

## **BILL ANALYSIS**

Senate Research Center  
85R31438 JCG-D

C.S.H.B. 3078  
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Health & Human Services  
5/17/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas State Board of Podiatric Medical Examiners licenses and regulates the approximately 1,100 podiatrists in Texas. The podiatry board is subject to abolishment under the Sunset Act on September 1, 2017, unless continued by the legislature. The Sunset Advisory Commission (Sunset) found this small agency, with only four staff and a budget of about \$280,000, struggles to carry out its mission effectively, with slow complaint resolution times, unmet performance measures, and non-standard enforcement practices.

To address these concerns and the challenges faced by this small agency, Sunset recommends transferring the regulation of podiatry to the Texas Department of Licensing and Regulation (TDLR) to provide institutional stability and administrative savings, improve licensing and enforcement outcomes, and better protect the people of Texas.

The committee substitute will also extend the Sunset date of the Texas Commission of Licensing and Regulation and TDLR from September 1, 2019 to September 1, 2021.

C.S.H.B. 3078 amends current law 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 and authorizes a reduction in fees.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation (TCLR) in SECTION 2 (Section 51.2032, Occupations Code), SECTION 16 (Section 202.1515, Occupations Code), SECTION 23 (Section 202.252, Occupations Code), SECTION 33 (Section 202.3015, Occupations Code), SECTION 37 (Section 202.305, Occupations Code), and SECTION 58 (Section 202.6011, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas State Board of Podiatric Medical Examiners (TSBPME) is rescinded in SECTION 26 (Section 202.254, Occupations Code), SECTION 37 (Section 202.305, Occupations Code) and SECTION 64 (Sections 202.151, 202.152, 202.1525, 202.158, 202.202, 202.204, 202.264, 202.301, 202.508, 202.552, and 202.6015, Occupations Code) of this bill.

Rulemaking authority previously granted to TSBPME is transferred to TCLR in SECTION 17 (Section 202.153, Occupations Code), SECTION 23 (Section 202.252, Occupations Code), SECTION 28 (Section 202.259, Occupations Code), SECTION 39 (Section 202.352, Occupations Code), SECTION 40 (Section 202.353, Occupations Code), SECTION 48 (Section 202.501, Occupations Code), and SECTION 51 (Section 202.503, Occupations Code), and SECTION 59 (Section 202.602, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 51.002, Occupations Code, to provide that, unless continued in existence as provided by Chapter 325 (Sunset Law), Government Code (Texas Sunset Act), the Texas Commission of Licensing and Regulation (TCLR) and the Texas Department of Licensing and Regulation (TDLR) are abolished September 1, 2021, rather than September 1, 2019.

SECTION 2. Amends Subchapter D, Chapter 51, Occupations Code, by adding Section 51.2032, as follows:

Sec. 51.2032. RULES REGARDING PODIATRY; PROVISION OF INFORMATION.  
(a) Defines "advisory board."

(b) Prohibits TCLR from adopting 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 Podiatric Medical Examiners Advisory Board (PMEAB). Requires TCLR to adopt rules prescribing the procedure by which PMEAB may propose rules described by this section.

(c) Requires TCLR, for each rule proposed under Subsection (b), to either adopt the rule as proposed or return the rule to PMEAB for revision. Provides that TCLR retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process.

(d) Requires TCLR to adopt certain rules.

SECTION 3. Amends Section 202.001(a), Occupations Code, by amending Subdivisions (1) and (2) and adding Subdivisions (1-a) and (1-b), to define "advisory board," "commission," and "department," redefine "executive director," and delete the existing definition of "board."

SECTION 4. Amends the heading to Subchapter B, Chapter 202, Occupations Code, to read as follows:

#### SUBCHAPTER B. PODIATRIC MEDICAL EXAMINERS ADVISORY BOARD

SECTION 5. Amends Section 202.051(a), Occupations Code, to provide that PMEAB, rather than the Texas State Board of Podiatric Medical Examiners (TSBPME), consists of nine certain members appointed by the governor.

SECTION 6. Amends Section 202.053, Occupations Code, to change a reference to TSBPME to PMEAB, change references to TSBPME to TDLR, and provide that a person is not eligible for appointment as a public member of PMEAB if the person or person's spouse uses or receives a substantial amount of certain tangible items from TDLR, other than certain authorized reimbursement, rather than certain authorized compensation or reimbursement.

