

AN ACT

relating to sunset review of the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation and the transfer of the regulation of podiatry to the Texas Department of Licensing and Regulation; authorizing a reduction in fees.

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

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

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

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

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

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

1 propose rules described by this subsection.

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

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

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

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

17 (1) "Advisory board" ["Board"] means the Podiatric
18 Medical Examiners Advisory Board [Texas State Board of Podiatric
19 Medical Examiners].

20 (1-a) "Commission" means the Texas Commission of
21 Licensing and Regulation.

22 (1-b) "Department" means the Texas Department of
23 Licensing and Regulation.

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

27 SECTION 4. The heading to Subchapter B, Chapter 202,

1 Occupations Code, is amended to read as follows:

2 SUBCHAPTER B. [~~TEXAS STATE BOARD OF~~] PODIATRIC MEDICAL EXAMINERS

3 ADVISORY BOARD

4 SECTION 5. Section 202.051(a), Occupations Code, is amended
5 to read as follows:

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

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

13 (2) three members who represent the public.

14 SECTION 6. Section 202.053, Occupations Code, is amended to
15 read as follows:

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

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

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

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

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

5 SECTION 7. Sections 202.054(b) and (c), Occupations Code,
6 are amended to read as follows:

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

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

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

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

23 SECTION 8. Section 202.055, Occupations Code, is amended to
24 read as follows:

25 Sec. 202.055. TERMS; VACANCIES. (a) Members of the
26 advisory board serve staggered six-year terms, with the term of
27 three members expiring on February 1 of each odd-numbered year. At

1 the expiration of the term of each member, the governor shall
2 appoint a successor.

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

6 SECTION 9. Section 202.056, Occupations Code, is amended to
7 read as follows:

8 Sec. 202.056. GROUNDS FOR REMOVAL. (a) It is a ground for
9 removal from the advisory board that a member:

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

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

14 (3) is ineligible for membership under Section
15 202.054;

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

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

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

26 (c) If the executive director has knowledge that a potential
27 ground for removal exists, the executive director shall notify the

1 ~~[president of the board of the potential ground. The president~~
2 ~~shall then notify the]~~ governor and the attorney general that a
3 potential ground for removal exists. ~~[If the potential ground for~~
4 ~~removal involves the president, the executive director shall notify~~
5 ~~the next highest ranking officer of the board, who shall then notify~~
6 ~~the governor and the attorney general that a potential ground for~~
7 ~~removal exists.]~~

8 SECTION 10. Section 202.057, Occupations Code, is amended
9 to read as follows:

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

15 ~~[(b) A member may receive]~~ reimbursement for actual and
16 necessary expenses incurred in performing the functions of the
17 advisory board, subject to ~~[travel expenses, including expenses for~~
18 ~~meals, lodging, and transportation, as prescribed by]~~ the General
19 Appropriations Act.

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

23 SECTION 11. Section 202.058, Occupations Code, is amended
24 to read as follows:

25 Sec. 202.058. PRESIDING OFFICER ~~[OFFICERS]~~. ~~[(a)]~~ The
26 governor shall appoint one ~~[designate a member]~~ of the advisory
27 board members to serve as presiding officer ~~[the president]~~ of the

1 advisory board at the pleasure of the governor. The presiding
2 officer may vote on any matter before the advisory board [~~to serve~~
3 ~~in that capacity at the pleasure of the governor~~].

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

7 SECTION 12. Section 202.059(a), Occupations Code, is
8 amended to read as follows:

9 (a) The advisory board shall meet at the call of the
10 presiding officer of the commission or the executive director [~~hold~~
11 ~~regular meetings at least twice a year and special meetings as~~
12 ~~necessary. The board shall hold the meetings at times and places~~
13 ~~the board considers most convenient for applicants for license~~
14 ~~examinations~~].

