

# **Self-Evaluation Report**



## **Texas State Board of Podiatric Medical Examiners**

**August 2015**

# TABLE OF CONTENTS

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I.	Agency Contact Information .....	1
II.	Key Functions and Performance .....	1
III.	History and Major Events.....	10
IV.	Policymaking Structure .....	17
V.	Funding .....	20
VI.	Organization.....	26
VII.	Guide to Agency Programs .....	27
	<a href="#">Name of Program or Function: Administration, Enforcement, Scope of Practice</a> .....	27
	<a href="#">Name of Program or Function: Administration, Licensing &amp; Education</a> .....	39
VIII.	Statutory Authority and Recent Legislation.....	48
IX.	Major Issues .....	50
	<a href="#">Budget Stability</a> .....	50
	<a href="#">Medical Director</a> .....	50
	<a href="#">SOAH Costs</a> .....	51
	<a href="#">Scope of Practice</a> .....	51
X.	Other Contacts .....	53
XI.	Additional Information .....	54
	Reporting Requirements.....	54
	Complaint Data .....	54
	Historically Underutilized Business (HUB) Data.....	55
	Equal Employment Opportunity (EEO) Data.....	57
XII.	Agency Comments .....	58





## Texas State Board of Podiatric Medical Examiners Self-Evaluation Report

### I. Agency Contact Information

**A. Please fill in the following chart.**

#### Texas State Board of Podiatric Medical Examiners Exhibit 1: Agency Contacts

	Name	Address	Telephone & Fax Numbers	Email Address
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Table 1 Exhibit 1 Agency Contacts

### II. Key Functions and Performance

**Provide the following information about the overall operations of your agency. More detailed information about individual programs will be requested in a later section.**

**A. Provide an overview of your agency's mission, objectives, and key functions.**

As stated in our FY 2015-2019 Strategic Plan, the Texas State Board of Podiatric Medical Examiners (i.e. the Board; the TSBPME, the agency) has been for (now) 92 years the state agency entrusted with the responsibility of licensing podiatric physicians (DPM's; podiatrists) and regulating the practice of podiatric medicine in Texas (Texas Occupations Code Chapter 202; 22 Texas Administrative Code 18).

We are a four (4) FTE [1) Executive Director (exempt), 2) Staff Services Officer V (classified), 3) Staff Services Officer I (classified) and 4) Administrative Assistant III (classified)] self-funded agency that operates exclusively on revenue we generate from our own license fees. We collect revenue at approximately 20% - 30% in excess of our appropriation authority and other costs (benefits & indirect costs; 6.E. Page 1 of 2 FY 2016-2017 LAR) per year to the State's GR Fund; over and above what we spend. For FY 2013, total collected revenue was \$521,562.00 and we returned \$203,993.00 to GR. Due to the size of the agency & profession we remain weary of license fee increases; the DPM "Annual" license renewal fee is \$520.00. We are self-supporting; receiving no funds from GR, no tax revenues from the people of Texas nor federal funds. The agency's FY 2016 total budget is \$290,880.00. The agency's FY 2017 total budget is \$286,119.00. Our current operating budget is approximately \$77,199.00 for each year of the biennium.

Current staff have an invaluable combined 29 years of institutional knowledge of the Board's functions and invaluable combined 72 years of institutional knowledge of the State's functions. The Board itself is comprised of 9 members (6 DPM's & 3 Public Members).

Predicated on the Governor's and Statewide Goals/Benchmarks, the mission of the TSBPME is to assure quality podiatric medical care for the citizens of the State of Texas. The Board fulfills its mission through the regulation of the practice of podiatric medicine. This mission, derived from the Podiatric Medical Practice Act (Texas Occupations Code Chapter 202) and the Board Rules (Title 22, Part 18, Texas Administrative Code), supersedes the interest of any individual, the podiatric medical profession, or any special interest group. Podiatric medicine is an important, unique and integral part of any patient's overall health as problems involving the foot and ankle can affect the functions of the entire human body. Although the Board's principal enforcement statute is Texas Occupations Code Chapter 202, the Board also investigates and enforces provisions related to Texas Occupations Code Chapter 53, the Texas Penal Code, the Texas Health & Safety Code, the Texas Government Code and other provisions related to Federal Mandates (Social Security Act; Medicare; Medicaid); other state statutes. If a matter involves a podiatrist or the practice of podiatric medicine, then the Board has regulatory jurisdictional responsibility (spirit of Governor Perry's July 2004 Executive Order "RP-36").

The function of the Board is to: 1) Protect the citizens of Texas, 2) License DPM's, 3) Perform an annual renewal of all DPM's, 4) Register non-certified Podiatric Radiological Technicians (Rad-Techs), 5) Enforce Board laws (principal law: Texas Occupations Code Chapter 202), 6) Enforce Board rules (Title 22, Part 18, Texas Administrative Code), and 7) Enforce other applicable statutes.

The annual "Active" License Renewal Fee for podiatrists is \$520.00 (includes: \$5.00 Texas On-Line Fee; \$1.00 OPP Fee). Currently there are 1,073 "Active" licensed podiatrists in Texas (upward trend). The License Exam Fee is \$250.00. Pursuant to Texas Occupations Code §202.252 all podiatric educational attainments or credits for evaluation must be completed within the United States. There are 9 podiatric medical colleges in the United States: 1) Barry University School of Podiatric Medicine, Miami Shores, FL; 2) California School of Podiatric Medicine, Oakland, CA; 3) Des Moines University College of Podiatric Medicine and Surgery, Des Moines, IA; 4) Kent State University College of Podiatric Medicine, Independence, OH; 5) Midwestern University Arizona School of Podiatric Medicine, Glendale, AZ; 6) New York College of Podiatric Medicine, New York, NY; 7) Dr. William M. Scholl College of Podiatric Medicine at the Rosalind Franklin University of Medicine and Science, North Chicago, IL; 8) Temple University School of Podiatric Medicine, Philadelphia, PA; and 9) Western University of Health Sciences College of Podiatric Medicine, Pomona, CA.

The Board licenses podiatric residents as well, of which there are currently 70 "Temporary" podiatric residents (upward trend) in Texas training at 8 residency programs: 1) John Peter Smith Hospital, Ft. Worth, TX; 2) Hunt Regional Medical Center, Greenville, TX; 3) Saint Joseph Medical Center, Houston, TX; 4) West Houston Medical Center – Harris County, Houston, TX; 5) Kingwood Medical Center, Kingwood, TX; 6) The University of Texas Health Science Center, San

Antonio, TX; 7) Scott & White Memorial Hospital, Temple, TX; and 8) University General Hospital, Houston, TX. The initial “Temporary” License Fee for podiatric residents is \$125.00; the License Renewal Fee is \$125.00.

The Board also registers podiatric radiological technicians (Rad-Techs). The annual “Rad-Tech” Registration Renewal Fee is \$35.00. Currently there are 469 “Active” registered podiatric Rad-Techs (stable trend) in Texas.

This agency also continues to participate in the Texas On-Line (Texas.gov) project in accordance with TGC §2054.252. The fees for this service (\$5.00 per licensee) are collected from renewing podiatrist’s licenses and transferred to the contracted vendor (NICUSA).

We are still mandated to collect Office of Patient Protection (OPP) fees (\$1.00 per podiatrist license renewal & \$5.00 per new license) that are transferred to GR (House Bill 2985; 78<sup>th</sup> Legislative Session/2003), although by Acts of the 79<sup>th</sup> Legislature/2005 the OPP was abolished.

Legal services are provided through the Office of the Attorney General. The AAG currently assigned to the Board has over 23 years of institutional knowledge of our functions and is a person of immense value.

The Board works in conjunction with the Comptroller’s Office (CPA), the Governor’s Office of Budget & Policy (GOBP) and the Legislative Budget Board (LBB) regarding its budget and funding.

The Texas State Board of Podiatric Medical Examiners is an equal employment opportunity employer and does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

**B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?**

Texas population growth along with the public's expectations and needs for state agency service delivery have not decreased, in spite of several budget/staff reductions since our last (2003-2005) Sunset review. We continue to attempt to reconcile the public's service delivery needs/expectations with the reality of budgetary limitations.

The functions of our agency are necessary to protect the public by ensuring the safe practice of podiatric medicine in Texas. Podiatric physicians, along with allopathic and osteopathic physicians (M.D.’s and D.O’s) are granted hospital privileges. Without our Board testing podiatric physicians for competency, licensing them to ensure that they annually meet the standards we set for them (including meeting continuing education requirements) and investigating and taking disciplinary action on complaints brought against them, there would be no daily oversight of the practice of podiatric medicine. The harm to the public’s safety would be enormous, with the very real potential for patients experiencing substandard medical care,

including substandard surgery, serious post-operative infection, needless partial or full foot amputation, Medicare/Medicaid and insurance fraud violations, drug diversion, unlicensed practice and abuse, and patient death, to mention just a few issues.

**C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?**

The quantitative evidence would be shown in our agency's performance measure reporting data, "KEY" Performance Measures (GAA). These are shown in the GAA budget structure for the agency and indicate the extent to which an agency is achieving its goals or objectives and that is identified in the General Appropriations Act along with targeted performance objectives for each year of the biennium. These can be Output Measures, Efficiency Measures, Explanatory/Input Measures or Objective Outcome Measures.

The qualitative evidence would be shown in our agency's licensing/examination efforts (<http://www.tsbpme.texas.gov/licensing.htm>), resource information published on our website to address common regulatory/practice questions posed by the public and license holders (<http://www.tsbpme.texas.gov/ga.htm>), and disciplinary actions activity resulting from complaint investigations ([http://www.tsbpme.texas.gov/verification.disciplinary\\_action.htm](http://www.tsbpme.texas.gov/verification.disciplinary_action.htm)).

**D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?**

Generally speaking, our enabling law continues to reflect our mission, objectives, and approach in performing our functions. However, the limitation to effectiveness/efficiency is budgetary limitations.

While state agencies have realized budget/resource/staffing reductions to respond to the former state/national economic downturn, it appears that population growth along with the public's expectations and needs for state agency service delivery have not decreased.

To suffice mandatory 7.5% budget cuts during and after the 78<sup>th</sup> Legislature (2003/2004), we had to vacate (RIF) an Administrative Assistant position (5<sup>th</sup> FTE; Licensing Manager) that was given to us by the 77<sup>th</sup> Legislature (2001) to help us meet agency goals/targets related to Licensure & Enforcement.

