

- SUBJECT:** Continuing the Texas State Board of Podiatric Medical Examiners
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 8 ayes — Delisi, Laubenberg, Coleman, Dawson, Jackson, McReynolds, Solis, Truitt
- 0 nays
- 1 absent — Zedler
- WITNESSES:** For — (*Registered, but did not testify:* Mark J. Hanna, Texas Podiatric Medical Association)
- Against — None
- On — Amy Trost, Sunset Commission; Jim Zukowski, Texas State Board of Podiatric Medical Examiners; (*Registered, but did not testify:* Janie Alonzo, Hemant Makan, Texas State Board of Podiatric Medical Examiners)
- BACKGROUND:** Podiatry concerns medical issues involving the foot. Texas began regulating the practice of podiatry in 1923 and began regulating it through an independent agency in 1939. In 1995, the 74th Legislature changed the agency's name to the Texas State Board of Podiatric Medical Examiners. The board licenses podiatrists and registers podiatric medical radiologic technologists, ensures compliance with the Podiatric Medical Practice Act and board rules, and provides information to the public. The board's nine members, including six podiatrists and three public members, serve staggered, six-year terms and are appointed by the governor with Senate confirmation. The board has a fiscal 2004-05 budget of \$419,175, with a staff of four in fiscal 2005. The board recovers costs primarily from fees on podiatrists but also from assessing service charges.
- The board underwent sunset review in 1993 and was continued by the 73rd Legislature. If not continued by the 79th Legislature, the board will be abolished September 1, 2005.

DIGEST:

HB 1435 would continue the Texas State Board of Podiatric Medical Examiners until September 1, 2017. It would add standard sunset provisions governing conflicts of interest, unbiased appointment of board members, grounds for removal of a board member, board compensation for travel, gubernatorial designation of the presiding officer, training for board members, division of staff and board responsibility, use of technology, complaint information and resolution, provisional licenses, and late renewal penalties.

Standard enforcement-related provisions would include those common to health licensing boards – requiring one public member of the board at informal settlement conferences and consumer refunds under agreed settlement orders. The board would be granted cease-and-desist authority to stop unlicensed activity, and the current limit of \$2,500 per day on the assessment of administrative penalties would be increased to \$5,000 per day. The board could conduct unannounced inspections of podiatrists' offices and would be allowed temporarily to suspend licenses if it determined the continued operations of a podiatrist would threaten public health.

The bill would take effect September 1, 2005.

SUPPORTERS
SAY:

As medical practitioners, podiatrists must be regulated for the well-being of the public. The changes that would be made by HB 1435 would give the board the proper licensing procedures to increase administrative efficiency.

The agency's licensing procedures should not limit the ability of qualified podiatrists to practice in Texas, so the requirements regarding provisional licenses would ease the process for qualified podiatrists from out of state to begin practice here. Requiring a delinquent licensee to pay a penalty based upon the normal renewal rate rather than exam fees would make penalty administration comparable to the process used among other agencies and would encourage podiatrists to renew their licenses on time.

The changes to enforcement procedures would give the board sufficient authority effectively to regulate podiatrists in Texas, and increasing administrative penalties would be a deterrent to future violations. Granting the board cease-and-desist authority could quickly stop unlicensed and potentially harmful practices. Unannounced inspections of podiatrists' offices would help the board adequately investigate complaints for which

an inspection was necessary to gather information to make well informed decisions in the public interest. The authority to suspend licenses would allow the board to take immediate action to prevent someone engaged in dangerous behaviors from harming the public.

While the board has had difficulty in handling the complaint load associated with regulating podiatry in the past, this would be resolved through strengthened enforcement procedures. Although the board could benefit from an additional investigator, it should remain an independent agency because the scope of practice of podiatrists is not similar to other medical professions and requires the expertise that only an independent agency can provide.

**OPPONENTS
SAY:**

Although Texas should continue to regulate podiatry, the small size of the profession makes it difficult to support an independent agency responsible for regulation, potentially putting the public at risk. With 850 podiatrists in Texas, the profession is not large enough to generate the funds to perform the administrative duties common to all agencies and the sophisticated regulatory activities needed adequately to oversee medical practitioners. The profession already has the highest licensing fees in the state. Although the agency receives about 100 complaints per year, resources are so thin that only four orders were issued in fiscal 1999 to 2002, and the single investigator also must perform administrative functions. Three-quarters of states regulate podiatry through some form of consolidated agency, and it would make more sense for Texas to do so.

NOTES:

The companion bill, SB 403 by Nelson, passed the Senate on the Local and Uncontested Calendar on March 31 and was reported favorably, without amendment, by the House Public Health Committee on April 20.