15 SECTION 13. Section 202.061, Occupations Code, is amended
16 to read as follows:

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

22 (b) The training program must provide the person with
23 information regarding:

24 (1) this chapter;

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

27 (3) [~~(2)~~] the results of the most recent formal audit

1 of the department with respect to this chapter [~~board~~];

2 (4) the scope and limitations on the rulemaking
3 authority of the advisory board;

4 (5) the types of rules, interpretations, and
5 enforcement actions that may implicate federal antitrust law by
6 limiting competition or impacting prices charged by persons engaged
7 in a profession or business regulated under this chapter, including
8 rules, interpretations, and enforcement actions that:

9 (A) regulate the scope of practice of persons in
10 a profession or business regulated under this chapter;

11 (B) restrict advertising by persons in a
12 profession or business regulated under this chapter;

13 (C) affect the price of goods or services
14 provided by persons in a profession or business regulated under
15 this chapter; and

16 (D) restrict participation in a profession or
17 business regulated under this chapter;

18 (6) [~~(3)~~] the requirements of:

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

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

24 (7) [~~(4)~~] any applicable ethics policies adopted by
25 the commission [~~board~~] or the Texas Ethics Commission.

26 (c) The executive director shall create a training manual
27 that includes the information required by Subsection (b). The

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

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

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

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

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

18 SECTION 16. Subchapter D, Chapter 202, Occupations Code, is
19 amended by adding Section 202.1515 to read as follows:

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

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

24 SECTION 17. Section 202.153, Occupations Code, is amended
25 to read as follows:

26 Sec. 202.153. FEES. [~~(a)~~] The commission [~~board~~] by rule
27 shall establish fees in amounts reasonable and necessary to cover

1 the cost of administering this chapter. [~~The board may not set a~~
2 ~~fee that existed on September 1, 1993, in an amount less than the~~
3 ~~amount of that fee on that date.~~

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

7 SECTION 18. Section 202.160, Occupations Code, is amended
8 to read as follows:

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

12 (1) prescribing and dispensing pain medications, with
13 particular emphasis on Schedule II and Schedule III controlled
14 substances;

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

17 (3) common diversion strategies employed by certain
18 persons who use prescription pain medications, including
19 fraudulent prescription patterns; and

20 (4) the appropriate use of pain medications and the
21 differences between addiction, pseudo-addiction, tolerance, and
22 physical dependence.

23 SECTION 19. Section 202.161, Occupations Code, is amended
24 to read as follows:

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

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

3 SUBCHAPTER E. [~~PUBLIC INTEREST INFORMATION AND~~] COMPLAINT
4 PROCEDURES

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

7 Sec. 202.2025. COMPLAINT PRIORITY. The executive director
8 shall develop, implement, and enforce a written policy for
9 determining the complaints filed under this chapter that will be
10 given priority for investigation and resolution by the department.

11 SECTION 22. Subchapter E, Chapter 202, Occupations Code, is
12 amended by adding Sections 202.2031 and 202.2032 to read as
13 follows:

14 Sec. 202.2031. NOTIFICATION TO PARTIES REGARDING
15 COMPLAINT. (a) The department shall notify a license holder who is
16 the subject of a complaint filed with the department that a
17 complaint has been filed and shall notify the license holder of the
18 nature of the complaint.

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

21 Sec. 202.2032. REQUIREMENTS FOR CERTAIN COMPLAINTS. (a)
22 In this section:

23 (1) "Anonymous complaint" means a complaint that lacks
24 sufficient information to identify the source or the name of the
25 person who filed the complaint.

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

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

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

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

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

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

21 SECTION 23. Sections 202.252(a), (b), (e), and (f),
22 Occupations Code, are amended to read as follows:

23 (a) An application for a license under this chapter must be
24 submitted in the manner and on a form prescribed by the executive
25 director [~~A person who desires to practice podiatry in this state~~
26 ~~shall apply in writing to the board for a license on a form~~
27 ~~prescribed by the board].~~

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

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

8 (2) [~~is of good moral character;~~

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

14 (3) [~~(4)~~] is a graduate of a reputable school of
15 podiatry or chiropody; and

16 (4) [~~(5)~~] has successfully completed any other course
17 of training reasonably required by commission [~~board~~] rule relating
18 to the safe care and treatment of patients.