To suffice mandatory budget cuts after the 81<sup>st</sup> Legislature (2009/2010), in response to the FY 2010-2011 5% Budget Reduction, FY 2011 2.5% Budget Reduction and FY 2012-2013 1 FTE Reduction (25% workforce reduction), effective 02/16/2010, we reduced our budget by \$23,421.00 and conducted a complete reorganization of the agency. This reduction was accomplished from FY 2010 funds primarily by utilizing the Administrative Assistant II salary which resulted in a "Hiring Freeze" and subsequent elimination of that position through FY 2012-2013 (25% workforce reduction). For FY 2010, \$20,000.00 of the \$26,000.00 Administrative Assistant II (classified) salary, \$3,000.00 of Board member Travel and \$909.99 of



Postage were applied to fulfill the initial 5% reduction amount of \$23,909.99. By LBB letter dated 05/17/2010 the initial reduction amount was adjusted to a GR/OR-Dedicated reduction target of \$23,421.00 for the FY 2010-2011 biennium. In response to the FY 2011 2.5% budget reduction, effective 01/25/2011 we reduced our budget by an additional \$6,000.00. This was accomplished by reducing Board member travel which resulted in the Board only being able to meet twice (the statutory minimum per Texas Occupations Code §202.059) for FY 2011. A lack of regularly scheduled Board meetings resulted in delays of the approval/denial of license applications, rules/policies (e.g. scope of practice), investigative matters (e.g. Board Orders) and the ability to respond to unforeseen events/emergencies.

However, since February 2010, this did not mean we identified that our operations could continue with 3.0 FTE's; a 25% workforce reduction. The agency needed to be fully staffed at 4.0 FTE's, as that has historically been our required minimum staffing level. Therefore, beginning with the FY 2014-2015 biennium (83<sup>rd</sup> Session/2013), we requested funding for the 4<sup>th</sup> FTE position (i.e. Investigations position). Again, the prior State mandated Budget Reductions from 2010-2013 have had a negative impact on agency operations, as well as the October 2013 federal government shutdown. The 83<sup>rd</sup> Legislature/2013 restored our funding and 1 FTE (investigations position) per contingent revenue for FY 2014-2015. The Board sent the requisite FY 2014-2015 (\$50.00 Annual DPM Renewal) Fee Increase letter to the Comptroller on 08/23/2013, began collecting increased fees on 09/01/2013 but the Comptroller did not release our contingent revenues until 12/06/2013. The 4<sup>th</sup> FTE (investigations position) was hired on 02/01/2014.

With regard to the FY 2016-2017 10% General Revenue-Related Base Reduction exercise, this reduction (\$55,056.00 Biennium; \$27,528.00 Annual) would paradoxically require us to eliminate the very recently hired/recovered FY 2014-2015 4<sup>th</sup> FTE (Administrative Assistant III; investigations position) which the 83<sup>rd</sup> Legislature/2013 restored via a required (\$50.00 Annual DPM Renewal) Fee increase. This yet again would amount to a 25% workforce reduction. The Administrative Assistant III (investigations position) is essential/critical to the proper functioning of the agency. The effect on revenue would be a reduction in the number of enforcement cases investigated and resolved in a timely manner, and would impact the efficiency of our overall investigations capabilities. We requested to be exempted from further reductions.

We believe we have shown dedicated management of the use of allocated funds and respectfully point out that any reduction could disproportionately and greatly impair the continued efficiency of this agency by forcing (yet again) a 25% staffing reduction in base administration. For the FY 2016-2017 biennium (84<sup>th</sup> Session/2015), we requested to be exempted from further reductions since the Board was required by the 83<sup>rd</sup> Texas Legislature/2013 (i.e. for FY 2014-2015 & beyond) to raise DPM Annual Renewal Fees by \$50.00 (the DPM "Annual" license renewal fee is \$520.00) to recover from the prior State mandated Budget Reduction; we did not request any Exceptional Items (84<sup>th</sup> Session/2015) for FY 2016-2017. Texas podiatrists already pay a high Annual License Renewal Fee and we did not feel it would be fair to them to further increase their licensing costs. (It should be noted that the prior State mandated Budget Reductions were a reduction of agency appropriations and not a

reduction of (excess) revenues, revenues of which reside in licensing fees to GR. Therefore, while our agency appropriations had been previously reduced (with a 25% workforce reduction), license fee increases compounded for each prior State mandated Budget Reduction as the State must meet a certain revenue schedule for GR, for funding of the State's entire budget. Every time there was a Stated mandated Budget Reduction (of appropriations and not excess revenues), we were forced to raise podiatry license fees to recover from funds taken away by the State so that there was no impact to GR. This Board's revenue collections have never been in "the red" and our excess contributions to GR have always been in "the black".)

The 84<sup>th</sup> Legislature/2015 maintained the FY 2014-2015 funding/staffing levels for the present FY 2016-2017 biennium.

The opportunity exists to strengthen our agency by exempting us from further budget reductions as our budget is already frugal/minimal and to allow us to grow along with the Texas population.

Previously, it was stated that our agency desperately needed "Peace Officer / Law Enforcement" status (commissioned), to support the type and nature of criminal investigations being conducted on a routine basis by the Texas State Board of Podiatric Medical Examiners, and to ensure that the public health, safety and welfare is not compromised. "Peace Officer / Law Enforcement" status would have allowed the Board to meet all its new (2003-2005) Sunset mandates in a more efficient manner by the expedient access to confidential criminal information. Nevertheless, all Board attempts to pursue legislation before the 78<sup>th</sup> (2003), 79<sup>th</sup> (2005) and 80<sup>th</sup> (2007) Legislatures were unsuccessful in trying to suffice this "Peace Officer / Law Enforcement" need. The Board does **not** intend to re-visit or pursue future "Peace Officer / Law Enforcement" legislative attempts due to the volume and effort such an endeavor requires. The Legislature had not taken any action over those three (3) Sessions and we do not expect that they will in the future. Furthermore, the public is concerned about the proliferation of police agencies and that public sentiment was heard loud and clear. We will nevertheless continue to cooperate with and assist law enforcement on joint criminal investigations in accordance with Texas Occupations Code §202.509(e), and build on prior case successes.

**E. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?**

With regard to federal agencies, our agency's functions do overlap (e.g. Medicare/Medicaid fraud investigations; DEA drug diversion investigations) but are not duplicated; rather, our agency is a source of information and assistance for federal agencies who are carrying out their functions/missions to protect the public.

Our agency is the only state agency tasked with regulating podiatric medicine and licensing podiatric physicians in Texas. Therefore, the service we provide is not duplicated in Texas. Nevertheless, pursuant to Texas Occupations Code Chapter 101, the Texas State Board of Podiatric Medical Examiners is a member of the Texas Health Professions Council (HPC). The

HPC is composed of a variety of healthcare licensing boards; the Council's mission of which is to coordinate regulatory efforts (and to identify and prevent duplication of services) amongst the various boards represented on the HPC. On 11/09/2011 this Board's executive director was voted in as the HPC-Vice Chair by the member agencies' executive directors. On 03/17/2014, this Board's executive director was voted in by the member agencies' executive directors (and remains) as the HPC-Chair. To learn more about the functions of the Texas Health Professions Council and its member board regulatory jurisdictions & professions, please visit their website at [www.hpc.state.tx.us](http://www.hpc.state.tx.us).

Current Board staff have an invaluable combined 29 years of institutional knowledge of the Board's functions and combined 72 years of knowledge of the State's functions. It's noted that "People" are any organizations' most valuable asset. To that end, given our knowledge of the state's operations and that of the practice of podiatric medicine, our agency's key functions are appropriately placed here.

#### **F. In general, how do other states carry out similar functions?**

Each of the other forty-nine states have either a composite or independent podiatric medical board that is tasked with testing, licensing and investigating its podiatric physicians. They all function in a similar manner to our process. To learn more about how other states carry out similar functions, please see the following compendium published by the Federation of Podiatric Medical Boards at: <https://www.fpmb.org/Resources/Compendium.aspx>.

#### **G. What key obstacles impair your agency's ability to achieve its objectives?**

Texas population growth along with the public's expectations and needs for state agency service delivery have not decreased, in spite of several budget/staff reductions since our last (2003-2005) Sunset review. We continue to attempt to reconcile the public's service delivery needs/expectations with the reality of budgetary limitations. We remain weary of having to increase license fees every 2 years to fund the Board's functions in meeting legislative mandates. Podiatrists already pay some of the highest "Annual" license renewal fees at \$520.00 and they do not want any further fee increases. The Board strives to seek a fair balance amongst the complex challenges of rising fees, increased mandates, increased costs and reduced/limited resources. One could argue that state agencies increasingly face the notion of "regulatory poverty" whereby current funding levels/limitations are not sufficient to meet day-to-day mandates. Nevertheless, the Texas Legislature appropriates agency funds in accordance with performance and target expectations via the Legislative Appropriations Request (LAR) process every 2 years.

The Board does not have a medical director (FTE position; Manager IV; Class. No. 1603; Salary Schedule B25 Mid-Point @ \$83,298.00/yr) like that of the Texas Medical Board, the Texas State Board of Pharmacy, the Texas Board of Nursing and the Texas State Board of Dental Examiners. Our licensing & enforcement efficiency would benefit greatly by having an in-house DPM medical director who could better assist the Board and the executive director in rendering day-to-day clinical (i.e. standard of care & scope of practice) reviews relating to license applications,

continuing education and the investigation of complaints. A DPM medical director would offload the executive director's workload in attending to those issues as the executive director's job duties relate, including but not limited, to: 1) Supporting all agency staff and clinical case reviewers in their functions; 2) Capitol/Legislative/Executive/Judicial branch & Board member/meeting, Interagency affairs; 3) Investigations/Enforcement and related travel/on-site activities; 4) Personnel/Human Resources; 5) "Foot" rules/litigation & Scope of Practice; 6) Open Records/Public requests for information; 7) Audits; 8) Website content/development/maintenance; 9) Information Technology coordination; 10) Health Professions Council Chair; 11) Agency's Chief Financial Officer and 12) Other duties as assigned.

We must obtain additional funding that will allow us to be able to fund the SOAH hearings necessary to complete investigations that are at the point of needing to be heard by SOAH. We continue to witness license holders committing criminal violations (e.g. Medicare/Medicaid fraud, drug abuse) along with a new trend of out-of-state applicants with criminal convictions/histories attempting to obtain a Texas podiatry license. We believe that the climate of low litigation/regulation in Texas is attracting bad actors from out-of-state who are escaping trouble in their home state thinking they can come to a large state like Texas without facing consequences here for their criminal conduct, conduct of which places the public at direct risk for harm.

