas for credit toward a bachelor's degree~~].

6-15 (f) For purposes of this section, a podiatry or chiropody
6-16 school is reputable if:

6-17 (1) the course of instruction consists of four terms
6-18 of approximately eight months each, or the substantial equivalent;
6-19 and

6-20 (2) the school is approved by the department [~~board~~].

6-21 SECTION 24. Subchapter F, Chapter 202, Occupations Code, is
6-22 amended by adding Section 202.2525 to read as follows:

6-23 Sec. 202.2525. CRIMINAL HISTORY RECORD INFORMATION FOR
6-24 LICENSE ISSUANCE. (a) The department shall require that an
6-25 applicant for a license submit a complete and legible set of
6-26 fingerprints, on a form prescribed by the executive director, to
6-27 the department or to the Department of Public Safety for the purpose
6-28 of obtaining criminal history record information from the
6-29 Department of Public Safety and the Federal Bureau of
6-30 Investigation.

6-31 (b) The department may not issue a license to a person who
6-32 does not comply with the requirement of Subsection (a).

6-33 (c) The department shall conduct a criminal history record
6-34 information check of each applicant for a license using
6-35 information:

6-36 (1) provided by the individual under this section; and
6-37 (2) made available to the department by the Department
6-38 of Public Safety, the Federal Bureau of Investigation, and any
6-39 other criminal justice agency under Chapter 411, Government Code.

6-40 (d) The department may:

6-41 (1) enter into an agreement with the Department of
6-42 Public Safety to administer a criminal history record information
6-43 check required under this section; and

6-44 (2) authorize the Department of Public Safety to
6-45 collect from each applicant the costs incurred by the Department of
6-46 Public Safety in conducting the criminal history record information
6-47 check.

6-48 SECTION 25. Section 202.253, Occupations Code, is amended
6-49 to read as follows:

6-50 Sec. 202.253. GROUNDS FOR DENIAL OF LICENSE. (a) The
6-51 commission may refuse to issue a license or certificate to a person
6-52 who violates this chapter, a rule adopted under this chapter, or an
6-53 order of the commission or executive director.

6-54 (a-1) The commission or department [~~board~~] may refuse to
6-55 admit a person to an examination, and may refuse to issue a license
6-56 to practice podiatry to a person, for:

6-57 (1) presenting [~~to the board~~] a license, certificate,
6-58 or diploma that was illegally or fraudulently obtained or engaging
6-59 in fraud or deception in passing the examination;

6-60 (2) being convicted of:
6-61 (A) a felony;
6-62 (B) a crime that involves moral turpitude; or
6-63 (C) an offense under Section 202.606;

6-64 (3) engaging in habits of intemperance or drug
6-65 addiction that in the department's [~~board's~~] opinion would endanger
6-66 the health, well-being, or welfare of patients;

6-67 (4) engaging in grossly unprofessional or
6-68 dishonorable conduct of a character that in the department's
6-69 [~~board's~~] opinion is likely to deceive or defraud the public;

7-1 (5) directly or indirectly violating or attempting to
7-2 violate this chapter or a rule adopted under this chapter as a
7-3 principal, accessory, or accomplice;

7-4 (6) using any advertising statement of a character
7-5 tending to mislead or deceive the public;

7-6 (7) advertising professional superiority or the
7-7 performance of professional service in a superior manner;

7-8 (8) purchasing, selling, bartering, or using or
7-9 offering to purchase, sell, barter, or use a podiatry degree,
7-10 license, certificate, diploma, or a transcript of a license,
7-11 certificate, or diploma, in or incident to an application [~~to the~~
7-12 ~~board~~] for a license to practice podiatry;

7-13 (9) altering, with fraudulent intent, a podiatry
7-14 license, certificate, diploma, or a transcript of a podiatry
7-15 license, certificate, or diploma;

7-16 (10) using a podiatry license, certificate, or
7-17 diploma, or a transcript of a podiatry license, certificate, or
7-18 diploma, that has been fraudulently purchased, issued,
7-19 counterfeited, or materially altered;

7-20 (11) impersonating, or acting as proxy for, another
7-21 person in a podiatry license examination;

7-22 (12) impersonating a license holder, or permitting
7-23 another person to use the license holder's license to practice
7-24 podiatry in this state, to treat or offer to treat, by any method,
7-25 conditions and ailments of human feet;

7-26 (13) directly or indirectly employing a person whose
7-27 license to practice podiatry has been suspended or associating in
7-28 the practice of podiatry with a person whose license to practice
7-29 podiatry has been suspended or who has been convicted of the
7-30 unlawful practice of podiatry in this state or elsewhere;

7-31 (14) wilfully making in the application for a license
7-32 to practice podiatry a material misrepresentation or material
7-33 untrue statement;

7-34 (15) being unable to practice podiatry with reasonable
7-35 skill and safety to a patient because of age, illness, drunkenness,
7-36 or excessive use of drugs, narcotics, chemicals, or other
7-37 substances or as a result of a mental or physical condition;

7-38 (16) failing to practice podiatry in an acceptable
7-39 manner consistent with public health and welfare;

7-40 (17) being removed, suspended, or disciplined in
7-41 another manner by the podiatrist's peers in a professional podiatry
7-42 association or society, whether local, regional, state, or national
7-43 in scope, or being disciplined by a licensed hospital or the medical
7-44 staff of a hospital, including removal, suspension, limitation of
7-45 hospital privileges, or other disciplinary action, if the
7-46 commission or department [~~board~~] determines that the action was:

7-47 (A) based on unprofessional conduct or
7-48 professional incompetence likely to harm the public; and

7-49 (B) appropriate and reasonably supported by
7-50 evidence submitted to the association, society, hospital, or
7-51 medical staff; or

7-52 (18) having repeated or recurring meritorious health
7-53 care liability claims filed against the podiatrist that in the
7-54 commission's or department's [~~board's~~] opinion are evidence of
7-55 professional incompetence likely to injure the public.

7-56 (b) In enforcing Subsection (a-1)(15) [~~(a)(15)~~], the
7-57 department [~~board~~], on probable cause, shall request the affected
7-58 podiatrist to submit to a mental or physical examination by a
7-59 physician designated by the department [~~board~~]. If the podiatrist
7-60 refuses to submit to the examination, the commission or executive
7-61 director [~~board~~] shall issue an order requiring the podiatrist to
7-62 show cause why the podiatrist will not submit to the examination and
7-63 shall schedule a hearing on the order not later than the 30th day
7-64 after the date notice is served on the podiatrist. The podiatrist
7-65 shall be notified by either personal service or certified mail with
7-66 return receipt requested.

7-67 (c) At the hearing, the podiatrist and the podiatrist's
7-68 attorney may present testimony and other evidence to show why the
7-69 podiatrist should not be required to submit to the examination.

8-1 After a complete hearing, the commission or executive director
8-2 [~~board~~] shall issue an order either requiring the podiatrist to
8-3 submit to the examination or withdrawing the request for
8-4 examination.

8-5 SECTION 26. Sections 202.254(a), (b), and (c), Occupations
8-6 Code, are amended to read as follows:

8-7 (a) Except as provided by Section 202.261, each applicant
8-8 for a license to practice podiatry in this state must pass an
8-9 examination approved by the department [~~board~~]. [~~Each applicant~~
8-10 ~~shall pay to the board an examination fee at least 15 days before~~
8-11 ~~the date of the scheduled examination.~~]

8-12 (b) The department shall recognize, prepare, administer, or
8-13 arrange for the administration of an examination under this chapter
8-14 [~~board may adopt and enforce rules of procedure for administering~~
8-15 ~~this section. A public board member may not participate in any part~~
8-16 ~~of the examination process for applicants for a license issued by~~
8-17 ~~the board that requires knowledge of the practice of podiatry].~~

8-18 (c) The license examination must consist of a written and
8-19 practical component. The department [~~board~~] shall determine the
8-20 passing score for the examination using accepted
8-21 criterion-referenced methods. The department [~~board~~] shall have
8-22 the examination validated by an independent testing professional.

8-23 SECTION 27. Section 202.257, Occupations Code, is amended
8-24 to read as follows:

8-25 Sec. 202.257. ISSUANCE OF LICENSE. The department [~~board~~]
8-26 shall issue a license to each applicant who possesses the
8-27 qualifications required for a license and passes the examination.

8-28 SECTION 28. Section 202.259(a), Occupations Code, is
8-29 amended to read as follows:

8-30 (a) The commission [~~board~~] by rule may adopt a procedure for
8-31 the issuance of a temporary license to an applicant other than an
8-32 applicant for a provisional license under Section 202.260.

8-33 SECTION 29. Sections 202.260(a), (b), (c), and (d),
8-34 Occupations Code, are amended to read as follows:

8-35 (a) On application, the department [~~board~~] shall grant a
8-36 provisional license to practice podiatry to an applicant who:

8-37 (1) is licensed in good standing as a podiatrist in
8-38 another state that has licensing requirements that are
8-39 substantially equivalent to the requirements of this chapter;

8-40 (2) has passed a national or other examination
8-41 recognized by the department [~~board~~] relating to the practice of
8-42 podiatry; and

8-43 (3) is sponsored by a person licensed under this
8-44 chapter with whom the provisional license holder may practice under
8-45 this section.

8-46 (b) The department [~~board~~] may excuse an applicant for a
8-47 provisional license from the requirement of Subsection (a)(3) if
8-48 the department [~~board~~] determines that compliance with that
8-49 subdivision [~~subsection~~] constitutes a hardship to the applicant.

8-50 (c) A provisional license is valid until the date the
8-51 department [~~board~~] approves or denies the provisional license
8-52 holder's application for a license. Except as provided by
8-53 Subsection (e), the department [~~board~~] shall issue a license under
8-54 this chapter to the holder of a provisional license under this
8-55 section if:

8-56 (1) the provisional license holder passes the
8-57 examination required by Section 202.254;

8-58 (2) the department [~~board~~] verifies that the
8-59 provisional license holder has the academic and experience
8-60 requirements for a license under this chapter; and

8-61 (3) the provisional license holder satisfies any other
8-62 license requirements under this chapter.

8-63 (d) The department [~~board~~] shall complete the processing of
8-64 a provisional license holder's application for a license not later
8-65 than the 180th day after the date the provisional license is issued.
8-66 The department [~~board~~] may extend that deadline to allow for the
8-67 receipt of pending examination results.

8-68 SECTION 30. Sections 202.261(a) and (b), Occupations Code,
8-69 are amended to read as follows:

9-1 (a) The department [~~board~~] may issue a license to practice
9-2 podiatry without administering the examination under Section
9-3 202.254 to a podiatrist who:

9-4 (1) at the time of applying for a license has accepted
9-5 an appointment or is serving as a full-time member of the faculty of
9-6 an educational institution in this state offering an approved or
9-7 accredited course of study or training leading to a degree in
9-8 podiatry;

9-9 (2) is licensed to practice podiatry in another state
9-10 that has licensing requirements substantially equivalent to those
9-11 established by this state; and

9-12 (3) otherwise satisfies the requirements of Section
9-13 202.252.

9-14 (b) For purposes of Subsection (a)(1), a course of study,
9-15 training, or education is considered to be approved or accredited
9-16 if it is approved or accredited by the department [~~board~~] as
9-17 constituting a reputable course of study, training, or education.
9-18 In deciding whether to approve or accredit a course of study,
9-19 training, or education, the department [~~board~~] shall consider
9-20 whether the course is approved or accredited by the Council on
9-21 Podiatric Medical Education of the American Podiatric Medical
9-22 Association or its successor organization.

9-23 SECTION 31. Section 202.262, Occupations Code, is amended
9-24 to read as follows:

9-25 Sec. 202.262. DISPLAY OF LICENSE. (a) A person licensed
9-26 under this chapter must conspicuously display both the license and
9-27 an unexpired [~~an annual~~] renewal certificate [~~for the current year~~
9-28 ~~of practice~~] at the location where the person practices.

9-29 (b) The person shall exhibit the license and renewal
9-30 certificate to a department [~~board~~] representative on the
9-31 representative's official request for examination or inspection.

9-32 SECTION 32. Section 202.263, Occupations Code, is amended
9-33 to read as follows:

9-34 Sec. 202.263. ISSUANCE OF DUPLICATE OR AMENDED LICENSE.

9-35 (a) If a license issued by the department [~~board~~] is lost,
9-36 destroyed, or stolen from the person to whom it was issued, the
9-37 license holder shall report the fact to the department and [~~board in~~
9-38 ~~an affidavit. The affidavit must~~] include detailed information as
9-39 to the loss, destruction, or theft, giving dates, place, and
9-40 circumstances.

9-41 (b) A license holder may apply to the department [~~board~~] for
9-42 an amended license because of a lawful change in the person's name
9-43 or degree designation or for any other lawful and sufficient
9-44 reason. The license holder must state the reasons that the issuance
9-45 of an amended license is requested.

9-46 (c) The department [~~board~~] shall issue a duplicate or
9-47 amended license on application by a license holder and payment of a
9-48 fee set by the commission [~~board~~] for the duplicate or amended
9-49 license. The department [~~board~~] may not issue a duplicate or
9-50 amended license unless:

9-51 (1) the license holder submits sufficient evidence to
9-52 prove the license has been lost, destroyed, or stolen or
9-53 establishes the lawful reason that an amended license should be
9-54 issued; and

9-55 (2) the department's [~~board's~~] records show a license
9-56 had been issued and was in effect at the time of the loss,
9-57 destruction, or theft or on the date of the request for an amended
9-58 license.

9-59 (d) If an amended license is issued, the license holder
9-60 shall return the original license to the department [~~board~~].

9-61 SECTION 33. Subchapter G, Chapter 202, Occupations Code, is
9-62 amended by adding Section 202.3015 to read as follows:

9-63 Sec. 202.3015. TERM AND RENEWAL. (a) A license issued
9-64 under this chapter is valid for one or two years as determined by
9-65 commission rule.

9-66 (b) The commission by rule shall establish the requirements
9-67 for renewing a license and issuing a renewal certificate under this
9-68 chapter, including payment of applicable fees.

9-69 SECTION 34. Subchapter G, Chapter 202, Occupations Code, is

10-1 amended by adding Section 202.3025 to read as follows:
10-2 Sec. 202.3025. CRIMINAL HISTORY RECORD INFORMATION
10-3 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
10-4 license issued under this chapter shall submit a complete and
10-5 legible set of fingerprints for purposes of performing a criminal
10-6 history record information check of the applicant as provided by
10-7 Section 202.2525.

10-8 (b) The department may administratively suspend or refuse
10-9 to renew the license of a person who does not comply with the
10-10 requirement of Subsection (a).

10-11 (c) A license holder is not required to submit fingerprints
10-12 under this section for the renewal of the license if the license
10-13 holder has previously submitted fingerprints under:

- 10-14 (1) Section 202.2525 for the initial issuance of the
- 10-15 license; or
- 10-16 (2) this section as part of a prior license renewal.

10-17 SECTION 35. Section 202.303, Occupations Code, is amended
10-18 to read as follows:

10-19 Sec. 202.303. PRACTICE WITHOUT RENEWING LICENSE. A person
10-20 who practices podiatry with ~~[without]~~ an expired ~~[annual]~~ renewal
10-21 certificate ~~[for the current year]~~ is considered to be practicing
10-22 without a license and is subject to all the penalties of the
10-23 practice of podiatry without a license.

10-24 SECTION 36. Sections 202.304(a) and (b), Occupations Code,
10-25 are amended to read as follows:

10-26 (a) Except as provided by Subsection (c), this section
10-27 applies to a podiatrist whose license has been suspended or
10-28 revoked, or whose most recently issued ~~[annual]~~ renewal certificate
10-29 has expired, while the podiatrist has been:

- 10-30 (1) engaged in federal service or on active duty with:
 - 10-31 (A) the United States Army;
 - 10-32 (B) the United States Navy;
 - 10-33 (C) the United States Marine Corps;
 - 10-34 (D) the United States Coast Guard; or
 - 10-35 (E) the United States Air Force;
- 10-36 (2) called into service or training of the United
10-37 States; or
- 10-38 (3) in training or education under the supervision of
10-39 the United States before induction into military service.

10-40 (b) A podiatrist subject to this section may renew the
10-41 podiatrist's license without paying a renewal fee for the expired
10-42 license or passing an examination if, not later than the first
10-43 anniversary of the date of the termination of service, training, or
10-44 education described by Subsection (a), other than by dishonorable
10-45 discharge, the podiatrist furnishes to the department ~~[board]~~ an
10-46 affidavit stating that the podiatrist has been so engaged and that
10-47 the service, training, or education has terminated.

10-48 SECTION 37. Section 202.305, Occupations Code, is amended
10-49 to read as follows:

10-50 Sec. 202.305. CONTINUING EDUCATION. (a) The commission by
10-51 rule shall establish the minimum number of hours of continuing
10-52 education required for license renewal.

10-53 (a-1) The department ~~[board]~~ shall develop a mandatory
10-54 continuing education program in accordance with commission rules.
10-55 In developing its program, the department ~~[board]~~ shall:

- 10-56 (1) ~~[establish by rule the minimum hours of continuing~~
10-57 ~~education required for license renewal,~~
- 10-58 ~~[(2)]~~ identify the key factors that lead to the
10-59 competent performance of professional duties;
- 10-60 ~~[(2)]~~ ~~[(3)]~~ develop a process to evaluate and approve
10-61 continuing education courses; and
- 10-62 ~~[(3)]~~ ~~[(4)]~~ develop a process to assess the
10-63 participation and performance of license holders in continuing
10-64 education courses to enable the department ~~[board]~~ to evaluate the
10-65 overall effectiveness of the program.

10-66 (b) The department ~~[board]~~ may assess the continuing
10-67 education needs of a license holder and require the license holder
10-68 to attend continuing education courses specified by the department
10-69 ~~[board]~~.

11-1 SECTION 38. The heading to Section 202.352, Occupations
11-2 Code, is amended to read as follows:

11-3 Sec. 202.352. [BOARD] APPROVAL OF NAMES UNDER WHICH
11-4 PODIATRIST MAY PRACTICE.

11-5 SECTION 39. Sections 202.352(a) and (b), Occupations Code,
11-6 are amended to read as follows:

11-7 (a) The commission [~~board~~] may adopt rules establishing
11-8 standards or guidelines for the name, including a trade name or
11-9 assumed name, under which a podiatrist may conduct a practice in
11-10 this state. In its rules, the commission [~~board~~] may also establish
11-11 procedures to review and make determinations approving or
11-12 disapproving a specific name submitted to the department [~~board~~] by
11-13 one or more podiatrists desiring to practice under a particular
11-14 name.

11-15 (b) The authority granted to the commission and department
11-16 [~~board~~] by this section includes any form of business organization
11-17 under which a podiatrist conducts a practice, including:

- 11-18 (1) a sole proprietorship;
- 11-19 (2) an association;
- 11-20 (3) a partnership;
- 11-21 (4) a professional corporation;
- 11-22 (5) a clinic;
- 11-23 (6) a health maintenance organization; and
- 11-24 (7) a group practice with a practitioner of another
11-25 branch of the healing art.

11-26 SECTION 40. Sections 202.353(a), (c), (d), (e), (f), (g),
11-27 (h), and (i), Occupations Code, are amended to read as follows:

11-28 (a) An insurer who delivers or issues for delivery in this
11-29 state professional liability insurance coverage to a podiatrist who
11-30 practices in this state shall furnish to the department [~~board~~] the
11-31 information specified in Subsection (b) relating to:

- 11-32 (1) a notice of claim letter or a complaint filed
11-33 against the insured in a court, if the notice of claim letter or the
11-34 complaint seeks the recovery of damages based on the insured's
11-35 conduct in providing or failing to provide medical or health care
11-36 services; or
- 11-37 (2) a settlement of a claim or other legal action made
11-38 by the insurer on behalf of the insured.

11-39 (c) If a podiatrist who practices in this state is not
11-40 covered by professional liability insurance or is insured by an
11-41 insurer who is not authorized to write professional liability
11-42 insurance for podiatrists in this state, the affected podiatrist
11-43 shall submit information to the department [~~board~~] relating to any
11-44 malpractice action brought against that podiatrist. The podiatrist
11-45 shall submit the information as required by rules adopted by the
11-46 commission [~~board~~] under Subsections (d)-(f).

11-47 (d) In consultation with the commissioner of insurance, the
11-48 commission [~~board~~] shall adopt rules for reporting the information
11-49 required under Subsections (a) and (b) and any additional
11-50 information required by the department [~~board~~].

11-51 (e) The department [~~board~~] shall consider other claim
11-52 reports required under state or federal law in determining:

- 11-53 (1) any additional information to be reported;
- 11-54 (2) the form of the report; and
- 11-55 (3) reasonable reporting intervals.

11-56 (f) The department [~~board~~] may require additional
11-57 information, including:

- 11-58 (1) the date of a judgment, dismissal, or settlement
11-59 of a malpractice action;
- 11-60 (2) whether an appeal has been taken and the identity
11-61 of the party appealing; and
- 11-62 (3) the amount of any judgment or settlement.

11-63 (g) An insurer, an agent or employee of the insurer, a
11-64 commission [~~board~~] member, or an employee or representative of the
11-65 department [~~board~~] is not liable or subject to a cause of action for
11-66 an action taken as required under this section.

11-67 (h) A report or information submitted to the department
11-68 [~~board~~] under this section or the fact that a report or information
11-69 has been submitted may not be offered in evidence or in any manner

12-1 used in the trial of an action brought against a podiatrist based on
 12-2 the podiatrist's conduct in providing or failing to provide medical
 12-3 or health care services.

12-4 (i) The department [board] shall review the information
 12-5 relating to a podiatrist against whom three or more malpractice
 12-6 claims have been reported during any five-year period in the same
 12-7 manner as if a complaint against that podiatrist had been made to
 12-8 the department [board] under Subchapter E.

12-9 SECTION 41. Subchapter H, Chapter 202, Occupations Code, is
 12-10 amended by adding Section 202.354 to read as follows:

12-11 Sec. 202.354. DUTIES RELATED TO CERTAIN PRESCRIPTIONS. (a)
 12-12 A podiatrist may not prescribe a drug listed in Subsection (b) to a
 12-13 patient unless the podiatrist has reviewed the patient's
 12-14 prescription history by accessing the prescription information
 12-15 submitted to the Texas State Board of Pharmacy as authorized by
 12-16 Section 481.076(a)(5), Health and Safety Code.

12-17 (b) Subsection (a) applies only to the prescribing of:

- 12-18 (1) opioids;
- 12-19 (2) benzodiazepines;
- 12-20 (3) barbiturates; or
- 12-21 (4) carisoprodol.

12-22 (c) Failure by a podiatrist to comply with the requirements
 12-23 of this section is grounds for disciplinary action under
 12-24 Subchapters F and G, Chapter 51.

12-25 SECTION 42. Sections 202.404(d) and (e), Occupations Code,
 12-26 are amended to read as follows:

12-27 (d) The privilege and confidentiality requirements under
 12-28 this subchapter do not apply in a criminal investigation of or
 12-29 criminal proceeding against a podiatrist in which the department
 12-30 [board] is participating or assisting by providing certain records
 12-31 obtained from the podiatrist. This subsection does not authorize
 12-32 the release of any confidential information to instigate or
 12-33 substantiate criminal charges against a patient.