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

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

26 (1) the course of instruction consists of four terms
27 of approximately eight months each, or the substantial equivalent;

1 and

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

3 SECTION 24. Subchapter F, Chapter 202, Occupations Code, is
4 amended by adding Section 202.2525 to read as follows:

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

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

15 (c) The department shall conduct a criminal history record
16 information check of each applicant for a license using
17 information:

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

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

22 (d) The department may:

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

26 (2) authorize the Department of Public Safety to
27 collect from each applicant the costs incurred by the Department of

1 Public Safety in conducting the criminal history record information
2 check.

3 SECTION 25. Section 202.253, Occupations Code, is amended
4 to read as follows:

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

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

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

15 (2) being convicted of:

16 (A) a felony;

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

18 (C) an offense under Section 202.606;

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

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

25 (5) directly or indirectly violating or attempting to
26 violate this chapter or a rule adopted under this chapter as a
27 principal, accessory, or accomplice;

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

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

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

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

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

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

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

23 (13) directly or indirectly employing a person whose
24 license to practice podiatry has been suspended or associating in
25 the practice of podiatry with a person whose license to practice
26 podiatry has been suspended or who has been convicted of the
27 unlawful practice of podiatry in this state or elsewhere;

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

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

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

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

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

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

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

26 (b) In enforcing Subsection (a-1)(15) [~~(a)(15)~~], the
27 department [~~board~~], on probable cause, shall request the affected

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

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

17 SECTION 26. Sections 202.254(a), (b), and (c), Occupations
18 Code, are amended to read as follows:

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

24 (b) The department shall recognize, prepare, administer, or
25 arrange for the administration of an examination under this chapter
26 [~~board may adopt and enforce rules of procedure for administering~~
27 ~~this section. A public board member may not participate in any part~~

1 ~~of the examination process for applicants for a license issued by~~
2 ~~the board that requires knowledge of the practice of podiatry].~~

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

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

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

13 SECTION 28. Section 202.259(a), Occupations Code, is
14 amended to read as follows:

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

18 SECTION 29. Sections 202.260(a), (b), (c), and (d),
19 Occupations Code, are amended to read as follows:

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

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

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

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

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

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

14 (1) the provisional license holder passes the
15 examination required by Section 202.254;

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

19 (3) the provisional license holder satisfies any other
20 license requirements under this chapter.

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

26 SECTION 30. Sections 202.261(a) and (b), Occupations Code,
27 are amended to read as follows:

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

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

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

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

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

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

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

1 ~~of practice]~~ at the location where the person practices.

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

5 SECTION 32. Section 202.263, Occupations Code, is amended
6 to read as follows:

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

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

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

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

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

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

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

7 SECTION 33. Subchapter G, Chapter 202, Occupations Code, is
8 amended by adding Section 202.3015 to read as follows:

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

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

15 SECTION 34. Subchapter G, Chapter 202, Occupations Code, is
16 amended by adding Section 202.3025 to read as follows:

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

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

26 (c) A license holder is not required to submit fingerprints
27 under this section for the renewal of the license if the license

1 holder has previously submitted fingerprints under:

2 (1) Section 202.2525 for the initial issuance of the
3 license; or

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

5 SECTION 35. Section 202.303, Occupations Code, is amended
6 to read as follows:

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

12 SECTION 36. Sections 202.304(a) and (b), Occupations Code,
13 are amended to read as follows:

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

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

19 (A) the United States Army;

20 (B) the United States Navy;

21 (C) the United States Marine Corps;

22 (D) the United States Coast Guard; or

23 (E) the United States Air Force;

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

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

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

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

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

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

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

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

21 (2) [~~(3)~~] develop a process to evaluate and approve
22 continuing education courses; and

23 (3) [~~(4)~~] develop a process to assess the
24 participation and performance of license holders in continuing
25 education courses to enable the department [~~board~~] to evaluate the
26 overall effectiveness of the program.