Regarding the perennial "Foot" (rule) scope of practice contest, on 11/07/2002 the TOA/TMA filed a lawsuit against the TSBPME. The TPMA subsequently intervened. As of 06/18/2010 & 07/30/2010, final "Foot" litigation (formerly pending since 2008) before the Texas Supreme Court (Case No. 08-0485) resulted in a decision by the Texas Supreme Court upholding the March/May 2008 Texas 3<sup>rd</sup> Court of Appeals (3<sup>rd</sup> COA) Opinions invalidating the Board's definition of "Foot." The medical (TMA/TOA) and podiatric (TPMA) trade associations continue to deliberate podiatry scope of practice; with this agency remaining hopeful for an ultimate/final legislative remedy as directed by the Texas 3<sup>rd</sup> COA (i.e. "Footnote 7"). This matter remains of primary importance as scope of practice sets the parameters in which the profession and the agency functions/exists. As long as scope of practice remains unclear, there remains ambiguity on the agency's potential for clear regulation (Licensure/Enforcement) and to seek legislative resources (additional staff and funding) to ensure the agency can proactively remain strong for the future. Podiatry scope of practice ultimately is a matter for final determination by the Texas Legislature. The 82<sup>nd</sup> Legislative Session began in January 2011. By the conclusion of the 82<sup>nd</sup> Texas Legislative Session in May 2011, HB1980/Laubenberg & SB 1264/Uresti died in Committee. As no action was taken by the 82<sup>nd</sup> Texas Legislature on those identical/companion bills, podiatry scope of practice determinations continue to be made in reference to and in accordance with the March/May 2008 Texas 3<sup>rd</sup> Court of Appeals Opinions (upheld by the Texas Supreme Court on July 30, 2010) and the statutory definition of "Podiatry" found in Texas Occupations Code §202.001(a)(4). This matter is discussed in detail in our FY 2015-2019 Strategic Plan.

**H. Discuss any changes that could impact your agency's key functions in the near future (e.g., changes in federal law or outstanding court cases).**

There are no identified direct changes in federal law that could have the potential to impact our agency's key functions. Of course, as licensed professionals continue to commit Medicare/Medicaid fraud and Drug Diversion, state and federal legislative bodies respond with increased regulations and to that end, increased resources at the agency level are needed to combat those acts negatively impacting the public. Other than the afore referenced perennial "Foot" scope of practice matter awaiting final legislative remedy, we have identified no outstanding court cases that could directly impact our agency.

At the state level, SB 202 (84<sup>th</sup> Session/2015) transferred the Medical Radiologic Technologists (MRT) program (Texas Occupations Code Chapter 601) from the Texas Department of State Health Services to the Texas Medical Board. The Texas Podiatric Medical Association (TPMA) raised concerns with the Board that the training of "Podiatry Radiological Technicians" would be lost from the purview of podiatry as there remains uncertainty on exactly how the new MRT program will be administered by the Texas Medical Board and whether or not podiatry would still be allowed (and included) to set its training program requirements for podiatry radiological technicians, as podiatry has done for over 20 years through the Texas Podiatric Medical Association. It is the hope of the TPMA that the Texas Medical Board will coordinate with them and this Board on podiatry radiological technician training when the advisory committee's begin their work. In August 2014, this agency contacted the Sunset Advisory Commission to advise of TPMA's concerns.

**I. What are your agency's biggest opportunities for improvement in the future?**

The area that has the greatest potential for improvement is in our complaint investigation process. Our process is currently operating at the highest efficiency possible, within our current funding levels. Even at this level of performance, there are still major issues that need to be addressed with regard to complaint resolution timeframes. In order to resolve these issues and achieve the goal of operating the best complaint investigation process possible for the public, we are in need of the following: 1) Budget stability, 2) A DPM medical director, 3) Increased SOAH funding and 4) Scope of practice resolution. These resources will allow us to "keep-up" with Texas Population growth.

**J. In the following chart, provide information regarding your agency’s key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 2: Key Performance Measures — Fiscal Year 2014**

<b>Key Performance Measures</b>	<b>FY 2014 Target</b>	<b>FY 2014 Actual Performance</b>	<b>FY 2014 % of Annual Target</b>
Number of New Licenses Issued to Individuals	45	54	120%
Number of Complaints Resolved	92	68	73.91%
Avg Time for Complaint Resolution	295	496.95	168.46%
Total Number of Individuals Licensed	1,375	1,559	113.38%
% Licensees w/No Recent Violations	96%	99.62%	103.77%
% Documented Complaints Resolved w/In 6 Mos.	75.50%	35.30%	46.75%
% of Licensees Who Renew Online	65%	61.19%	94.14%

Table 2 Exhibit 2 Key Performance Measures

### III. History and Major Events

**Provide a timeline of your agency’s history and key events, including:**

- **the date your agency was established;**
- **the original purpose and responsibilities of your agency;**
- **major changes in responsibilities or statutory authority;**
- **changes to your policymaking body’s name or composition;**
- **significant changes in state/federal legislation, mandates, or funding;**
- **significant state/federal litigation that specifically affects your agency’s operations; and**
- **key changes in your agency’s organization (e.g., a major reorganization of the agency’s divisions or program areas).**

Though there is little recorded early history of the podiatrist (from Greek podos, "foot" and iatros, "doctor") in Texas, early doctors in the area doubtlessly treated feet. Before the modern specialty developed, foot practitioners were called chiropodists (from Greek chiros, "hand" + podos) because they treated both feet and hands. Abraham Lincoln had his own chiropodist.

Official recognition of podiatric medicine as a profession in the United States began with the first regulation of its practice by the State of New York in 1895. At that time, there were only a few colleges teaching podiatric medicine. None of these colleges were located in Texas. On

October 22, 1917, those who had set up practice in Texas had their earliest recorded meeting, in a room donated by the Dallas Chamber of Commerce. They called the group the Texas Chiropodist Society. The second annual meeting of the Texas Chiropodist Society was held at the Rice Hotel in Houston on October 7-8, 1918, when the prime concern of the members was to introduce a bill in the next legislative session to provide for a state law to regulate the practice of chiropody.

On March 5, 1919, the Texas Legislature first considered laws to regulate the practice of chiropody. At that time, twenty states and the District of Columbia had enacted laws regulating the practice of chiropody. This legislative initiative failed. In 1921, a second attempt was made by the Legislature, which was also defeated. Two years later, in 1923, legislation was passed (H.B. 487 of the 38<sup>th</sup> Texas Legislature), creating a Chiropody Regulatory Board under the jurisdiction of the State Board of Medical Examiners. The Board comprised of licensed physicians and chiropodists who would, in turn, license/regulate other chiropodists in Texas. This legislation also established rules to regulate the practice of chiropody and license chiropodists. In 1939, legislation was passed establishing an independent Board, which was named the Texas State Board of Chiropody Examiners. Its Board members were all licensed chiropodists appointed by then Governor W. Lee ("Pappy") O'Daniel.

In 1950, an Attorney General's ruling stated that a chiropodist was a physician within the meaning of the Narcotic Drug Law. The Chiropody Practice Act, amended in 1951, defined a chiropodist as "anyone who treats or offers to treat any disease, physical injury or deformity or ailment of the human foot by any system or method." In 1985, Senate Bill 655 broadened the definition of "Medical Staff" to include qualified podiatrists on hospital staffs. Also in 1950, two additional years (sixty hours) of undergraduate college credit were added to the admission requirements for

Podiatric Medical Colleges, which then as now, provide a four-year course of study (one-hundred twenty hours).

In 1967, the name was changed to the Texas State Board of Podiatry Examiners (60<sup>th</sup> Leg., p. 181, Ch. 96, Art. 4567(a) V.T.C.S.), and in 1996, underwent an additional name change to its present form; the Texas State Board of Podiatric Medical Examiners.

In 1978, during the 66<sup>th</sup> Legislature, the undergraduate requirements for examination eligibility were increased from a minimum of sixty (60) hours to a minimum of ninety (90) hours of Board approved studies.

In 1981, the Board's office was moved from Waco, TX to Austin, TX. In 1991 the Board's executive director was made a full-time position. In 1995, by order of the 74<sup>th</sup> Legislature, the Board's office was moved to the William P. Hobby Jr. State Office Building in downtown Austin, TX and co-located with the twelve other health professions licensing and regulatory agencies that comprise the Texas Health Professions Council. Another important change occurring during the 74<sup>th</sup> Legislative Session was the Board's change of name to the Texas State Board of Podiatric Medical Examiners.

In 1996, the Board implemented major changes in its clinical examination of candidates for licensure in Texas. This was accomplished by creating and implementing a criterion-referenced examination and by increasing the requirements that would allow a candidate to sit for the Board's licensing exam. This change mandated that the candidate must have:

- Successfully graduated from a four (4) year college,
- Graduated from an approved College of Podiatric Medicine,
- Successfully completed Part I and Part II of the National Podiatric Medical Boards,
- Successfully completed the PMLexis (National Podiatric Medical Licensing Examination for states; National Boards Part III) Examination, and
- Successfully completed a CPME approved one (1) year podiatric residency program (Graduate Podiatric Medical Education).

Changes made by the National Board of Podiatric Medical Examiners moved the old PMLexis Examination into the existing National Board Examination as Part III of its three parts. Candidates for licensure in Texas must pass National Boards Parts I, II and III as a prerequisite for qualifying to sit for our jurisprudence licensing examination.

In 1999, the Legislature increased the Board's FTE count from three (3) to four (4) with the addition of an Administrative Technician III, to enhance licensing, the intake of funds and continuing medical education (CME) processes.

In 2001, the 77<sup>th</sup> Legislature granted the Board one (1) additional full-time employee, an Administrative Technician II, to assist with the clerical aspects of our complaint investigations. The addition of this employee brought our agency to five (5) full-time employees. Unfortunately in 2003, due to a State mandated 7.5% budget cut, the Board was forced to execute a reduction in force from five (5) to four (4) full-time employees for cost savings. This forced reduction resulted in decreased service efficiencies with an inability to assist existing staff in addressing complaint investigation backlogs.

In 2002, the Board approved a change in its licensing examination process, moving the clinical licensing examination from its old oral/practical format to its present form, a written jurisprudence examination. This new examination format was rolled out and utilized for the first time on July 19, 2002. The Board's jurisprudence examination is independently validated by the University of Texas at Austin, via interagency contract, in accordance with Texas Occupations Code §202.254(c).