12-34 (e) The department [board] shall protect the identity of a
 12-35 patient whose podiatric records are examined or provided under
 12-36 Subsection (c) or (d), other than a patient who:

- 12-37 (1) is covered under Subsection (a)(1); or
- 12-38 (2) has submitted written consent to the release of
 12-39 the patient's podiatric records as provided by Section 202.406.

12-40 SECTION 43. Section 202.452(a), Occupations Code, is
 12-41 amended to read as follows:

12-42 (a) Written or oral communications made to a podiatric peer
 12-43 review committee and the records and proceedings of a peer review
 12-44 committee may be disclosed to:

- 12-45 (1) another podiatric peer review committee;
- 12-46 (2) an appropriate state or federal agency;
- 12-47 (3) a national accreditation body; or
- 12-48 (4) the department [board] or the state board of
 12-49 registration or licensing of podiatrists in another state.

12-50 SECTION 44. Section 202.453, Occupations Code, is amended
 12-51 to read as follows:

12-52 Sec. 202.453. INFORMATION PROVIDED TO AFFECTED PODIATRIST.
 12-53 A podiatric peer review committee that takes action that could
 12-54 result in censure or suspension, restriction, limitation, or
 12-55 revocation of a license by the commission or executive director
 12-56 [board] or a denial of a podiatrist's membership or privileges in a
 12-57 health care entity shall provide the affected podiatrist a written
 12-58 copy of the committee's recommendation and a copy of the final
 12-59 decision, including a statement of the basis for the decision.

12-60 SECTION 45. Section 202.455(f), Occupations Code, is
 12-61 amended to read as follows:

12-62 (f) The disclosure of documents or information under a
 12-63 subpoena issued by the department [board] does not constitute a
 12-64 waiver of the confidentiality privilege associated with a podiatric
 12-65 peer review committee proceeding.

12-66 SECTION 46. Section 202.456(b), Occupations Code, is
 12-67 amended to read as follows:

12-68 (b) A person, including a health care entity or podiatric
 12-69 peer review committee, that participates in podiatric peer review

13-1 activity or furnishes records, information, or assistance to a
13-2 podiatric peer review committee or to the department [~~board~~] is
13-3 immune from civil liability arising from those acts if the person
13-4 acted in good faith and without malice.

13-5 SECTION 47. The heading to Section 202.501, Occupations
13-6 Code, is amended to read as follows:

13-7 Sec. 202.501. [~~BOARD~~] DISCIPLINARY POWERS; ADMINISTRATIVE
13-8 PROCEDURE.

13-9 SECTION 48. Sections 202.501(a) and (d), Occupations Code,
13-10 are amended to read as follows:

13-11 (a) The commission or executive director [~~board~~] shall
13-12 revoke or suspend a license, place on probation a person whose
13-13 license has been suspended, or reprimand a license holder for
13-14 violating the law regulating the practice of podiatry or a rule
13-15 adopted by the commission under this chapter [~~board~~].

13-16 (d) A person whose license to practice podiatry has been
13-17 revoked or suspended by order of the commission or executive
13-18 director [~~board~~] may appeal the action to a district court in Travis
13-19 County. The [~~board's~~] decision of the commission or the executive
13-20 director may not be enjoined or stayed except on application to the
13-21 district court after notice to the department [~~board~~].

13-22 SECTION 49. Section 202.502, Occupations Code, is amended
13-23 to read as follows:

13-24 Sec. 202.502. REVOCATION AND SUSPENSION OF LICENSE FOR
13-25 DRUG-RELATED FELONY CONVICTION. (a) The commission or executive
13-26 director [~~board~~] shall suspend a person's license after an
13-27 administrative hearing conducted in accordance with Chapter 2001,
13-28 Government Code, in which the commission or executive director
13-29 [~~board~~] determines that the license holder has been convicted of a
13-30 felony under Chapter 481 or 483, Health and Safety Code, or Section
13-31 485.033, Health and Safety Code.

13-32 (b) On the person's final conviction, the commission or
13-33 executive director [~~board~~] shall revoke the person's license.

13-34 (c) The department [~~board~~] may not reinstate or reissue a
13-35 license to a person whose license is suspended or revoked under this
13-36 section except on an express determination based on substantial
13-37 evidence contained in an investigative report indicating that the
13-38 reinstatement or reissuance of the license is in the best interests
13-39 of the public and of the person whose license has been suspended or
13-40 revoked.

13-41 SECTION 50. The heading to Section 202.503, Occupations
13-42 Code, is amended to read as follows:

13-43 Sec. 202.503. PROBATION[~~, HEARING~~].

13-44 SECTION 51. Section 202.503(a), Occupations Code, is
13-45 amended to read as follows:

13-46 (a) The commission or executive director [~~board, on~~
13-47 ~~majority vote,~~] may probate an order revoking [~~or suspending~~] a
13-48 podiatrist's license conditioned on the podiatrist conforming to
13-49 any order or rule the commission [~~board~~] adopts as the condition of
13-50 probation. The commission or executive director [~~board~~], at the
13-51 time of probation, shall set the term of the probationary period.

13-52 SECTION 52. Section 202.504, Occupations Code, is amended
13-53 to read as follows:

13-54 Sec. 202.504. REISSUANCE OF LICENSE. (a) On application,
13-55 the department [~~board~~] may reissue a license to practice podiatry
13-56 to a person whose license has been revoked or suspended.

13-57 (b) A person whose license has been revoked may not apply
13-58 for a reissued license before the first anniversary of the date of
13-59 the revocation. The person shall apply for the license in the
13-60 manner and form required by the department [~~board~~].

13-61 SECTION 53. Section 202.505, Occupations Code, is amended
13-62 to read as follows:

13-63 Sec. 202.505. REEXAMINATION IF LICENSE SUSPENDED OR
13-64 REVOKED. The department [~~board~~] may refuse to reinstate a license
13-65 or to issue a new license until a podiatrist has passed the regular
13-66 license examination if the commission or executive director [~~board~~]
13-67 suspended or revoked the license for:

13-68 (1) failure to satisfy continuing education
13-69 requirements under Section 202.305; or

14-1 (2) nonpayment of the ~~[annual]~~ license renewal fee.
 14-2 SECTION 54. Subchapter K, Chapter 202, Occupations Code, is
 14-3 amended by adding Section 202.5071 to read as follows:

14-4 Sec. 202.5071. SUBPOENA AUTHORITY. The department may
 14-5 issue a subpoena as provided by Section 51.3512.

14-6 SECTION 55. Section 202.5085, Occupations Code, is amended
 14-7 to read as follows:

14-8 Sec. 202.5085. REFUND. (a) Subject to Subsection (b), the
 14-9 commission or executive director [board] may order a person
 14-10 licensed under this chapter to pay a refund to a consumer as
 14-11 provided in an agreed settlement, default order, or commission
 14-12 order [agreement resulting from an informal settlement conference]
 14-13 instead of or in addition to imposing an administrative penalty
 14-14 against the person [under this chapter].

14-15 (b) The amount of a refund ordered ~~[as provided in an~~
 14-16 ~~agreement resulting from an informal settlement conference]~~ may not
 14-17 exceed the amount the consumer paid to the person for a service
 14-18 regulated by this chapter. The commission or executive director
 14-19 [board] may not require payment of other damages or estimate harm in
 14-20 a refund order.

14-21 SECTION 56. Section 202.509, Occupations Code, is amended
 14-22 to read as follows:

14-23 Sec. 202.509. CONFIDENTIALITY AND DISCLOSURE OF
 14-24 INVESTIGATIVE INFORMATION. (a) Except as provided by Subsections
 14-25 (b), (d), and (f) of this section, Section 202.2031, and Section
 14-26 202.2032, a [A] complaint, report, investigation file, or other
 14-27 investigative information in the possession of or received or
 14-28 gathered by the department [board] or an employee or agent of the
 14-29 department [board] that relates to a license holder, a license
 14-30 application, or a criminal investigation or proceeding is
 14-31 privileged, confidential, and not subject to discovery, subpoena,
 14-32 or any other legal method of compelling release.

14-33 (b) Subject to any other privilege or restriction
 14-34 established by law, not later than the 30th day after the date the
 14-35 department [board] receives a written request from a license
 14-36 holder, or the license holder's attorney, who is the subject of a
 14-37 formal complaint, the department [board] shall provide the license
 14-38 holder with access to all information in the department's [board's]
 14-39 possession that the department [board] intends to offer into
 14-40 evidence at the contested case hearing on the complaint. The
 14-41 department [board] may provide access to the information to the
 14-42 license holder after the 30th day after the date the department
 14-43 [board] receives a request only on a showing of good cause.

14-44 (c) The department [board] is not required under Subsection
 14-45 (b) to provide access to the department's [board's] investigative
 14-46 reports or memoranda, release the identity of a complainant who
 14-47 will not testify at the hearing, or release information that is an
 14-48 attorney's work product or protected by the attorney-client
 14-49 privilege or another privilege recognized by the Texas Rules of
 14-50 Civil Procedure or Texas Rules of Evidence. ~~[The furnishing of~~
 14-51 ~~information under Subsection (b) does not constitute a waiver of~~
 14-52 ~~any privilege or confidentiality provision under law.]~~

14-53 (d) Investigative information in the department's [board's]
 14-54 possession that relates to a disciplinary action regarding a
 14-55 license holder may be disclosed to:

14-56 (1) a licensing agency regulating the practice of
 14-57 podiatry in another state or country in which the license holder is
 14-58 also licensed or has applied for a license; ~~[or]~~

14-59 (2) a peer review committee reviewing a license
 14-60 holder's application for privileges or the license holder's
 14-61 qualifications with regard to retaining the privileges;

14-62 (3) a person involved with the department in a
 14-63 disciplinary action against the license holder;

14-64 (4) a peer assistance program approved by the
 14-65 commission under Chapter 467, Health and Safety Code;

14-66 (5) a law enforcement agency; and

14-67 (6) a person engaged in bona fide research, provided
 14-68 all individual-identifying information has been deleted.

14-69 (e) The department [board] shall report to the appropriate

15-1 law enforcement agency information obtained by the department
 15-2 [board] in the course of an investigation that indicates that a
 15-3 crime may have been committed. The department [board] shall
 15-4 cooperate and assist a law enforcement agency conducting a criminal
 15-5 investigation of a license holder by providing relevant information
 15-6 to the agency. Information provided to a law enforcement agency by
 15-7 the department [board] is confidential and may not be disclosed
 15-8 except as necessary to conduct the investigation.

15-9 (f) The department [board] shall provide information to a
 15-10 health care entity on the written request of the entity concerning:

15-11 (1) a complaint filed against a license holder that
 15-12 was resolved after an investigation by the department [board] or
 15-13 resolved by an agreed settlement; and

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

15-16 (g) The department's disclosure of information under
 15-17 Subsection (b), (d), or (f) of this section, Section 202.2031, or
 15-18 Section 202.2032 does not constitute a waiver of privilege or
 15-19 confidentiality under this chapter or any other law.

15-20 (h) The department shall protect the identity of a
 15-21 complainant to the extent possible.

15-22 SECTION 57. The heading to Subchapter M, Chapter 202,
 15-23 Occupations Code, is amended to read as follows:

15-24 SUBCHAPTER M. ~~[OTHER]~~ PENALTIES AND ENFORCEMENT PROVISIONS

15-25 SECTION 58. Subchapter M, Chapter 202, Occupations Code, is
 15-26 amended by adding Section 202.6011 to read as follows:

15-27 Sec. 202.6011. PENALTY SCHEDULE. The commission by rule
 15-28 shall develop a standardized penalty schedule, including
 15-29 recommended penalty amounts for each category of punishable conduct
 15-30 listed in the schedule, based on the criteria listed in Section
 15-31 51.302(b).

15-32 SECTION 59. Section 202.602, Occupations Code, is amended
 15-33 to read as follows:

15-34 Sec. 202.602. MONITORING AND INSPECTION OF LICENSE HOLDER.

15-35 (a) The commission [board] by rule shall develop a system to
 15-36 monitor a podiatrist's compliance with this chapter. The system
 15-37 must include:

15-38 (1) procedures for determining whether a podiatrist is
 15-39 in compliance with an order issued by the commission or executive
 15-40 director [board]; and

15-41 (2) a method of identifying and monitoring each
 15-42 podiatrist who represents a risk to the public.

15-43 (b) The department [board], during reasonable business
 15-44 hours, may enter the business premises of a person regulated by the
 15-45 department under this chapter [board] without notice to:

15-46 (1) investigate a complaint filed with the department
 15-47 [board]; or

15-48 (2) determine compliance with an order of the
 15-49 commission or executive director issued under this chapter [board].

15-50 SECTION 60. Subchapter M, Chapter 202, Occupations Code, is
 15-51 amended by adding Section 202.6025 to read as follows:

15-52 Sec. 202.6025. MONITORING HARMFUL PRESCRIBING PATTERNS.

15-53 (a) The department shall periodically check the prescribing
 15-54 information submitted to the Texas State Board of Pharmacy as
 15-55 authorized by Section 481.076(a)(1), Health and Safety Code, to
 15-56 determine whether a podiatrist licensed under this chapter is
 15-57 engaging in potentially harmful prescribing patterns or practices.

15-58 (b) The department, in coordination with the advisory board
 15-59 and the Texas State Board of Pharmacy, shall determine, subject to
 15-60 approval by the commission, the conduct that constitutes a
 15-61 potentially harmful prescribing pattern or practice for purposes of
 15-62 Subsection (a). In determining the conduct that constitutes a
 15-63 potentially harmful prescribing pattern or practice, the
 15-64 department shall consider:

15-65 (1) the number of times a podiatrist prescribes a drug
 15-66 listed in Section 202.354(b); and

15-67 (2) for prescriptions described by Subdivision (1),
 15-68 patterns of prescribing combinations of those drugs and other
 15-69 dangerous combinations of drugs identified by the department in

16-1 coordination with the advisory board.
16-2 (c) If the department suspects that a podiatrist licensed
16-3 under this chapter may be engaging in potentially harmful
16-4 prescribing patterns or practices, the department may notify the
16-5 podiatrist of the potentially harmful prescribing pattern or
16-6 practice.

16-7 (d) The department may initiate a complaint against a
16-8 podiatrist based on information obtained under this section.

16-9 SECTION 61. Section 202.603, Occupations Code, is amended
16-10 to read as follows:

16-11 Sec. 202.603. PROSECUTION OF VIOLATION. The department
16-12 [~~board~~] shall take action to ensure the prosecution of each person
16-13 who violates this chapter and may incur reasonably necessary
16-14 related expenses.

16-15 SECTION 62. Section 202.604, Occupations Code, is amended
16-16 to read as follows:

16-17 Sec. 202.604. CIVIL PENALTY: USE OF TRADE NAME;
16-18 INJUNCTION. (a) A person who violates Section 202.352 or a rule
16-19 adopted or a determination made by the commission [~~board~~] under
16-20 that section is subject to a civil penalty of not less than \$50 or
16-21 more than \$500 for each day of violation.

16-22 (b) If it appears that a person has violated or is violating
16-23 Section 202.352 or a rule adopted or determination made by the
16-24 commission [~~board~~] under that section, the department [~~board~~] may
16-25 institute a civil action in district court for:

16-26 (1) injunctive relief to restrain the person from
16-27 continuing the violation;

16-28 (2) the assessment and recovery of a civil penalty
16-29 under Subsection (a); or

16-30 (3) both injunctive relief and the civil penalty.

16-31 (c) At the request of the department [~~board~~], the attorney
16-32 general shall institute and conduct the action in the name of the
16-33 state.

16-34 SECTION 63. Section 481.352, Health and Safety Code, is
16-35 amended to read as follows:

16-36 Sec. 481.352. MEMBERS. The work group is composed of:

16-37 (1) the executive director of the board or the
16-38 executive director's designee, who serves as chair of the work
16-39 group;

16-40 (2) the commissioner of state health services or the
16-41 commissioner's designee;

16-42 (3) the executive director of the Texas Medical Board
16-43 or the executive director's designee;

16-44 (4) the executive director of the Texas Board of
16-45 Nursing or the executive director's designee;

16-46 (5) the executive director of the Texas Physician
16-47 Assistant Board or the executive director's designee;

16-48 (6) the executive director of the State Board of
16-49 Dental Examiners or the executive director's designee;

16-50 (7) the executive director of the Texas Optometry
16-51 Board or the executive director's designee;

16-52 (8) the executive director of the Texas Department of
16-53 Licensing and Regulation [~~State Board of Podiatric Medical~~
16-54 ~~Examiners~~] or the executive director's designee;

16-55 (9) the executive director of the State Board of
16-56 Veterinary Medical Examiners or the executive director's designee;
16-57 and

16-58 (10) a medical examiner appointed by the board.

16-59 SECTION 64. The following provisions of the Occupations
16-60 Code are repealed:

16-61 (1) Section 202.002;

16-62 (2) Section 202.052;

16-63 (3) Sections 202.059(b) and (c);

16-64 (4) Section 202.060;

16-65 (5) Subchapter C, Chapter 202;

16-66 (6) Section 202.151;

16-67 (7) Section 202.152;

16-68 (8) Section 202.1525;

16-69 (9) Section 202.154;