27 (b) The department [~~board~~] may assess the continuing

1 education needs of a license holder and require the license holder
2 to attend continuing education courses specified by the department
3 [~~board~~].

4 SECTION 38. The heading to Section 202.352, Occupations
5 Code, is amended to read as follows:

6 Sec. 202.352. [~~BOARD~~] APPROVAL OF NAMES UNDER WHICH
7 PODIATRIST MAY PRACTICE.

8 SECTION 39. Sections 202.352(a) and (b), Occupations Code,
9 are amended to read as follows:

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

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

- 21 (1) a sole proprietorship;
- 22 (2) an association;
- 23 (3) a partnership;
- 24 (4) a professional corporation;
- 25 (5) a clinic;
- 26 (6) a health maintenance organization; and
- 27 (7) a group practice with a practitioner of another

1 branch of the healing art.

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

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

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

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

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

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

27 (e) The department [~~board~~] shall consider other claim

1 reports required under state or federal law in determining:

2 (1) any additional information to be reported;

3 (2) the form of the report; and

4 (3) reasonable reporting intervals.

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

7 (1) the date of a judgment, dismissal, or settlement
8 of a malpractice action;

9 (2) whether an appeal has been taken and the identity
10 of the party appealing; and

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

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

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

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

27 SECTION 41. Sections 202.404(d) and (e), Occupations Code,

1 are amended to read as follows:

2 (d) The privilege and confidentiality requirements under
3 this subchapter do not apply in a criminal investigation of or
4 criminal proceeding against a podiatrist in which the department
5 [~~board~~] is participating or assisting by providing certain records
6 obtained from the podiatrist. This subsection does not authorize
7 the release of any confidential information to instigate or
8 substantiate criminal charges against a patient.

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

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

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

17 (a) Written or oral communications made to a podiatric peer
18 review committee and the records and proceedings of a peer review
19 committee may be disclosed to:

- 20 (1) another podiatric peer review committee;
21 (2) an appropriate state or federal agency;
22 (3) a national accreditation body; or
23 (4) the department [~~board~~] or the state board of
24 registration or licensing of podiatrists in another state.

25 SECTION 43. Section 202.453, Occupations Code, is amended
26 to read as follows:

27 Sec. 202.453. INFORMATION PROVIDED TO AFFECTED PODIATRIST.

1 A podiatric peer review committee that takes action that could
2 result in censure or suspension, restriction, limitation, or
3 revocation of a license by the commission or executive director
4 [~~board~~] or a denial of a podiatrist's membership or privileges in a
5 health care entity shall provide the affected podiatrist a written
6 copy of the committee's recommendation and a copy of the final
7 decision, including a statement of the basis for the decision.

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

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

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

16 (b) A person, including a health care entity or podiatric
17 peer review committee, that participates in podiatric peer review
18 activity or furnishes records, information, or assistance to a
19 podiatric peer review committee or to the department [~~board~~] is
20 immune from civil liability arising from those acts if the person
21 acted in good faith and without malice.

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

24 Sec. 202.501. [~~BOARD~~] DISCIPLINARY POWERS; ADMINISTRATIVE
25 PROCEDURE.

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

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

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

12 SECTION 48. Section [202.502](#), Occupations Code, is amended
13 to read as follows:

14 Sec. 202.502. REVOCATION AND SUSPENSION OF LICENSE FOR
15 DRUG-RELATED FELONY CONVICTION. (a) The commission or executive
16 director [~~board~~] shall suspend a person's license after an
17 administrative hearing conducted in accordance with Chapter [2001](#),
18 Government Code, in which the commission or executive director
19 [~~board~~] determines that the license holder has been convicted of a
20 felony under Chapter [481](#) or [483](#), Health and Safety Code, or Section
21 [485.033](#), Health and Safety Code.