Regarding the perennial "Foot" (rule) scope of practice contest, on 11/07/2002 the TOA/TMA filed a lawsuit against the TSBPME. The TPMA subsequently intervened. As of 06/18/2010 & 07/30/2010, final "Foot" litigation (formerly pending since 2008) before the Texas Supreme Court (Case No. 08-0485) resulted in a decision by the Texas Supreme Court upholding the March/May 2008 Texas 3<sup>rd</sup> Court of Appeals (3<sup>rd</sup> COA) Opinions invalidating the Board's



definition of “Foot.” The medical (TMA/TOA) and podiatric (TPMA) trade associations continue to deliberate podiatry scope of practice; with this agency remaining hopeful for an ultimate/final legislative remedy as directed by the Texas 3<sup>rd</sup> COA (i.e. “Footnote 7”). This matter remains of primary importance as scope of practice sets the parameters in which the profession and the agency functions/exists. As long as scope of practice remains unclear, there remains ambiguity on the agency’s potential for clear regulation (Licensure/Enforcement) and to seek legislative resources (additional staff and funding) to ensure the agency can proactively remain strong for the future. Podiatry scope of practice ultimately is a matter for final determination by the Texas Legislature. The 82<sup>nd</sup> Legislative Session began in January 2011. By the conclusion of the 82<sup>nd</sup> Texas Legislative Session in May 2011, HB1980/Laubenberg & SB 1264/Uresti died in Committee. As no action was taken by the 82<sup>nd</sup> Texas Legislature on those identical/companion bills, podiatry scope of practice determinations continue to be made in reference to and in accordance with the March/May 2008 Texas 3<sup>rd</sup> Court of Appeals Opinions (upheld by the Texas Supreme Court on July 30, 2010) and the statutory definition of “Podiatry” found in Texas Occupations Code §202.001(a)(4). This matter is discussed in detail in our FY 2015-2019 Strategic Plan.

Again, in 2003, the Legislature took drastic measures in budget cuts, which resulted in this agency’s loss of a valued employee (“Licensing Manager”), thereby reducing our staff to four (4) full time employees from five (5).

The year of 2004 brought about the statutorily required review of the Texas State Board of Podiatric Medical Examiners by the Sunset Advisory Commission. During the 79<sup>th</sup> Legislative Session in 2005, the TSBPME “passed” Sunset and was continued in existence for another 12 years to the year 2017. A new Sunset provision was that the Governor would appoint the “Board President” and the Board would continue to elect a Vice President and Secretary. Effective March 23, 2007 Governor Perry appointed Ms. Doris A. Couch (Public Member) of Burleson, TX as President. Ms. Couch was the Board’s first ever Public Member presiding officer. Effective September 14, 2011 Governor Perry appointed Travis A. Motley, DPM of Colleyville, TX as President; Dr. Motley was reappointed (from 2007) to serve a second term.

There were Sunset updates to our rules on the “Consequences of Criminal Convictions” mandated primarily by Texas Occupations Code Chapter 53 (“law”). If an arrest or conviction is related to the practice of podiatry, the Board will initiate an investigation. The Board conducts “DPS and FBI Criminal History Checks” and further “Criminal Investigations” as warranted by those checks. The Board’s statutory authority to conduct Criminal Background Checks resides within TGC Sections 411.087, 411.088, 411.122, 411.135, 411.1405 (HB 660; 78<sup>th</sup> Regular Legislative Session/2003); CCP Article 60.061 and, 28 CFR 16.34 & 50.12. Board Rule §376.27 and the TSBPME “Use of Technology Policy” identify agency practices/procedures regarding background checks. Further detail of these practices/procedures were provided to the State Auditor’s Office in their “SAO Report #08-024.” Sunset mandates that a “Public Member” of the Board be involved at all of our informal hearings. In addition, Sunset gave the Board authority to order “Refunds” to patients or insurance companies for fraudulent billing. Ordering a “Refund” is limited to the actual monetary loss involved, not restitution for any other reason (i.e. pain and suffering; what judges & juries determine). The Board was also given authority to

issue an “Emergency Temporary Suspension” of a license to practice podiatry for egregious violations posing an immediate threat to public safety.

The Board’s “Administrative Penalties” increased from \$2,500.00 to \$5,000.00 per day, per violation. Those are based on a “Penalty Matrix/Schedule” used to gauge the severity of violations and which will dictate Board actions. We have the authority to issue “Cease & Desist Orders” for the unlicensed practice of Podiatric Medicine. The Board can also conduct “Unannounced Office Inspections” on any licensee for the “Monitoring and Inspection of a License Holder.” As noted above, requisite rules to implement Sunset changes were initially adopted at a Board meeting on February 6, 2006 (in advance of the March 1, 2006 deadline) and had been submitted to the SOS (Secretary of State) in advance of the July 6, 2006 deadline for final publication in the Texas Register. Final rules were adopted at the Board’s September 8, 2007 meeting. All these rules became effective 20-days after their publication. All other Sunset changes can be found within Senate Bill 402; acts of the 79<sup>th</sup> Legislature/2005 or on the Commission’s website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

In Executive Session, during the April 5, 2004 Board meeting, administrative and management changes were made which resulted in the resignation of the executive director who had been with the agency since 1991. The Board saw another transition in the executive director position in September 2005 after which the Board’s Investigator V of six (6) years was hired to resume executive functions and remains as executive director.

On February 6, 2006, after a five-year investigation delayed by lack of statutory access to criminal evidence, the Board was successful in ordering and collecting a \$75,000.00 fine by a Texarkana, TX podiatrist and assisting the FBI in securing a \$2 Million restitution to Medicare as part of the same investigation. If the Board had “Peace Officer/Law Enforcement” status, we would have been able to expedite the case resolution time and even been able to order a larger fine amount upon receipt of certain criminal evidence from the FBI. However, due to a lack of “Law Enforcement” status, the Board was not legally authorized to take custody of certain information/evidence obtained by the FBI. Nevertheless, we continued to build on the success/experience of that case in addressing similar “Major” investigations. On November 6, 2009, the Board made a Podiatry “Healthcare Fraud” presentation to the Dallas FBI’s North Texas Healthcare Fraud Working Group identifying trends in Medicare/Medicaid/Insurance Fraud. In another case, on May 28, 2010 the Board was successful in a follow-up of a 2007 “Cease & Desist Order” vs. 2 Podiatrists in McAllen, TX with the FBI, the United States Department of Health and Human Services – Office of Inspector General and the Office of the Attorney General – Medicaid Fraud Control Unit whereby the 2 podiatrists were sentenced to up to 3 years in federal prison and ordered to pay restitution to Medicare/Medicaid in the amount of the \$691,128.04 for conducting a major healthcare fraud scheme. In yet another case, on August 12, 2013 the Board was successful in taking action vs. a Podiatrist in San Antonio, TX with the FBI, the United States Department of Health and Human Services – Office of Inspector General and the Office of the Attorney General – Medicaid Fraud Control Unit where that Podiatrist paid \$83,754.45 in Restitution to Medicare/Medicaid and was fined \$10,000.00. All Board Disciplinary Actions can be viewed here from our website: [www.tsbpme.texas.gov/verification.disciplinary\\_action.htm](http://www.tsbpme.texas.gov/verification.disciplinary_action.htm). The Board has been recognized

(2008, 2009, 2010) by the Federal Bureau of Investigation (FBI) for “Exceptional Service in the Public Interest.” [Texas Occupations Code §202.509(e)]

Beginning on April 14, 2008 the Board underwent a procurement audit through the Texas Comptroller of Public Accounts and received a favorable outcome. On March 5, 2009, during the 81<sup>st</sup> Legislative Session/2009, the State Auditor’s Office conducted a full audit of the Board culminating with SAO Audit Report #09-038. The overall results of this audit were favorable (86%) but the SAO made several recommendations to correct agency errors in certain performance measure calculations/policies and cited additional recommendations to enhance IT physical security. The Board is a member of the Health Professions Council (Texas Occupations Code Chapter 101). A shining example of HPC’s success is the shared Information Technology Support Services program. In March 2008, the Board and HPC representatives began a database study, in part, to attend to certain “legacy” issues. A “new and improved” database could also enhance and automate 25% of the Executive Director’s, Staff Services Officers V’s/I’s & Enforcement Coordinator’s workload; much of which is done manually. This Shared Regulatory Database endeavor which was approved by the 81<sup>st</sup> Legislature/2009 for 6 HPC/Article VIII agencies as a vanguard, would also have been responsive to satisfying certain Information Technology findings contained within SAO Report #09-038 (our primary impetus for migration). While we hoped to migrate to this system beginning in FY 2012, a previously proposed Exceptional Item (82<sup>nd</sup> Session/2011) had been vacated due to cost estimates from Irondata (authorized vendor) ranging from \$123,585.00 to \$210,790.00 for us to launch. We could not in good faith request that item as those amounts are essentially our GR excess fee collection contributions and/or would require a fee increase ranging from \$129.00 - \$220.00 on our licensees. Although a future request is pending should other HPC agencies be willing to join at that time to lower costs, in July 2012 the Board was able to make significant upgrades to its existing databases towards compliance with SAO Report #09-038 at minimal cost.

On February 21, 2010, the Board underwent a personnel policies audit through the Texas Workforce Commission’s Civil Rights Division; the Board was certified as being fully compliant.

The most notable event of FY 2010 was the FY 2010-2011 5% Budget Reduction mandated by the State of Texas via letters dated January 15-22, 2010. This mandate resulted in yet another loss of a position (i.e. Administrative Assistant II; Hiring Freeze) thereby reducing our staff to three (3) from four (4) full time employees. The FTE count for FY 2010 was “3.1” which was less than the “4.0” authorized due to the FY 2010-2011 5% Budget Reduction. The vacancy of the 4<sup>th</sup> FTE continued through FY 2011 (2.5% Budget Reduction) and FY 2012-2013 (1 FTE Reduction), and partly through FY 2014 (Comptroller contingency funding delay) as part of the requisite agency reorganization that was implemented effective February 16, 2010 to meet the initial FY 2010-2011 5% Budget Reduction mandate. However, this did not mean that the Board identified that its operations could continue with “3.0” FTE’s. The agency needed to be fully staffed at “4.0” FTE’s (former authorized level). Therefore, for the FY 2012-2013 biennium (i.e. 82<sup>nd</sup> Legislative Session/2011) the Board requested funding for the 4<sup>th</sup> FTE position (i.e. Administrative Assistant II, or Investigator III, or Staff Services Officer II, or License and Permit Specialist III, or other appropriate staff). Unfortunately, as a result of further reductions during the 82<sup>nd</sup> Legislative Session/2011, this position was not approved. An additional 2.5% Budget

Reduction took place in FY 2011. It's further noted that the State of Texas considered seeking an additional 10% Budget Reduction for the FY 2014-2015 biennium (i.e. 83<sup>rd</sup> Legislative Session/2013) with all agencies then already approaching the 83<sup>rd</sup> Legislative Session with a (reduced) 95% base budget. These budget cuts have not had a positive impact on the Board's operations/functions. This is discussed elsewhere in this document.

Beginning on October 10, 2011 the Board underwent another procurement audit through the Texas Comptroller of Public Accounts and received a favorable outcome. It should be noted that the October 2013 federal government shutdown negatively impacted our joint state-federal investigation of Medicare/Medicaid fraud cases.

FY 2014-2015 GAA Contingency Revenue Letter to the CPA (83<sup>rd</sup> Session/2013) and FTE Vacancy. At the Board's January 13, 2014 meeting, the executive director reiterated that the past 4 years of State budget cuts had been very painful to the agency and negatively impacted all operations. For FY 2014-2015 the 83<sup>rd</sup> Texas Legislature/2013 restored the Board's budget/funding, however, we were required to raise DPM Annual License Renewal Fees (by \$50.00) to cover the restoration of the funds previously cut/taken by the State. The Board had met on August 12, 2013 to raise fees, sent the requisite FY 2014-2015 Fee Increase letter to the Comptroller on August 23, 2013, began collecting increased fees on September 1, 2013 but the Comptroller did not release our contingent revenues until December 6, 2013 (for Board member Travel @ \$3,000.00/yr. and 1 Full-Time Enforcement Position @ \$33,969.33/yr.). We had been waiting on the Comptroller for several months as FY 2014 began. In December 2013, the agency posted an Administrative Assistant III (Enforcement Coordinator) position which was hired to begin on February 1, 2014 to bring our FTE count officially back up to "4.0" and we initiated a second investigator contract for clinical case review services.

The 84<sup>th</sup> Legislature/2015 maintained the FY 2014-2015 funding/staffing levels for the present FY 2016-2017 biennium.

## IV. Policymaking Structure

**A. Complete the following chart providing information on your policymaking body members.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 3: Policymaking Body**

<b>Member Name</b>	<b>Term / Appointment Dates / Appointed by (e.g., Governor, Lt. Governor, Speaker)</b>	<b>Qualification (e.g., public member, industry representative)</b>	<b>City</b>
Travis Motley, DPM, President	03/23/2007- 07/10/2017 (Governor Perry)	Podiatric Physician	Colleyville
Harold Ashley Ledger, DPM, Vice President	10/09/2009 – 07/10/2015 (Governor Perry)	Podiatric Physician	Salado
Charles J. Hubbard, DPM, Secretary	10/09/2009 – 07/10/2015 (Governor Perry)	Podiatric Physician	Austin
James Michael Lunsford, DPM	09/24/2008 – 07/10/2019 (Governor Perry)	Podiatric Physician	Cypress
Joe E. Martin, Jr., DPM	09/24/2008 – 07/10/2019 (Governor Perry)	Podiatric Physician	College Station
Brian Carpenter, DPM	09/14/2011 – 07/10/2017 (Governor Perry)	Podiatric Physician	Bridgeport
Mr. James Michael Miller	09/24/2008 – 07/10/2019 (Governor Perry)	Public Member	Aledo
Mr. Fred E. Davis, JD	09/14/2011 – 07/10/2017 (Governor Perry)	Public Member	Austin
Mrs. Chakilla Robinson	03/14/2014 – 07/10/2015 (Governor Perry)	Public Member	Katy

**Table 3 Exhibit 3 Policymaking Body**

**B. Describe the primary role and responsibilities of your policymaking body.**

Our Board has the responsibility of promulgating rules and setting policies that will keep the practice of podiatric medicine in Texas in line with the practice of podiatric medicine around the country. The Board's rules are reviewed to ensure that they ensure the safe practice of podiatry and that they protect the public from unsafe podiatric physicians. New rules are made and existing rules are changed or removed as necessary to ensure quality podiatric medicine for the citizens of Texas. The public's safety and welfare is the Board's number one responsibility; mitigated by budget reductions. The agency's executive director reports to the Board on the day-to-day running of the agency and the Board advises the executive director as necessary to ensure that the agency is running effectively, efficiently and maintaining its responsibilities to the medical community, public and private hospitals, federal, state and local entities, its licensees and the public in a satisfactory manner.

**C. How is the chair selected?**

The chair is appointed by the Governor of Texas (Texas Occupations Code §202.058(a)).

**D. List any special circumstances or unique features about your policymaking body or its responsibilities.**

N/A

**E. In general, how often does your policymaking body meet? How many times did it meet in FY 2014? In FY 2015?**

The Board is required by statute (Texas Occupations Code §202.059) to meet a minimum of twice a year but generally meets three times annually. In FY 2014 the Board met three times. In FY 2015 the Board met twice.

**F. What type of training do members of your agency's policymaking body receive?**

All new Board members are issued a "Board Member Training Manual" that was specifically designed for them by the Texas Attorney General's Office, the Texas Health Professions Council and by the agency. Our new Board members are required to read the entire manual and must provide us with a signed and dated letter, affirming their having fully read the manual. They must also affirm their full and complete understanding of all the material contained in the manual before they are allowed to become a voting member of the Board. Additional training is provided in-person by the executive director at the Board's office prior to a new member attending their first Board meeting. The "Board Member Training Manual" is also available to all Board members in an electronic format.

**G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.**

Yes. The Sunset Advisory Commission, during the 79<sup>th</sup> Legislative Session (2005), required that the Board implement a "Division of Responsibilities" policy in accordance with Texas Occupations Code §202.101. Furthermore, by Acts of the 80<sup>th</sup> Texas Legislature (2007), Texas Government Code §572.051 "Standards of Conduct; State Agency Ethics Policy" requires that each state agency adopt a written ethics policy for the agency's employees and distribute a copy of the same to each new employee not later than the third business day after the date the person begins employment with the agency; and to each new officer not later than the third business day after the date the person qualifies for office. More detailed laws and rules providing for Board duties, responsibilities and ethics can be found within Texas Occupations Code Chapter 202 (Podiatric Medical Practice Act of Texas; the Act) and 22 Texas Administrative Code 18 (Board Rules), specifically Board Rule Chapter 389 relating to "Organization and Structure" and the agency's Division of Responsibilities Policy.

The Board maintains contact with and oversight of the running of our agency through reports to the Board made during the normal course of scheduled Board meetings, and via reports to the

Board by the agency's staff on day-to-day issues, fiscal matters, licensing and examinations for licensure, and the status of complaint investigations.

**H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?**

In addition to case-by-case items, standard Board meeting agenda items include: 1) Reading and Adoption of the Minutes (with all Minutes since 1939 electronically available for review), 2) President's Report (as identified in the agency's Division of Responsibilities Policy), 3) Executive Director's Report (as identified in the agency's Division of Responsibilities Policy), 4) Licensing/Training/Education Committee Report, 5) Investigative Committee Report, 6) Budget Committee Report and 7) Public Comment.

**I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?**

All of the Board's meetings are held in accordance with the Texas Open Meetings Act. Board meetings are posted in the Texas Register to give the public the opportunity to know what the agenda is for the Board's consideration and to be present at the meeting, if they so desire. The Board follows the proper rulemaking process, posting its proposed rules in the Texas Register, taking and considering all public input and conducting public hearings when indicated. The podiatry trade association (Texas Podiatric Medical Association) is also notified of all meetings and often has a representative or their attorney present at our Board meetings, to provide the Board with TPMA's position or suggestion(s) on a given agenda item. The Board also receives public suggestions or comments on various issues that the public may have sent directly to the agency staff. Agency staff forwards these items, as indicated, either to the Board committee responsible for the matter at hand, or to the Board president or vice-president for review. These items may then become agenda items for discussion and review by the full Board. If the suggestion, etc. has merit, the Board can take action on it, voting to set policy or creating, amending or removing rules as necessary to address the issue. We also have a website ([www.tsbpme.texas.gov](http://www.tsbpme.texas.gov)) that the public can use to obtain contact information for the agency's staff and Board members, to facilitate their providing input on any issues or matters that they wish. All legitimate suggestions or comments are brought to the attention of the Board for their consideration and possible action. All Board meetings are held at the William P. Hobby Jr. State Office Building accessible to the public.

**J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 4: Subcommittees and Advisory Committees**

<b>Name of Subcommittee or Advisory Committee</b>	<b>Size / Composition / How are members appointed?</b>	<b>Purpose / Duties</b>	<b>Legal Basis for Committee</b>
Licensing, Exams, Training & Education S/C	3 DPM's appointed by the President	Applications; Examinations; Board Training & CME	TOC §202.154; TOC §202.1545
Investigative S/C & Disciplinary Panel	2 DPM's & 1 Public Member appointed by the President	Enforcement & Investigations	TOC §202.154; TOC §202.1545
Rules S/C	2 DPM's & 1 Public Member appointed by the President	Review; Research & Proposals	TOC §202.154; TOC §202.1545
Budget S/C	2 DPM's & 1 Public Member appointed by the President	Agency; LAR; Strategic Planning; AFR	TOC §202.154; TOC §202.1545
Executive S/C	The Board Officers (DPM's) appointed by the President	Emergencies; Scope - Lawsuit; Sunset-Legislature-Governor; Oversight; Administration-Operations	TOC §202.154; TOC §202.1545

Table 4 Exhibit 4 Subcommittees and Advisory Committees

**V. Funding**

**A. Provide a brief description of your agency's funding.**

Operations of the Board are supported entirely by annual license fees. We collect revenue at approximately 20% - 30% in excess of our appropriation authority and other costs (benefits & indirect costs; 6.E. Page 1 of 2 FY 2016-2017 LAR) per year to the State's GR Fund; over and above what we spend. For FY 2013, total collected revenue was \$521,562.00 and we returned \$203,993.00 to GR. Due to the size of the agency & profession we remain weary of license fee increases; the DPM "Annual" license renewal fee is \$520.00. We are self-supporting; receiving no funds from GR, no tax revenues from the people of Texas nor federal funds. The agency's FY 2016 total budget is \$290,880.00. The agency's FY 2017 total budget is \$286,119.00. Our current operating budget is approximately \$77,199.00 for each year of the biennium.

**B. List all riders that significantly impact your agency's budget.**

A Rider Revision and Addition Statement (Article VIII Special Provisions) is included with each LAR filing to request additional appropriation authority to cover the continued costs of the: 1) Health Professions Council Funding mandated by Texas Occupations Code Chapter 101 [The TSBPME is a member of the Health Professions Council and transfers funds through appropriations made to the TSBPME, through interagency contract to HPC for a prorated share of HPC's operating budget. Please refer to the HPC LAR for an exceptional item funding request necessary for Information Technology improvements as well as any other increases to the TSBPME prorated share shown in the Rider Special Provisions Relating to All Regulatory



Agencies. The TSBPME supports HPC requests assuming additional appropriations are made to the TSBPME for any increases.], 2) Texas.gov Authority Re-Appropriation and 3) DPS & FBI Criminal Background Checks. For the Texas.gov program and DPS/FBI checks we ask for the continued authority to retain these fees collected as they are pass-through strategies and no funds stay with the agency. Therefore if these appropriations are decreased or limited, we may not be able to provide background checks and online licensing for all licensees as we could not afford to pay the cost out of our current appropriation without the use of these fees.

**C. Show your agency's expenditures by strategy.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 5: Expenditures by Strategy — 2014 (Actual)**

<b>Goal / Strategy</b>	<b>Amount Spent</b>	<b>Percent of Total</b>	<b>Contract Expenditures Included in Total Amount</b>
A. Goal: Protect Texans. Protect Citizens of Texas from Incompetent & Unethical Podiatrists.	We have 1 Goal	We have 1 Goal	We have 1 Goal
A.1.1. Strategy: Licensure & Enforcement. Provide Exams and Continuing Education & Investigate Violations of Act.	\$228,794.00	82%	\$5,800.00
A.1.2. Strategy: Texas.gov.	\$4,428.00	1.5%	\$0.00
A.1.3. Strategy: Indirect Administration.	\$46,180.00	16.5%	\$11,895.50
<b>GRAND TOTAL:</b>	<b>\$279,402.00</b>	<b>100%</b>	<b>\$17,695.50</b>

Table 5 Exhibit 5 Expenditures by Strategy

**D. Show your agency’s sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 6: Sources of Revenue — Fiscal Year 2014 (Actual)**

Source	Amount
General Revenue Fund	\$276,202.00
Appropriated Receipts	\$3,200.00
<b>TOTAL</b>	<b>\$279,402.00</b>

Table 6 Exhibit 6 Sources of Revenue

**E. If you receive funds from multiple federal programs, show the types of federal funding sources.**

N/A

**F. If applicable, provide detailed information on fees collected by your agency.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 8: Fee Revenue — Fiscal Year 2014**

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited <i>(e.g., General Revenue Fund)</i>
Administrative Fines; TOC §202.552	Varies <a href="http://www.tsbpme.texas.gov/verification.disciplinary_action.htm">www.tsbpme.texas.gov/verification.disciplinary_action.htm</a>	1	\$10,000.00	GR
Examination Fee; TOC §202.254	\$250.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	54	\$13,500.00	GR
FBI & DPS Criminal Background Check Fee; TGC §411.122	\$39.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	83	\$3,237.00	GR
HBO Permit New Fee; 22TAC18 §375.5	\$25.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	3	\$75.00	GR
HBO Permit Renewal Penalty Fee; 22TAC18 §375.5	\$5.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	2	\$10.00	GR

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
HBO Permit Renewal Fee; 22TAC18 §375.5	\$25.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	32	\$800.00	GR
Rad-Tech Late Renewal Fee; TOC §601.251	\$25.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	20	\$500.00	GR
DPM Renewal Late Fee <90 Days; TOC §202.301	\$257.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	12	\$3,084.00	GR
DPM Renewal Late Fee >90 Days; TOC §202.301	\$514.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	2	\$1,028.00	GR
DPM License Activation Fee Prorated; TOC §202.301	Varies; \$514.00 Prorated (12 mos; 7 mos; 3 mos) <a href="http://www.tsbpme.texas.gov/licensing.htm">http://www.tsbpme.texas.gov/licensing.htm</a>	48	\$13,908.00	GR
DPM License Renewal Fee; TOC §202.301	\$514.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	985	\$506,290.00	GR
DPM License Renewal Penalty Previous Year Fee; TOC §202.301	\$514.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	0	\$0.00	GR
N2O New Permit Fee; 22TAC18 §375.7	\$25.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	1	\$25.00	GR
N2O Permit Renewal Penalty Fee; 22TAC18 §375.7	\$5.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	0	\$0.00	GR
N2O Permit Renewal Fee; 22TAC18 §375.7	\$25.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	0	\$0.00	GR
Office of Patient Protection New License Fee; TOC §101.307	\$5.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	49	\$245.00	GR

Self-Evaluation Report

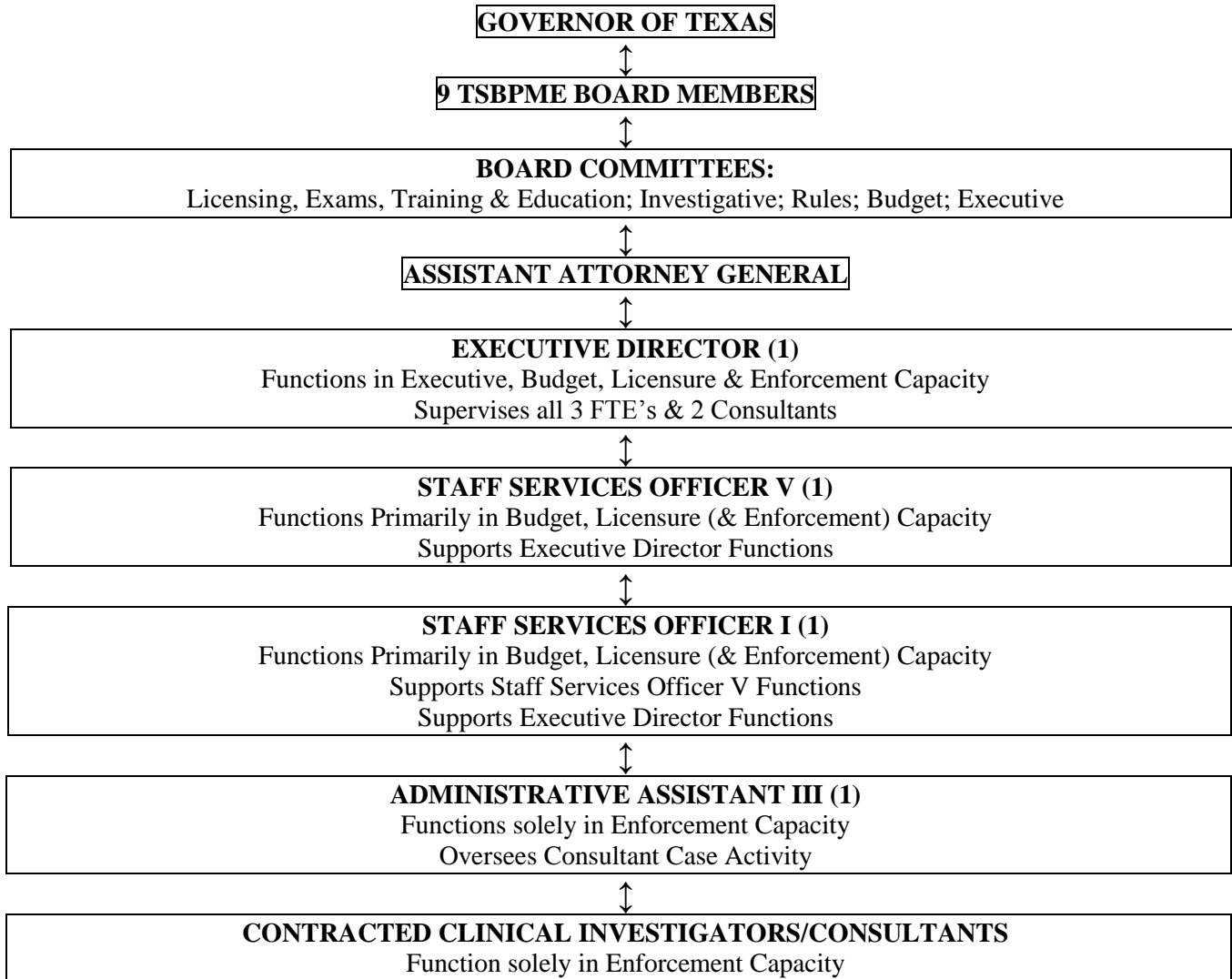
Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Office of Patient Protection Renewal License Fee; TOC §101.307	\$1.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	955	\$955.00	GR
DPM Provisional License Fee; TOC §202.260	\$125.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	15	\$1,875.00	GR
Rad-Tech Renewal Fee; TOC §601.251	\$25.00 - \$35.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	452	\$15,820.00	GR
DPM Temporary Faculty License Fee; TOC §202.261	\$40.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	0	\$0.00	GR
DPM Temporary Resident License Fee; TOC §202.259	\$125.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	58	\$7,250.00	GR
DPM Temporary Resident License Extension Fee; TOC §202.259	\$50.00 - \$75.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	0	\$0.00	GR
DPM TXOL Subscription Fee; TGC §2054.252	\$5.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	1,030	\$5,150.00	GR
DPM License Certification Fee; 22TAC18 §371.3	\$25.00 - \$75.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	17	\$1,275.00	GR
Copies Fee; 22TAC18 §371.3	\$0.10 pp + postage <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	0	\$0.00	GR
DPM Duplicate Certificate Fee; 22TAC18 §371.3	\$10.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	2	\$20.00	GR
DPM Duplicate License Certification Fee; 22TAC18 §371.3	\$50.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	3	\$150.00	GR
Database List Sales Fee; 22TAC18 §371.3	\$75.00 - \$300.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	34	\$10,200.00	GR

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited <i>(e.g., General Revenue Fund)</i>
Sale of Statute & Rules Fee; 22TAC18 §371.3	\$20.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	0	\$0.00	GR
License Verification Fee; 22TAC18 §371.3	\$5.00 <a href="http://www.tsbpme.texas.gov/licensing.fee_list.htm">www.tsbpme.texas.gov/licensing.fee_list.htm</a>	0	\$0.00	GR

Table 7 Exhibit 8 Fee Revenue

## VI. Organization

A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division. Detail should include, if possible, Department Heads with subordinates, and actual FTEs with budgeted FTEs in parenthesis.



**B. If applicable, fill in the chart below listing field or regional offices. See Exhibit 9 Example.**

N/A The Board is located in Austin, TX with no field or regional offices.

**C. What are your agency's FTE caps for fiscal years 2014–2017?**

4.0

**D. How many temporary or contract employees did your agency have as of August 31, 2014?**

0

**E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2014**

Program	Number of Budgeted FTEs FY 2014	Actual FTEs as of August 31, 2014	Actual Expenditures (Salaries & Wages)
Administration, Enforcement, Scope of Practice	2	2	\$88,200.00
Administration, Licensing & Education	2	2	\$96,300.00
<b>TOTAL</b>	<b>4</b>	<b>4</b>	<b>\$184,500.00</b>

Table 8 Exhibit 10 List of Program FTEs and Expenditures

## VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

**A. Provide the following information at the beginning of each program description.**

**Name of Program or Function:** Administration, Enforcement, Scope of Practice

**Location/Division:** 333 Guadalupe; Suite #2-320; Austin, TX 78701

**Contact Name:** Hemant Makan, Executive Director

**Actual Expenditures, FY 2014:** \$88,200.00

**Number of Actual FTEs as of June 1, 2015:** 2

**Statutory Citation for Program: Texas Occupations Code Chapter 202**

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The function of the Board is to: 1) Protect the citizens of Texas; 2) License Podiatric Physicians; 3) Perform an annual renewal of all Podiatric Physicians; 4) Register non-certified Podiatric Radiological Technicians; 5) Enforce the Podiatric Medical Practice Act of Texas (principal law: Texas Occupations Code Chapter 202); 6) Enforce Board rules (Title 22, Part 18, Texas Administrative Code) and 7) Enforce other applicable state statutes. Due to our size, all agency staff functions are cross-referenced but we work in pairs for 2 programs. We receive complaints via telephone (agency’s phones or a special 1-800 toll free complaint hotline), or in writing. Complaints are investigated and those that are found to have merit, proceed to formal consent hearings and if necessary, SOAH hearings. The Board may enter into an Agreed Order with the podiatrist, that restricts or suspends the podiatrist’s license to practice. The Board may order additional training, psychiatric or medical evaluations as necessary and ultimately, can revoke the podiatrists’s license.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

	# FTE	Cases Opened	Cases Closed	Avg. Time Compl. Resol. (Days)	Admin. Penalties (Fines)	Refunds	Restitution	Board Actions
FY 06	4	131	131	262.66	\$84,375.00	\$64.07	\$2,025,000.00	17
FY 07	4	203	203	250	\$8,200.00	\$210.00	\$0.00	17
FY 08	4	90	90	416	\$6,800.00	\$1,489.46	\$0.00	18
FY 09	4	98	98	175	\$1,350.00	\$286.16	\$0.00	11
FY 10	4 → 3	100	100	336	\$5,225.00	\$0.00	\$691,128.04	13
FY 11	3	93	93	669.73	\$0.00	\$120.00	\$0.00	5
FY 12	3	69	62	516.22	\$7,800.00	\$3,875.25	\$0.00	13
FY 13	3	91	76	384.58	\$10,000.00	\$0.00	\$1,238,047.00	4
FY 14	3 → 4	73	33	496.95	\$2,800.00	\$16,087.00	\$0.00	4
♦FY 15	4	73	23	480.31	Pending	Pending	Pending	6
TOTALS	N/A	1,021	909	398.745	\$126,550.00	\$22,131.94	\$3,954,175.04	108

(♦FY15 to 07/26/2015)

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

In 2001, the 77<sup>th</sup> Legislature granted the Board one (1) additional full-time employee, an Administrative Technician II, to assist with the clerical aspects of our complaint investigations. The addition of this employee brought our agency to five (5) full-time employees. Our complaint Investigation process has evolved from having a part-time investigator to a full-time investigator but has faced various budget/staff reductions since our last (2003-2005) Sunset review. Between 2001-2002 we trained a large group of podiatric medical reviewers (23 PMR’s). These PMR’s are made up of licensed podiatric physicians in Texas who meet the Board’s strict guidelines for years of quality medical practice and experience in their profession and medical knowledge. These PMR’s received intensive training by our agency staff and Board



members and were then certified by the Board to review medical aspects and issues contained in the complaints that we receive. Unfortunately in 2003, due to a State mandated 7.5% budget cut, the Board was forced to execute a reduction in force from five (5) to four (4) full-time employees for cost savings. This forced reduction resulted in decreased service efficiencies with an inability to assist existing staff in addressing complaint investigation backlogs, and with the loss of the majority of the PMR's due to a loss in funding to reimburse their services.

Due to the initial FY 2010-2011 5% Budget Reduction & FY 2011 2.5% Budget Reduction & FY 2012-2013 (1 FTE) Budget Reduction mandated by the State of Texas, the Board witnessed (again) the loss of its Administrative Assistant II position whose core role was to support enforcement/investigations. As a result of the requisite agency reorganization (implemented on February 16, 2010), the burden of enforcement/investigations had fallen in a greater role to the Executive Director. To therefore assist the Board with certain investigations in a time of reduced staff, the Board on May 26, 2010 enlisted Texas Occupations Code Chapter 202 – Subchapter J “Peer Review” assistance of the Texas Podiatric Medical Association (TPMA) in an effort previously begun in 2009. Upon the July 6, 2009 Board meeting, it was determined that the main hindrance in the Board forwarding complaints it receives to TPMA is “confidentiality.” Once we are in receipt of a complaint, state law doesn't allow us to forward that document to anyone other than another government agency. After all the research on “confidentiality,” we found it a challenge to bridge that lawful limitation. However, at the July 6, 2009 Board meeting an alternative was discussed to where we could simply point patients to TPMA to direct file a complaint with TPMA without the Board getting involved at that initial stage. Nevertheless, pursuant to further rule (§376.25; §376.27) changes adopted on January 19, 2011 and May 27, 2012 respectively, the Board and the TPMA are better able to communicate with one another to reasonably resolve certain complaints better suited for TPMA “Peer Review”. As a result, we have updated our “Complaints” webpage with the following ([www.tsbpme.texas.gov/complaint.filing.htm](http://www.tsbpme.texas.gov/complaint.filing.htm)): [“Podiatric Medical Society or Association - Peer Review.” Pursuant to Texas Occupations Code Chapter 202 - Subchapter J, a podiatric peer review committee means the podiatric peer review, judicial, or grievance committee of a podiatric medical society or association that is authorized to evaluate the quality of podiatry services or the competence of a podiatrist. A committee includes the members, employees, and agents of the committee. In Texas, the “Podiatric Medical Society or Association” is the Texas Podiatric Medical Association (TPMA). Patients may also contact the TPMA to file a complaint for “Peer Review” provided that the podiatric physician is a member of TPMA. Contact Information: Texas Podiatric Medical Association; 918 Congress Ave., Ste. #200; Austin, TX 78701; Voice: (512)-494-1123/800-TEX-FOOT; Fax: (512)-494-1129/800-633-9235; Web: <http://www.txpma.org>.]

It is the Board's hope that this TPMA “Peer Review” program will allow patients and DPM's an alternative course to resolve complaints that may be better handled by TPMA's “Peer Review” process. A good majority of the complaints we see involve misunderstandings and or require civil/private review for alternative remedies outside of the Board's processes. These scenarios involve professional disputes, fee disputes, common orthotic issues, bedside manner issues, medical records issues, advertising issues and some surgery complaints where all a patient is seeking is continuity of care and corrective remedies.

We are presently witnessing an increase in complaints (possibly due to the economic downturn & tort reform; also due to out-of-state bad actors coming to Texas) and the majority of them reflect the aforementioned issues. Again, due to the January 2010 - March 2010 State of Texas mandated FY 2010-2011 5% Budget Cuts (with more during the 82<sup>nd</sup> Session/2011, i.e. FY 2011 2.5% Cuts; FY 2012-2013 1 FTE Reduction & FY 2014, partial due to Comptroller contingency funding delays), our workforce had been reduced along with our budget/resources and we had witnessed growing backlogs. The State as a whole could benefit with better policing of podiatry with collaborative efforts to the extent the law allows, and pointing patients to TPMA for alternative remedies may assist with this endeavor. As prescribed in Texas Occupations Code Chapter 202 - Subchapter J "Peer Review" and within the structure of TPMA's Grievance Committee processes/by-laws, once TPMA receives a complaint, it would then be up to TPMA to proceed with the matter as they deem necessary to include a referral to the Board for matters TPMA cannot resolve.

This was the best possible scenario that we had available at that juncture for the 2009 "Peer Review" endeavor we began until the State of Texas restored & maintained our funding/resources/workforce. Also, it is noted on TPMA's "Public Site" section that patients can search for a DPM provider/member, so this appears to be a good tool for them to ascertain who is a TPMA member thus providing for a (possible) TPMA "Peer Review" process.

With regard to prescriptive authority and access to drugs/narcotics, along with doctors of medicine (MD/DO), dentists (DDS), veterinarians (DVM) and pharmacists (PharmD), podiatrists (DPM) have full prescriptive authority to write prescriptions from Schedules II-V to treat the foot/ankle (i.e. "by any system or method"). Along with this prescriptive authority comes the opportunity for substance abuse and drug diversion. To that end, in accordance with the provisions of Senate Bill 144 (effective January 1, 2004; 78<sup>th</sup> Texas Legislature), the State of Texas developed a program to assist providers with "Abuse/Misuse of Prescription/Pain Medications/Drug Diversion." That information can be found on our website at: [www.tsbpme.texas.gov](http://www.tsbpme.texas.gov). (The informational site is graciously hosted through the efforts of the Texas State Board of Pharmacy.) Providers who are a candidate for rehabilitation are afforded an opportunity to seek "help" for drug abuse while allowing them to maintain a license. "Drug Diversion" is a nationwide problem effecting physicians, patients and the general public. Proper distribution and receipt of "Controlled Substances" cannot be achieved without proper regulation. The Board can assist anyone through open communication and reporting of those matters posing a risk to the public health, safety and welfare. However, there are those incidents where the drug abuse is so egregious/illicit and hazardous to the public (i.e. Texas Health & Safety Code violations) that the Board would need to pursue a "License Revocation" against those providers who are not a candidate for rehabilitation, and who are repeat violators. To that end, Texas Occupations Code §202.502 "Revocation and Suspension of License for Drug-Related Felony Conviction" provides that: "(a) The Board shall suspend a person's license after an administrative hearing conducted in accordance with Chapter 2001, Government Code, in which the Board determines that the license holder has been convicted of a felony under Chapter 481 or 483, Health and Safety Code, or Section 485.033, Health and Safety Code. (b) On the person's final conviction, the Board shall revoke the person's license. (c) The Board may not reinstate or reissue a license to a person whose license is suspended or

revoked under this section except on an express determination based on substantial evidence contained in an investigative report indicating that the reinstatement or reissuance of the license is in the best interests of the public and of the person whose license has been suspended or revoked.” Furthermore, Texas Occupations Code §202.506 “Application to Certain Drug Offenses” provides that: “A person convicted of a felony under Chapter 481 or 483, Health and Safety Code, or Section 485.033, Health and Safety Code, is not eligible for: (1) probation of a license suspension or revocation under Section 202.503; or (2) reissuance of a license under Section 202.504.”