SECTION 7. Amends Sections 202.054(b) and (c), Occupations Code, as follows:

(b) Prohibits a person from being a member of PMEAB if certain conditions are met. Deletes existing text prohibiting a person from being a TSBPME employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if certain conditions are met.

(c) Changes references to TSBPME to PMEAB. Deletes existing text prohibiting a person from acting as general counsel to TSBPME.

SECTION 8. Amends Section 202.055, Occupations Code, as follows:

Sec. 202.055. New heading: TERMS; VACANCIES. (a) Creates this subsection from existing text. Provides that members of PMEAB serve staggered six-year terms, with the term of three members expiring on February 1 of each odd-numbered year, rather than provides that members of TSBPME serve staggered six-year terms.

(b) Requires the governor to, if a vacancy occurs during a term, appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

SECTION 9. Amends Section 202.056, Occupations Code, as follows:

Sec. 202.056. GROUND FOR REMOVAL. (a) and (b) Changes references to TSBPME to PMEAB and makes a nonsubstantive change.

(c) Requires the executive director of TDLR (executive director) to notify the governor and the Texas attorney general (attorney general) that a potential ground for removal exists, rather than requires the executive director to notify the president of TSBPME (president) of the potential grounds and requires the president to notify the governor and attorney general that potential grounds for removal exists. Deletes existing text requiring the executive director to notify the next highest ranking officer of TSBPME, who is required to then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 10. Amends Section 202.057, Occupations Code, as follows:

Sec 202.057. New heading: COMPENSATION; REIMBURSEMENT OF EXPENSES. Prohibits a PMEAB member from receiving compensations but provides that a PMEAB member is entitled to reimbursement for actual and necessary expenses incurred in performing the functions of PMEAB, subject to the General Appropriations Act. Deletes existing Subsection (a) providing that each TSBPME member is entitled to a per diem as set by legislative appropriation for each day the member engages in the business of TSBPME. Deletes existing text of Subsection (b) authorizing a member to receive reimbursement for certain expenses as prescribed by the General Appropriations Act. Deletes existing Subsection (c) providing that the secretary of TSBPME is entitled to reimbursement for the secretary's necessary expenses incurred in the performance of services for TSBPME.

SECTION 11. Amends Section 202.058, Occupations Code, as follows:

Sec. 202.058. New heading: PRESIDING OFFICER. Requires the governor to appoint one of the PMEAB members to serve as presiding officer of PMEAB at the pleasure of the governor. Authorizes the presiding officer to vote on any matter before PMEAB. Deletes existing text requiring the governor to designate a member of TSBPME as the president of TSBPME to serve in that capacity at the pleasure of the governor. Deletes existing designation of Subsection (a) and existing Subsection (b) requiring TSBPME, at the first regular scheduled meeting of each biennium, to elect from its members a vice president and secretary.

SECTION 12. Amends Section 202.059(a), Occupations Code, to require PMEAB to meet at the call of the presiding officer of TDLR or the executive director, rather than requires TSBPME to hold regular meetings at least twice a year and special meetings as necessary and hold the meetings at times and places TSBPME considers most convenient for applicants for license examinations.

SECTION 13. Amends Section 202.061, Occupations Code, as follows:

Sec. 202.061. TRAINING. (a) Changes references to TSBPME to PMEAB.

(b) Requires that the training program provide the person with certain information.

(c) Requires the executive director to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each PMEAB member. Requires each PMEAB member to sign and submit to the executive director a statement acknowledging receipt of the training manual on receipt of the training manual. Deletes existing text authorizing a person appointed to TSBPME to be entitled to reimbursement, as provided by the General Appropriations Act, for the

travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 14. Amends Subchapter B, Chapter 202, Occupations Code, by adding Section 202.062, as follows:

Sec. 202.062. DUTIES OF ADVISORY BOARD. Requires PMEAB to provide advice and recommendations to TDLR on technical matters relevant to the administration of this chapter (Podiatrists).

SECTION 15. Amends the heading to Subchapter D, Chapter 202, Occupations Code, to read as follows:

#### SUBCHAPTER D. POWERS AND DUTIES

SECTION 16. Amends Subchapter D, Chapter 202, Occupations Code, by adding Section 202.1515, as follows:

Sec. 202.1515. GENERAL POWERS AND DUTIES. (a) Requires the executive director to administer and enforce this chapter.