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

24 (c) The department [~~board~~] may not reinstate or reissue a
25 license to a person whose license is suspended or revoked under this
26 section except on an express determination based on substantial
27 evidence contained in an investigative report indicating that the

1 reinstatement or reissuance of the license is in the best interests
2 of the public and of the person whose license has been suspended or
3 revoked.

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

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

7 SECTION 50. Section 202.503(a), Occupations Code, is
8 amended to read as follows:

9 (a) The commission or executive director [~~board, on~~
10 ~~majority vote,~~] may probate an order revoking [~~or suspending~~] a
11 podiatrist's license conditioned on the podiatrist conforming to
12 any order or rule the commission [~~board~~] adopts as the condition of
13 probation. The commission or executive director [~~board~~], at the
14 time of probation, shall set the term of the probationary period.

15 SECTION 51. Section 202.504, Occupations Code, is amended
16 to read as follows:

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

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

24 SECTION 52. Section 202.505, Occupations Code, is amended
25 to read as follows:

26 Sec. 202.505. REEXAMINATION IF LICENSE SUSPENDED OR
27 REVOKED. The department [~~board~~] may refuse to reinstate a license

1 or to issue a new license until a podiatrist has passed the regular
2 license examination if the commission or executive director [~~board~~]
3 suspended or revoked the license for:

4 (1) failure to satisfy continuing education
5 requirements under Section 202.305; or

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

7 SECTION 53. Subchapter K, Chapter 202, Occupations Code, is
8 amended by adding Section 202.5071 to read as follows:

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

11 SECTION 54. Section 202.5085, Occupations Code, is amended
12 to read as follows:

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

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

26 SECTION 55. Section 202.509, Occupations Code, is amended
27 to read as follows:

1 Sec. 202.509. CONFIDENTIALITY AND DISCLOSURE OF
2 INVESTIGATIVE INFORMATION. (a) Except as provided by Subsections
3 (b), (d), and (f) of this section, Section 202.2031, and Section
4 202.2032, a [A] complaint, report, investigation file, or other
5 investigative information in the possession of or received or
6 gathered by the department [~~board~~] or an employee or agent of the
7 department [~~board~~] that relates to a license holder, a license
8 application, or a criminal investigation or proceeding is
9 privileged, confidential, and not subject to discovery, subpoena,
10 or any other legal method of compelling release.

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

22 (c) The department [~~board~~] is not required under Subsection
23 (b) to provide access to the department's [~~board's~~] investigative
24 reports or memoranda, release the identity of a complainant who
25 will not testify at the hearing, or release information that is an
26 attorney's work product or protected by the attorney-client
27 privilege or another privilege recognized by the Texas Rules of

1 Civil Procedure or Texas Rules of Evidence. [~~The furnishing of~~
2 ~~information under Subsection (b) does not constitute a waiver of~~
3 ~~any privilege or confidentiality provision under law.~~]

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

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

10 (2) a peer review committee reviewing a license
11 holder's application for privileges or the license holder's
12 qualifications with regard to retaining the privileges;

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

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

17 (5) a law enforcement agency; and

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

20 (e) The department [~~board~~] shall report to the appropriate
21 law enforcement agency information obtained by the department
22 [~~board~~] in the course of an investigation that indicates that a
23 crime may have been committed. The department [~~board~~] shall
24 cooperate and assist a law enforcement agency conducting a criminal
25 investigation of a license holder by providing relevant information
26 to the agency. Information provided to a law enforcement agency by
27 the department [~~board~~] is confidential and may not be disclosed

1 except as necessary to conduct the investigation.

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

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

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

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

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

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

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

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

20 Sec. 202.6011. PENALTY SCHEDULE. The commission by rule
21 shall develop a standardized penalty schedule, including
22 recommended penalty amounts for each category of punishable conduct
23 listed in the schedule, based on the criteria listed in Section
24 51.302(b).