- 17-1 (10) Section 202.1545;
- 17-2 (11) Section 202.155;
- 17-3 (12) Section 202.156;
- 17-4 (13) Section 202.157;
- 17-5 (14) Section 202.158;
- 17-6 (15) Section 202.162;
- 17-7 (16) Section 202.163;
- 17-8 (17) Section 202.201;
- 17-9 (18) Section 202.202;
- 17-10 (19) Section 202.203;
- 17-11 (20) Section 202.204;
- 17-12 (21) Section 202.205;
- 17-13 (22) Sections 202.252(c) and (d);
- 17-14 (23) Section 202.254(e);
- 17-15 (24) Section 202.255;
- 17-16 (25) Section 202.264;
- 17-17 (26) Section 202.301;
- 17-18 (27) Section 202.302;
- 17-19 (28) Section 202.501(b);
- 17-20 (29) Sections 202.503(b), (c), (d), and (e);
- 17-21 (30) Section 202.507;
- 17-22 (31) Section 202.508;
- 17-23 (32) Section 202.510;
- 17-24 (33) Subchapter L, Chapter 202;
- 17-25 (34) Section 202.601; and
- 17-26 (35) Section 202.6015.
- 17-27 SECTION 65. (a) In this section:
- 17-28 (1) "Commission" means the Texas Commission of
- 17-29 Licensing and Regulation.
- 17-30 (2) "Department" means the Texas Department of
- 17-31 Licensing and Regulation.
- 17-32 (3) "Former board" means the Texas State Board of
- 17-33 Podiatric Medical Examiners.
- 17-34 (b) On September 1, 2017:
- 17-35 (1) all functions and activities performed by the
- 17-36 former board immediately before that date are transferred to the
- 17-37 department;
- 17-38 (2) all rules, fees, policies, procedures, decisions,
- 17-39 and forms adopted by the former board are continued in effect as
- 17-40 rules, fees, policies, procedures, decisions, and forms of the
- 17-41 commission or the department, as applicable, and remain in effect
- 17-42 until amended or replaced by the commission or department;
- 17-43 (3) a complaint, investigation, contested case, or
- 17-44 other proceeding before the former board that is pending on
- 17-45 September 1, 2017, is transferred without change in status to the
- 17-46 department or the commission, as appropriate;
- 17-47 (4) all money, contracts, leases, property, and
- 17-48 obligations of the former board are transferred to the department;
- 17-49 (5) all property in the custody of the former board is
- 17-50 transferred to the department; and
- 17-51 (6) the unexpended and unobligated balance of any
- 17-52 money appropriated by the legislature for the former board is
- 17-53 transferred to the department.
- 17-54 (c) The former board shall provide the department with
- 17-55 access to any systems or information necessary for the department
- 17-56 to accept the program transferred under this Act, including:
- 17-57 (1) licensing, revenue, and expenditure systems;
- 17-58 (2) rights to service contracts and licensing
- 17-59 agreements;
- 17-60 (3) use of online renewal and new application systems;
- 17-61 and
- 17-62 (4) review and resolution of pending judgments and
- 17-63 outstanding expenditures.
- 17-64 (d) Unless the context indicates otherwise, a reference to
- 17-65 the former board in a law or administrative rule means the
- 17-66 commission or the department, as applicable.
- 17-67 (e) A license or certificate issued by the former board is
- 17-68 continued in effect as a license or certificate of the department.
- 17-69 (f) On September 1, 2017, all full-time equivalent employee

18-1 positions at the former board that primarily concern the
18-2 administration or enforcement of Chapter 202, Occupations Code,
18-3 become positions at the department. The department shall post the
18-4 positions for hiring and, when filling the positions, shall give
18-5 first consideration to, but is not required to hire, an applicant
18-6 who, as of August 31, 2017, was an employee at the former board
18-7 primarily involved in administering or enforcing Chapter 202,
18-8 Occupations Code.

18-9 SECTION 66. (a) On September 1, 2017, the terms of the
18-10 members serving on the Texas State Board of Podiatric Medical
18-11 Examiners expire, and the Texas State Board of Podiatric Medical
18-12 Examiners is abolished.

18-13 (b) Not later than December 1, 2017, the governor shall
18-14 appoint members to the Podiatric Medical Examiners Advisory Board
18-15 in accordance with Section 202.051, Occupations Code, as amended by
18-16 this Act. A member whose term expired under Subsection (a) of this
18-17 section is eligible for reappointment to the advisory board.

18-18 (c) The members whose terms expire under Subsection (a) of
18-19 this section shall continue to provide advice to the Texas
18-20 Department of Licensing and Regulation until a majority of the
18-21 members of the advisory board are appointed under Subsection (b) of
18-22 this section and qualified.

18-23 SECTION 67. Section 202.061, Occupations Code, as amended
18-24 by this Act, applies only to a member of the Podiatric Medical
18-25 Examiners Advisory Board appointed on or after the effective date
18-26 of this Act.

18-27 SECTION 68. (a) As soon as possible after the effective
18-28 date of this Act, the Texas Commission of Licensing and Regulation
18-29 shall adopt the rules necessary to implement Section 202.252,
18-30 Occupations Code, as amended by this Act.

18-31 (b) Not later than September 1, 2019, the Texas Department
18-32 of Licensing and Regulation shall obtain criminal history record
18-33 information on each person who, on the effective date of this Act,
18-34 holds a license issued under Chapter 202, Occupations Code, and did
18-35 not undergo a criminal history record information check based on
18-36 the license holder's fingerprints on initial application for the
18-37 license. The department may suspend the license of a license holder
18-38 who does not provide the criminal history record information as
18-39 required by the department and this subsection.

18-40 SECTION 69. Section 202.354, Occupations Code, as added by
18-41 this Act, applies only to a prescription issued on or after
18-42 September 1, 2018. A prescription issued before September 1, 2018,
18-43 is governed by the law in effect on the date the prescription is
18-44 issued, and the former law is continued in effect for that purpose.

18-45 SECTION 70. The changes in law made by this Act do not
18-46 affect the validity of a disciplinary action or other proceeding
18-47 that was initiated before the effective date of this Act and that is
18-48 pending before a court or other governmental entity on the
18-49 effective date of this Act.

18-50 SECTION 71. (a) A violation of a law that is repealed by
18-51 this Act is governed by the law in effect when the violation was
18-52 committed, and the former law is continued in effect for that
18-53 purpose.

18-54 (b) For purposes of this section, a violation was committed
18-55 before the effective date of this Act if any element of the
18-56 violation occurred before that date.

18-57 SECTION 72. This Act takes effect September 1, 2017.

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