(b) Requires TCLR to adopt rules necessary to administer and enforce this chapter.

SECTION 17. Amends Section 202.153, Occupations Code, as follows:

Sec. 202.153. FEES. Deletes existing designation of Subsection (a) and changes a reference to TSBPME to TCLR. Deletes existing text prohibiting TSBPME from setting a fee that existed on September 1, 1993, in an amount less than the amount of that fee on that date. Deletes existing Subsection (b) prohibiting TSBPME from maintaining unnecessary fund balances, and requiring that fee amounts be established in accordance with this requirement.

SECTION 18. Amends Section 202.160, Occupations Code, to change a reference to TSBPME to TDLR.

SECTION 19. Amends Section 202.161, Occupations Code, to make a conforming change.

SECTION 20. Amends the heading to Subchapter E, Chapter 202, Occupations Code, to read as follows:

#### SUBCHAPTER E. COMPLAINT PROCEDURES

SECTION 21. Amends Subchapter E, Chapter 202, Occupations Code, by adding Section 202.2025, as follows:

Sec. 202.2025. COMPLAINT PRIORITY. Requires the executive director to develop, implement, and enforce a written policy for determining the complaints filed under this chapter that will be given priority for investigation as resolution by TDLR.

SECTION 22. Amends Subchapter E, Chapter 202, Occupations Code, by adding Sections 202.2031 and 202.2032, as follows:

Sec. 202.2031. NOTIFICATION TO PARTIES REGARDING COMPLAINT. (a) Requires TDLR to notify a license holder who is the subject of a complaint filed with TDLR that a complaint has been filed and to notify the license holder of the nature of the complaint.

(b) Provides that TDLR is not required to provide notice under this section if the notice would jeopardize an investigation.

Sec. 202.2032. REQUIREMENTS FOR CERTAIN COMPLAINTS. (a) Defines "anonymous complaint," "insurance agent," "insurer," and "third-party administrator."

(b) Prohibits TDLR from accepting anonymous complaints.

(c) Requires a complaint filed with TDLR by an insurance agent, insurer, pharmaceutical company, or third-party administrator against a license holder to include the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator filing the complaint, notwithstanding any confidentiality requirements under Chapter 552 (Public Information), Government Code, or this chapter.

(d) Requires TDLR to, by a certain day, 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 23. Amends Sections 202.252(a), (b), (e), and (f), Occupations Code, as follows:

(a) Requires an application for a license under this chapter to be submitted in the manner and on a form prescribed by the executive director. Deletes existing text requiring a person who desires to practice podiatry in this state to apply in writing to TSBPME for a license on a form prescribed by TSBPME.

(b) Requires TCLR, by rule, to establish the information and documentation required to be submitted as part of an application for a license under this chapter, including evidence satisfactory to TCLR and TDLR that the applicant, rather than requires the applicant to submit any information reasonably required by TSBPME, including evidence satisfactory to TSBPME that the applicant:

(1) makes no changes to this subdivision;

(2) deletes existing Subdivision (2) and text that the applicant is of good moral character. Redesignates existing Subdivision (3) as Subdivision (2) and includes the provision that the applicant has completed at least 90 semester hours of college courses acceptable at the time of completion for credit toward a bachelor's degree at an institution of higher education determined by TDLR to have acceptable standards, rather than a bachelor's degree at The University of Texas (UT);

(3) and (4) redesignates existing Subdivisions (4) and (5) as Subdivisions (3) and (4) and changes a reference to TSBPME to TCLR.

(e) Prohibits TDLR from accepting educational credits attained in a foreign country that are not approved by TDLR, rather than prohibits TSBPME from accepting educational credits attained in a foreign country that are not acceptable to UT for credit toward a bachelor's degree.

(f) Changes a reference to TSBPME to TDLR.

SECTION 24. Amends Subchapter F, Chapter 202, Occupations Code, by adding Section 202.2525, as follows:

Sec. 202.2525. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE. (a) Requires TDLR to require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the executive director, to TDLR or to the Texas Department of Public Safety (DPS) for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation.

(b) Prohibits TDLR from issuing a license to a person who does not comply with the requirements of Subsection (a).

(c) Requires TDLR to conduct a criminal history record information check of each applicant for a license using certain information.

(d) Authorizes TDLR to enter into certain agreements and to authorize DPS to collect certain costs.

SECTION 25. Amends Section 202.253, Occupations Code, as follows:

Sec. 202.253. GROUND FOR DENIAL OF LICENSE. (a) Authorizes TDLR to refuse to issue a license or certificate to a person who violates this chapter, a rule adopted under this chapter, or an order of TDLR or executive director.

(a-1) Creates this subsection from existing text. Authorizes TDLR or TDLR, rather than authorizes TSBPME, to refuse to admit a person to an examination, and to refuse to issue a license to practice podiatry to a person for:

(1) deletes a reference to TSBPME;

(2) makes no changes to this subdivision;

(3) and (4) changes references to TSBPME to TDLR;

(5) through (7) makes no changes to these subdivisions;

(8) makes a conforming change;

(9) through (16) makes no changes to these subdivisions;

(17) and (18) makes conforming changes.

(b) Requires TDLR, in enforcing Subsection (a-1)(15), rather than requires TSBPME, in enforcing Subsection (a)(15), on probable cause, to request the affected podiatrist to submit to a mental or physical examination by a physician designated by TDLR, rather than by TSBPME. Requires TDLR or executive director, rather than TSBPME, if the podiatrist refuses to submit to the examination, to issue a certain order.

(c) Makes a conforming change.

SECTION 26. Amends Sections 202.254(a), (b), and (c), Occupations Code, as follows:

(a) Changes a reference to TSBPME to TDLR. Deletes existing text requiring each applicant to pay to TSBPME an examination fee at least 15 days before the date of the scheduled examination.

(b) Requires TDLR to recognize, prepare, administer, or arrange for the administration of an examination under this chapter. Deletes existing text authorizing TSBPME to adopt and enforce rules of procedure for administering this section and prohibiting a public TSBPME member from participating in any part of the examination process for applicants for a license issued by TSBPME that requires knowledge of the practice of podiatry.

(c) Makes conforming changes.

SECTION 27. Amends Section 202.257, Occupations Code, to change a reference to TSBPME to TDLR.

SECTION 28. Amends Section 202.259(a), Occupations Code, to change a reference to TSBPME to TCLR.

SECTION 29. Amends Sections 202.260(a), (b), (c), and (d), Occupations Code, to change references to TSBPME to TDLR and make a conforming change.

SECTION 30. Amends Sections 202.261(a) and (b), Occupations Code, to change references to TSBPME to TDLR.

SECTION 31. Amends Section 202.262, Occupations Code, as follows:

Sec. 202.262. DISPLAY OF LICENSE. (a) Requires a person licensed under this chapter to conspicuously display for both the license and an unexpired renewal certificate, rather than both the license and an annual renewal certificate for the current year of practice, at the location where the person practices.

(b) Changes a reference to TSBPME to TDLR.

SECTION 32. Amends Section 202.263, Occupations Code, as follows:

Sec. 202.263. ISSUANCE OF DUPLICATE OR AMENDED LICENSE. (a) Changes reference to TSBPME to TDLR. Requires the license holder to, if a license issued by TDLR is lost, destroyed, or stolen from the person to whom it was issued, report the fact to TDLR and include certain detailed information, rather than report the fact to TSBPME in an affidavit and require the affidavit to include certain detailed information.

(b) Makes a conforming change.

(c) Requires TDLR, rather than TSBPME, to issue a duplicate or amended license on application by a license holder and payment of a fee set by TCLR, rather than TSBPME, for the duplicate or amended license. Makes conforming changes.

(d) Makes a conforming change.

SECTION 33. Amends Subchapter G, Chapter 202, Occupations Code, by adding Section 202.3015, as follows:

Sec. 202.3015. TERM AND RENEWAL. (a) Provides that a license issued under this chapter is valid for one or two years as determined by TCLR rule.

(b) Requires TCLR, by rule, to establish the requirements for renewing a license and issuing a renewal certificate under this chapter, including payment of applicable fees.

SECTION 34. Amends Subchapter G, Chapter 202, Occupations Code, by adding Section 202.3025, as follows:

Sec. 202.3025. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) Requires an applicant renewing a license issued under this chapter to submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 202.2525.

(b) Authorizes TDLR to administratively suspend or refuse to renew the license of a person who does not comply with the requirement of Subsection (a).

(c) Provides that a license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under certain sections.

SECTION 35. Amends Section 202.303, Occupations Code, to provide that a person who practices podiatry with an expired renewal certificate, rather than a person who practices podiatry without an annual renewal certificate for the current year, is considered to be practicing without a license and is subject to all the penalties of the practice of podiatry without a license.

SECTION 36. Amends Sections 202.304(a) and (b), Occupations Code, as follows:

(a) Provides that this section applies to certain podiatrists, including a podiatrist whose most recently issued, rather than annual, renewal certificate has expired, under certain conditions.

(b) Changes a reference to TSBPME to TDLR.

SECTION 37. Amends Section 202.305, Occupations Code, as follows:

Sec. 202.305. CONTINUING EDUCATION. (a) Requires TCLR, by rule, to establish the minimum number of hours of continuing education required for license renewal.

(a-1) Requires TDLR to develop a mandatory continuing education program in accordance with TCLR rules, rather than requires TSBPME to develop a mandatory continuing education program. Requires TDLR, rather than TSBPME to, in developing its program, take certain actions.

(b) Makes conforming changes.

SECTION 38. Amends the heading to Section 202.352, Occupations Code, to read as follows:

Sec. 202.352. APPROVAL OF NAMES UNDER WHICH PODIATRIST MAY PRACTICE.

SECTION 39. Amends Sections 202.352(a) and (b), Occupations Code, as follows:

(a) Authorizes TCLR, rather than TSBPME, to adopt certain rules. Authorizes TCLR, rather than TSBPME, in its rules, to also establish procedures to review and make determinations approving or disapproving a specific name submitted to TDLR, rather than TSBPME, by one or more podiatrists desiring to practice under a particular name.

(b) Changes a reference to TSBPME to TCLR and TDLR.

SECTION 40. Amends Sections 202.353(a), (c), (d), (e), (f), (g), (h), and (i), Occupations Code, as follows:

(a) Changes a reference to TSBPME to TDLR.

(c) Requires the affected podiatrist to whom this subsection applies to submit information to TDLR, rather than TSBPME. Requires the podiatrist to submit the information as required by rules adopted by TCLR, rather than TSBPME, under Subsections (d) through (f).

(d) Requires TCLR, rather than TSBPME, in consultation with the commissioner of insurance, to adopt rules for reporting certain information and any additional information required by TDLR, rather than TSBPME.

(e) and (f) Makes conforming changes.

(g) Provides that an insurer, an agent or employee of the insurer, a TCLR member, rather than TSBPME member, or an employee or representative of TDLR, rather than TSBPME, is not liable or subject to a cause of action for an action taken as required.



(h) and (i) Makes conforming changes.

SECTION 41. Amends Subchapter H, Chapter 202, Occupations Code, by adding Section 202.354, as follows:

Sec. 202.354. DUTIES RELATED TO CERTAIN PRESCRIPTIONS. (a) Prohibits a podiatrist from prescribing a drug listed in Subsection (b) to a patient unless the podiatrist has reviewed the patient's prescription history by accessing the prescription information submitted to the Texas State Board of Pharmacy (TSBP) as authorized by Section 481.076(a)(5) (relating to prohibiting TSBP from permitting any but certain practitioners from accessing certain information submitted to TSBP), Health and Safety Code.

(b) Provides that Subsection (a) applies only to the prescribing of opioids, benzodiazepines, barbiturates, or carisoprodol.

(c) Provides that failure by a podiatrist to comply with the requirements of this section is grounds for disciplinary action under Subchapters F (Administrative Penalty) and G (Other Penalties and Enforcement Provisions), Chapter 51 (Texas Department of Licensing and Regulation).

SECTION 42. Amends Sections 202.404(d) and (e), Occupations Code, to change references to TSBPME to TDLR.

SECTION 43. Amends Section 202.452(a), Occupations Code, to change a reference to TSBPME to TDLR.

SECTION 44. Amends Section 202.453, Occupations Code, to change a reference to TSBPME to TCLR or executive director.

SECTION 45. Amends Section 202.455(f), Occupations Code, to change a reference to TSBPME to TDLR.

SECTION 46. Amends Section 202.456(b), Occupations Code, to change a reference to TSBPME to TDLR.

SECTION 47. Amends the heading to Section 202.501, Occupations Code, to read as follows:

Sec. 202.501. DISCIPLINARY POWERS; ADMINISTRATIVE PROCEDURE.

SECTION 48. Amends Sections 202.501(a) and (d), Occupations Code, as follows:

(a) Requires TCLR or executive director, rather than TSBPME, to revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by TCLR under this chapter, rather than adopted by TSBPME.

(d) Authorizes a person whose license to practice podiatry has been revoked or suspended by order of TCLR or executive director, rather than TSBPME, to appeal the action to a district court in Travis County. Prohibits the decision of TCLR or the executive director, rather than TSBPME's decision, from being enjoined or stayed except on application to the district court after notice to TDLR, rather than to TSBPME.

SECTION 49. Amends Section 202.502, Occupations Code, as follows:

Sec. 202.502. REVOCATION AND SUSPENSION OF LICENSE FOR DRUG-RELATED FELONY CONVICTION. (a) Changes references to TSBPME to TCLR or executive director.

(b) Makes a conforming change.

(c) Changes a reference to TSBPME to TDLR.

SECTION 50. Amends the heading to Section 202.503, Occupations Code, to read as follows:

Sec. 202.503. PROBATION.

SECTION 51. Amends Section 202.503(a), Occupations Code, as follows:

(a) Authorizes TCLR or the executive director to probate an order revoking a podiatrist's license on the podiatrist conforming to any order or rule TCLR adopts as the condition of probation, rather than authorizes TSBPME, on majority vote, to probate an order revoking or suspending a podiatrist's license conditioned on the podiatrist conforming to any order or rule TSBPME adopts as the condition of probation. Makes a conforming change.

SECTION 52. Amends Section 202.504, Occupations Code, to change references to TSBPME to TDLR.

SECTION 53. Amends Section 202.505, Occupations Code, as follows:

Sec. 202.505. REEXAMINATION IF LICENSE SUSPENDED OR REVOKED. Authorizes TDLR, rather than TSBPME, to refuse to reinstate a license or to issue a new license until a podiatrist has passed the regular license examination if TCLR or executive director, rather than TSBPME, suspended or revoked the license for certain reasons, including nonpayment of the license renewal fee, rather than annual license renewal fee.

SECTION 54. Amends Subchapter K, Chapter 202, Occupations Code, by adding Section 202.5071, as follows:

Sec. 202.5071. SUBPOENA AUTHORITY. Authorizes TDLR to issue a subpoena as provided by Section 51.3512 (Subpoenas).

SECTION 55. Amends Section 202.5085, Occupations Code, as follows:

Sec. 202.5085. REFUND. (a) Authorizes TCLR or executive director to order a person licensed under this chapter to pay a refund to a consumer as provided in an agreed settlement, default order, or TCLR order instead of or in addition to imposing an administrative penalty against the person, rather than authorizes TSBPME to order a person licensed under this chapter to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter, subject to Subsection (b).

(b) Prohibits the amount of a refund ordered, rather than the amount of a refund ordered as provided in an agreement resulting from an informal settlement conference, from exceeding a certain amount. Changes a reference to TSBPME to TCLR or executive director.

SECTION 56. Amends Section 202.509, Occupations Code, as follows:

Sec. 202.509. New heading: CONFIDENTIALITY AND DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Creates an exception as provided by Subsections (b), (d), and (f) of this section, Section 202.2031, and Section 202.2032. Changes references to TSBPME to TDLR.

(b) Makes conforming changes.

(c) Makes conforming changes. Deletes existing text providing that the furnishing of information under Subsection (b) does not constitute a waiver of any privilege or confidentiality provision under law.

(d) Authorizes investigative information in the TDLR's, rather than TSBPME's, possession that relates to a disciplinary action regarding a license holder to be disclosed to certain individual and entities.

(e) and (f) Makes conforming changes.

(g) Provides that TDLR's disclosure of information under Subsection (b), (d), or (f) of this section, Section 202.2031, or Section 202.2032 does not constitute a waiver of privilege or confidentiality under this chapter or any other law.

(h) Requires TDLR to protect the identity of a complainant to the extent possible.

SECTION 57. Amends the heading to Subchapter M, Chapter 202, Occupations Code, to read as follows:

#### SUBCHAPTER M. PENALTIES AND ENFORCEMENT PROVISIONS

SECTION 58. Amends Subchapter M, Chapter 202, Occupations Code, by adding Section 202.6011, as follows:

Sec. 202.6011. PENALTY SCHEDULE. Requires TCLR, by rule, to develop a standardized penalty schedule, including recommended penalty amounts for each category of punishable conduct listed in the schedule, based on the criteria listed in Section 51.302(b) (relating to the basis of the amount of a penalty).

SECTION 59. Amends Section 202.602, Occupations Code, as follows:

Sec. 202.602. MONITORING AND INSPECTION OF LICENSE HOLDER. (a) Requires TCLR, rather than TSBPME, by rule, to develop a system to monitor a podiatrist's compliance with this chapter. Requires that the system include procedures for determining whether a podiatrist is in compliance with an order issued by TCLR or the executive director, rather than by TSBPME.

(b) Authorizes TDLR, rather than TSBPME, during reasonable business hours, to enter the business premises of a person regulated by TDLR under this chapter, rather than by TSBPME, without notice to:

(1) makes a conforming change; or

(2) determine compliance with an order of TCLR or the executive director issued under this chapter, rather than with an order of TSBPME.

SECTION 60. Amends Subchapter M, Chapter 202, Occupations Code, by adding Section 202.6025, as follows:

Sec. 202.6025. MONITORING HARMFUL PRESCRIBING PATTERNS. (a) Requires TDLR to periodically check the prescribing information submitted to TSBP as authorized by Section 481.076(a)(1) (relating to access to information by certain entities), Health and Safety Code, to determine whether a podiatrist licensed under this chapter is engaging in potentially harmful prescribing patterns or practices.

(b) Requires TDLR, in coordination with PMEAB and TSBP, to determine, subject to approval by TCLR, the conduct that constitutes a potentially harmful prescribing pattern or practice for purposes of Subsection (a). Requires TDLR to, in determining the conduct that constitutes a potentially harmful prescribing pattern or practice, make certain considerations.

(c) Authorizes TDLR to notify the podiatrist of the potentially harmful prescribing pattern or practice if TDLR suspects that a podiatrist licensed under

this chapter may be engaging in potentially harmful prescribing patterns or practices.

(d) Authorizes TDLR to initiate a complaint against a podiatrist based on information obtained under this section.

SECTION 61. Amends Section 202.603, Occupations Code, to change a reference to TSBPME to TDLR.

SECTION 62. Amends Section 202.604, Occupations Code, as follows:

Sec. 202.604. CIVIL PENALTY: USE OF TRADE NAME; INJUNCTION. (a) Changes a reference to TSBPME to TCLR.

(b) Authorizes TDLR, rather than TSBPME, if it appears that a person has violated or is violating Section 202.352 or a rule adopted or determination made by TCLR, rather than by TSBPME, under that section, to institute certain civil actions in district court.

(c) Changes a reference to TSBPME to TDLR.

SECTION 63. Amends Section 481.352, Health and Safety Code, to include the executive director of TDLR, rather than the executive director of TSBPME, or the executive director's designee in the list of individuals who compose the work group.

SECTION 64. Repealer: Section 202.002 (Application of Sunset Act), Occupations Code.

Repealer: Section 202.052 (Oath of Office), Occupations Code.

Repealers: Sections 202.059(b) (relating to special meetings on the call of the president or on request of a majority of TSBPME members) and (c) (relating to adjourning in the absence of a quorum), Occupations Code.

Repealer: Section 202.060 (Location of Offices), Occupations Code.

Repealer: Subchapter C (Board Personnel), Chapter 202 (Podiatrists), Occupations Code.

Repealer: Section 202.151 (General Rulemaking Authority), Occupations Code.

Repealer: Section 202.152 (Rules Regarding Advertising and Competitive Bidding), Occupations Code.

Repealer: Section 202.1525 (Rules on Consequences of Criminal Conviction), Occupations Code.

Repealer: Section 202.154 (Committees), Occupations Code.

Repealer: Section 202.1545 (Advisory Committee Membership), Occupations Code.

Repealer: Section 202.155 (Contracts with Other State Agencies), Occupations Code.

Repealer: Section 202.156 (Board Records), Occupations Code.

Repealer: Section 202.157 (Board Proceedings), Occupations Code.

Repealer: Section 202.158 (Board Duties Regarding Complaints), Occupations Code.

Repealer: Section 202.162 (Use of Technology), Occupations Code.

Repealer: Section 202.163 (Negotiated Rulemaking and Alternative Dispute Resolution Procedures), Occupations Code.

Repealer: Section 202.201 (Public Interest Information), Occupations Code.

Repealer: Section 202.202 (Complaints), Occupations Code.