25 SECTION 58. Section 202.602, Occupations Code, is amended
26 to read as follows:

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

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

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

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

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

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

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

16 SECTION 59. Section [202.603](#), Occupations Code, is amended
17 to read as follows:

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

22 SECTION 60. Section [202.604](#), Occupations Code, is amended
23 to read as follows:

24 Sec. 202.604. CIVIL PENALTY: USE OF TRADE NAME;
25 INJUNCTION. (a) A person who violates Section [202.352](#) or a rule
26 adopted or a determination made by the commission [~~board~~] under
27 that section is subject to a civil penalty of not less than \$50 or

1 more than \$500 for each day of violation.

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

6 (1) injunctive relief to restrain the person from
7 continuing the violation;

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

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

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

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

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

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

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

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

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

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

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

3 (7) the executive director of the Texas Optometry
4 Board or the executive director's designee;

5 (8) the executive director of the Texas Department of
6 Licensing and Regulation [~~State Board of Podiatric Medical~~
7 ~~Examiners~~] or the executive director's designee;

8 (9) the executive director of the State Board of
9 Veterinary Medical Examiners or the executive director's designee;
10 and

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

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

14 (1) Section 202.002;

15 (2) Section 202.052;

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

17 (4) Section 202.060;

18 (5) Subchapter C, Chapter 202;

19 (6) Section 202.151;

20 (7) Section 202.152;

21 (8) Section 202.1525;

22 (9) Section 202.154;

23 (10) Section 202.1545;

24 (11) Section 202.155;

25 (12) Section 202.156;

26 (13) Section 202.157;

27 (14) Section 202.158;

- 1 (15) Section 202.162;
- 2 (16) Section 202.163;
- 3 (17) Section 202.201;
- 4 (18) Section 202.202;
- 5 (19) Section 202.203;
- 6 (20) Section 202.204;
- 7 (21) Section 202.205;
- 8 (22) Sections 202.252(c) and (d);
- 9 (23) Section 202.254(e);
- 10 (24) Section 202.255;
- 11 (25) Section 202.264;
- 12 (26) Section 202.301;
- 13 (27) Section 202.302;
- 14 (28) Section 202.501(b);
- 15 (29) Sections 202.503(b), (c), (d), and (e);
- 16 (30) Section 202.507;
- 17 (31) Section 202.508;
- 18 (32) Section 202.510;
- 19 (33) Subchapter L, Chapter 202;
- 20 (34) Section 202.601; and
- 21 (35) Section 202.6015.

22 SECTION 63. (a) In this section:

23 (1) "Commission" means the Texas Commission of
24 Licensing and Regulation.

25 (2) "Department" means the Texas Department of
26 Licensing and Regulation.

27 (3) "Former board" means the Texas State Board of

1 Podiatric Medical Examiners.

2 (b) On September 1, 2017:

3 (1) all functions and activities performed by the
4 former board immediately before that date are transferred to the
5 department;

6 (2) all rules, fees, policies, procedures, decisions,
7 and forms adopted by the former board are continued in effect as
8 rules, fees, policies, procedures, decisions, and forms of the
9 commission or the department, as applicable, and remain in effect
10 until amended or replaced by the commission or department;

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

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

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

19 (6) the unexpended and unobligated balance of any
20 money appropriated by the legislature for the former board is
21 transferred to the department.

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

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

26 (2) rights to service contracts and licensing
27 agreements;

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

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

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

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

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

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

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

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

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

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

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

23 SECTION 67. The changes in law made by this Act do not
24 affect the validity of a disciplinary action or other proceeding
25 that was initiated before the effective date of this Act and that is
26 pending before a court or other governmental entity on the
27 effective date of this Act.

1 SECTION 68. (a) A violation of a law that is repealed by
2 this Act is governed by the law in effect when the violation was
3 committed, and the former law is continued in effect for that
4 purpose.

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

8 SECTION 69. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 3078 was passed by the House on May 6, 2017, by the following vote: Yeas 143, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3078 on May 22, 2017, by the following vote: Yeas 139, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3078 was passed by the Senate, with amendments, on May 19, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor