

By: Goldman

H.B. No. 2853

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the practice of podiatry.

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

SECTION 1. Section 202.2032(d), Occupations Code, is amended to read as follows:

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

SECTION 2. Subchapter E, Chapter 202, Occupations Code, is amended by adding Section 202.204 to read as follows:

Sec. 202.204. EXPERT WITNESS. (a) In this section, "expert witness" means a podiatrist or other qualified individual with whom the department contracts to assist the department with reviewing, investigating, or prosecuting complaints filed under this chapter.

(b) The department may contract with an expert witness to assist the department with reviewing, investigating, or prosecuting a complaint filed under this chapter.

(c) Except for an act by an expert witness involving fraud, conspiracy, or malice, an expert witness is immune from liability and may not be subject to a suit for damages for any act arising from the performance of the expert witness's duties in:

1 (1) participating in an informal conference to
2 determine the facts of a complaint;

3 (2) evaluating evidence in a complaint and offering an
4 opinion or technical guidance on an alleged violation of this
5 chapter or a rule adopted under this chapter;

6 (3) testifying at a hearing regarding a complaint; or

7 (4) making an evaluation, report, or recommendation
8 regarding a complaint.

9 SECTION 3. Section 202.253(a-1), Occupations Code, is
10 amended to read as follows:

11 (a-1) The commission or department may refuse to admit a
12 person to an examination, and may refuse to issue a license to
13 practice podiatry to a person, for:

14 (1) presenting a license, certificate, or diploma that
15 was illegally or fraudulently obtained or engaging in fraud or
16 deception in passing the examination;

17 (2) being convicted of ~~+~~

18 ~~[(A) a felony;~~

19 ~~[(B) a crime that involves moral turpitude; or~~

20 ~~[(C)]~~ an offense under Section 202.606;

21 (3) engaging in habits of intemperance or drug
22 addiction that in the department's opinion would endanger the
23 health, well-being, or welfare of patients;

24 (4) engaging in grossly unprofessional or
25 dishonorable conduct of a character that in the department's
26 opinion is likely to deceive or defraud the public;

27 (5) directly or indirectly violating or attempting to

1 violate this chapter or a rule adopted under this chapter as a
2 principal, accessory, or accomplice;

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

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

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

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

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

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

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

25 (13) directly or indirectly employing a person whose
26 license to practice podiatry has been suspended or associating in
27 the practice of podiatry with a person whose license to practice

1 podiatry has been suspended or who has been convicted of the
2 unlawful practice of podiatry in this state or elsewhere;

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

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

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

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

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

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

24 (18) having repeated or recurring meritorious health
25 care liability claims filed against the podiatrist that in the
26 commission's or department's opinion are evidence of professional
27 incompetence likely to injure the public.

1 SECTION 4. Section 202.602(a), Occupations Code, is amended
2 to read as follows:

3 (a) The department [~~commission by rule~~] shall develop a
4 system to identify and monitor a podiatrist's compliance with this
5 chapter and any [~~. The system must include:~~

6 [~~(1) procedures for determining whether a podiatrist~~
7 ~~is in compliance with an~~] order issued by the commission or
8 executive director under this chapter [~~; and~~

9 [~~(2) a method of identifying and monitoring each~~
10 ~~podiatrist who represents a risk to the public]~~.

11 SECTION 5. Sections 202.2025 and 202.6011, Occupations
12 Code, are repealed.

13 SECTION 6. Section 202.2032, Occupations Code, as amended
14 by this Act, applies only to a complaint filed under Chapter 202,
15 Occupations Code, on or after the effective date of this Act. A
16 complaint filed before the effective date of this Act is governed by
17 the law in effect on the date the complaint was filed, and the
18 former law is continued in effect for that purpose.

19 SECTION 7. Section 202.253(a-1), Occupations Code, as
20 amended by this Act, applies only to a conviction that occurs on or
21 after the effective date of this Act. A conviction that occurs
22 before the effective date of this Act is governed by the law in
23 effect on the date the conviction occurred, and the former law is
24 continued in effect for that purpose.

25 SECTION 8. This Act takes effect September 1, 2019.