Repealer: Section 202.203 (Complaint Records), Occupations Code.

Repealer: Section 202.204 (General Rules Regarding Complaint Investigation and Disposition), Occupations Code.

Repealer: Section 202.205 (Public Participation), Occupations Code.

Repealers: Sections 202.252(c) (relating to verification of applicant information by affidavit) and (d) (relating to establishment that the applicant graduated from a certain school), Occupations Code.

Repealer: Section 202.254(e) (relating to determination of credit given for answers on a podiatry license exam), Occupations Code.

Repealer: Section 202.255 (Examination Results), Occupations Code.

Repealer: Section 202.264 (Inactive Status), Occupations Code.

Repealer: Section 202.301 (Annual License Renewal), Occupations Code.

Repealer: Section 202.302 (Renewal of Expired License by Out-of-State Practitioner), Occupations Code.

Repealer: Section 202.501(b) (relating to certain procedures in a probated license suspension), Occupations Code.

Repealers: Sections 202.503(b) (relating to holding a hearing to determine probation violation by a podiatrist), (c) (relating to the TSBPME president's role in a hearing), (d) (relating to appearances of the podiatrist and complaining persons at the hearing), and (e) (relating to determination of charges), Occupations Code.

Repealer: Section 202.507 (Subpoena Authority), Occupations Code.

Repealer: Section 202.508 (Informal Proceedings), Occupations Code.

Repealer: Section 202.510 (Temporary Suspension of License), Occupations Code.

Repealer: Subchapter L (Administrative Penalty), Chapter 202, Occupations Code.

Repealer: Section 202.601 (Injunction), Occupations Code.

Repealer: Section 202.6015 (Cease and Desist Order), Occupations Code.

SECTION 65. (a) Defines "commission," "department," and "former board."

(b) Transfers certain functions, activities, procedures, assets, items and matters from TSBPME to TDLR on September 1, 2017.

(c) Requires TSBPME to provide TDLR with access to any systems or information necessary for TDLR to accept the program transferred under this Act, including certain systems, rights, judgments, expenditures.

(d) Provides that unless the context indicates otherwise, a reference to TSBPME in a law or administrative rule means TCLR or TDLR, as applicable.

(e) Provides that a license or certificate issued by TSBPME is continued in effect as a license or certificate of the TDLR.

(f) Provides that, on September 1, 2017, all full-time equivalent employee positions at TSBPME that primarily concern the administration or enforcement of Chapter 202, Occupations Code, become positions at TDLR. Requires TDLR to post the positions for hiring and, when filling the positions, to give first consideration to, but not be required to hire, an applicant who, as of August 31, 2017, was an employee at TSBPME primarily involved in administering or enforcing Chapter 202, Occupations Code.

SECTION 66. (a) Provides that on September 1, 2017, the terms of the members serving on the TSBPME expire, and TSBPME is abolished.

(b) Requires the governor, not later than December 1, 2017, to appoint members to PMEAB in accordance with Section 202.051, Occupations Code, as amended by this Act. Provides that a member whose term expired under Subsection (a) of this section is eligible for reappointment to PMEAB.

(c) Requires the members whose terms expire under Subsection (a) of this section to continue to provide advice to TDLR until a majority of the members of PMEAB are appointed under Subsection (b) of this section and qualified.

SECTION 67. Makes application of Section 202.061, Occupations Code, as amended by this Act, prospective.

SECTION 68. (a) Requires TCLR, as soon as possible after the effective date of this Act, to adopt the rules necessary to implement Section 202.252, Occupations Code, as amended by this Act.

(b) Requires TDLR, not later than September 1, 2019, to obtain criminal history record information on each person who, on the effective date of this Act, holds a license issued under Chapter 202, Occupations Code, and did not undergo a criminal history record information check based on the license holder's fingerprints on initial application for the license. Authorizes TDLR to suspend the license of a license holder who does not provide the criminal history record information as required by TDLR and this subsection.

SECTION 69. Makes application of Section 202.354, Occupations Code, as added by this Act, prospective to September 1, 2018.

SECTION 70. Provides that the changes in law made by this Act do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on the effective date of this Act.

SECTION 71. (a) Provides that a violation of a law that is repealed by this Act is governed by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

(b) Provides that, for purposes of this section, a violation was committed before the effective date of this Act if any element of the violation occurred before that date.

SECTION 72. Effective date: September 1, 2017.