These Texas Occupations Code Chapter 202 powers set forth a clear mandate by the State that certain drug offenses would not be tolerated and the Board was given clear authority to discipline a licensee. However, during the 81<sup>st</sup> Legislative Session/2009, Texas Occupations Code Chapter 53 was modified in several areas thus mitigating the authority of the aforementioned Texas Occupations Code Chapter 202 provisions. These modifications have hampered the Board’s ability to take almost automatic action versus a drug impaired licensee posing a threat to the public. First, Texas Occupations Code §53.002 “Applicability of Chapter” provides that: “This chapter does not apply to (4) a person who (A) is licensed by the Texas Medical Board, the Texas State Board of Pharmacy, the State Board of Dental Examiners or the State Board of Veterinary Medical Examiners; AND (B) has been convicted of a felony under Chapter 481 or 483 or Section 485.033, Health and Safety Code.” During the pendency of this bill for the 81<sup>st</sup> Legislative Session/2009, the Board on November 13, 2008 was asked to complete a “Fiscal Note,” which we did. One analysis of our “Fiscal Note” is that the TSBPME should be added to the list of exempted agencies due in part to the fact that podiatrists have full prescriptive authority along with the cited professions, and due to the existing Texas Occupations Code §202.502 and §202.506 provisions. A TSBPME exemption would clear a conflict of the two chapters and subject podiatrists to clear/principal (Texas Health & Safety Code) disciplinary action for “Drug-Related / Felony Offenses.” If the term “AND” was replaced with the term “OR,” then this would also have created an exemption for the TSBPME ... but, the term “AND” links the list of exempted agencies/professions with certain Texas Health & Safety Code provisions. We contacted the bill sponsor on January 5, 2009 to ensure the TSBPME exemption, but the final bill did not allow for a TSBPME exemption. The remainder of Texas Occupations Code Chapter 53 then makes for a great difficulty to revoke a license for a podiatrist who “plead guilty” or received a “deferred adjudication” in conflict of the Texas Occupations Code §202.502 and §202.506 provisions due to Texas Occupations Code Chapter 53 providing “.... regardless of the statutory authorization ...” These conflicts between Texas Occupations Code Chapter 53 and Texas Occupations Code Chapter 202 have essentially tied the Board’s hands in pursuing actions for drug offenses, whereas adding the Board to the list of exempted agencies/professions would have resolved this matter to keep us in line with those agencies/professions who have full prescriptive authority. Again, it is not understood why the TSBPME was not given the same level of standing as the Texas Medical Board, the Texas State Board of Pharmacy, the State Board of Dental Examiners or the State Board of Veterinary Medical Examiners as those agencies, like the TSBPME, regulate professions with full prescriptive authority.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The investigation of complaints is one of the main functions of our agency and is a task assigned to us by the Legislature to protect the public from violators. The complaint investigation function affects all podiatric physicians licensed by our agency who may have a complaint made against them. This function will always be required, to ensure that podiatric physicians are practicing within the guidelines set for them by our Statute and Rules, and they are practicing good and safe medicine. Podiatric physicians are granted hospital privileges, along with osteopathic and allopathic physicians (M.D.'s and D.O.'s). In performing medical procedures and surgeries on the people of Texas, podiatric physicians have a great potential, if inappropriately trained and regulated, to cause serious harm and even death to their patients. It is a great responsibility that the Board and our agency takes very seriously, but obtaining adequate resources are a constant challenge.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The Board is headquartered in Austin, TX and has no field/regional offices/services.

In the course of executing investigations, the Board continues to interact with local/county/state/national podiatric medical associations, the Texas Legislature, the Texas Health Professions Council, local/state/national hospitals and clinics, medical licensing agencies, other medical professional associations and health care entities, various municipal/county/state/federal law enforcement agencies such as the Texas Department of Public Safety, the Federal Bureau of Investigation, the United States Drug Enforcement Administration, the United States Postal Service – Office of Inspector General and the United States Department of Health and Human Services – Office of Inspector General.

Although the Board's principal enforcement statute is Texas Occupations Code Chapter 202, the Board also investigates and enforces, in part, provisions related to Texas Occupations Code Chapter 53, the Texas Penal Code, the Texas Health & Safety Code, the Texas Government Code and other provisions related to Federal Mandates (Social Security Act; Medicare; Medicaid); other state statutes. Bottom line, if a matter involves a podiatrist or the practice of Podiatric Medicine, then the Board has regulatory jurisdictional responsibility (spirit of Governor Perry's July 2004 Executive Order "RP-36").

Again, the Board had previously restructured its complaint investigation process to minimize the involvement of Board members in this process and expedite the review of medical and standard of care issues. We initially trained twenty-three (23) Podiatric Physicians as "Podiatric Medical Reviewers" (PMR's; consultants) between 2001-2002. PMR's act as medical experts and review the medical and standard of care issues in our complaint investigations. After reviewing all of the issues, the PMR generates a clinical report, documenting the decisions

made that then becomes a part of our agency investigative complaint case folder. Based on the PMR's determination(s), the complaint case may be closed or moved on for further negotiation during Informal Consent Hearings, or moved on formally to the State Office of Administrative Hearings (SOAH) and the PMR acts as the agency's "expert witness." Those reviewers were paid a frugal total of twenty dollars (\$20.00) for each medical review they complete, making this a most cost-effective way to facilitate the necessary medical review of our complaint cases. However, due to State Budget Reductions, the Board no longer utilizes those 23 PMR's. Two PMR's had consistently shown a strong interest and dedication to this process. Therefore, under the guidance of legal counsel at the Office of the Attorney General, we secured "Investigator" status for them and contracting on a per-case basis as an additional non-full-time employee (clinical) Investigator. While it was our hope that this process alone would continue to facilitate the investigation and resolution of complaints given the aforementioned full-time employee reductions, more reviewers are needed. The "Investigator" contract for clinical case reviews was executed in accordance with Texas Occupations Code §202.204.

The investigative/hearings/SOAH process is so complex and voluminous that it is not possible to properly detail it in the framework of this report. As such, this is a highly condensed and abbreviated synopsis of the process:

- 1) A complaint is received by the agency from a person, hospital, insurance company, other federal, state, local agency or entity, etc., alleging that one of our licensees has done something wrong.
- 2) The complaint is reviewed to ensure that it is within our jurisdiction. If it is, it is assigned a case number and a letter is generated to the complainant, explaining our investigative process, our general timeframes, etc. If it is non-jurisdictional, the complaint is referred to the appropriate entity having jurisdiction over it and a letter is generated to the complainant explaining where their complaint is being forwarded to and why it is being done. The letter contains contact information for the entity that will be receiving the complaint.
- 3) The complaint is then data entered into our agency's complaint database.
- 4) The complaint is assessed to see if it needs to be expedited and given priority, based on the seriousness of the allegations and the potential for public harm.
- 5) The case is now investigated, to determine if the podiatrist(s) accused have done anything wrong (violated our statute/rules, violation of standard of care issues, negligence, Medicare/Medicaid billing fraud, etc.).
- 6) If the issues involved in the complaint are medical in nature, the case is forwarded to the next available Podiatric Medical Reviewer (PMR) for their evaluation and recommendation.
- 7) If the investigation and PMR review results in a finding of no wrongdoing, the complainant and the podiatrist are sent letters explaining our finding and the case is closed (after review by the Board).
- 8) If our investigation results in a finding of wrongdoing, a penalty is determined and the accused podiatrist is presented with a proposed Agreed Board Order that documents the wrongdoing and assigns various penalties and/or remedial activities.

- 9) If the accused podiatrist agrees with the Order, they sign it and it is presented to the full Board at the next Board meeting. The Board reviews the Order and then votes to affirm it. If affirmed, the Order is signed by the Board President and the agency's Executive Director. The penalties immediately go into effect. If the Board votes not to affirm the Order, they can set new proposed penalties or chose to make a finding of no wrongdoing.
- 10) If the Order is not affirmed, the newly amended Order (containing the newly added or deleted penalties) is sent back to the accused podiatrist for their review and acceptance.
- 11) If there is no affirmation of the Order (a finding of no wrongdoing), the case is closed as in #7 above.
- 12) If the accused podiatrist reviews the Proposed Order and decides not to accept it, a Consent Hearing is scheduled under §2000.054 of the TGC. At this hearing the accused is given an opportunity to bring forward all evidence that would show the Board that the accused podiatrist did nothing wrong. If informal mediation and negotiations at this meeting are successful, the Proposed Board Order is either signed or refused. If the accused accepts the Proposed Order, it is signed and proceeds on as in # 9 above. If no further negotiation is possible, the complaint allegation is forwarded to SOAH and scheduled to be heard before a SOAH Administrative Law Judge.
- 13) The SOAH Hearing is held and at a later date, the SOAH Judge issues their recommendation (ruling).
- 14) The ruling is then presented to and considered by the full Board and they vote to affirm the SOAH ruling.
- 15) The affirmed SOAH is then incorporated into a Disciplinary Order, containing the punishment(s) recommended by SOAH and affirmed by the Board. The Order is signed and served on the guilty podiatrist.
- 16) The discipline contained in the Order goes into effect. The accused podiatrist has the right to appeal the decision and Order by filing an appeal in District Court.
- 17) The District Court can either affirm the Board's Order or dismiss it.
- 18) If necessary, the punished podiatrist is monitored to ensure that the Order is being complied with.
- 19) A copy of the Order or Agreed Order is placed in the appropriate agency file and information regarding the podiatrist's disciplinary action is placed on our agency's website under the "Disciplinary Actions" list ([http://www.tsbpme.texas.gov/verification.disciplinary\\_action.htm](http://www.tsbpme.texas.gov/verification.disciplinary_action.htm)). This allows the public immediate information that the podiatrist has had disciplinary action taken against him/her.
- 20) The disciplinary action is reported to the National Practitioner Databank.
- 21) The case is marked closed as per #7 above.
- 22) It should be noted that complaint cases and Board Orders are kept on file forever. All disciplinary actions are available to the public through the Board's website.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The complaint investigation function is exclusively funded by the agency's appropriation (GR); we receive no federal funding.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

Other than criminal violations investigated by bona fide law enforcement agencies, there are no other programs that provide this complaint investigation function for podiatric physicians in Texas.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

In the course of executing investigations, the Board continues to interact with local/county/state/national podiatric medical associations, the Texas Legislature, the Texas Health Professions Council, local/state/national hospitals and clinics, medical licensing agencies, other medical professional associations and health care entities, various municipal/county/state/federal law enforcement agencies such as the Texas Department of Public Safety, the Federal Bureau of Investigation, the United States Drug Enforcement Administration, the United States Postal Service – Office of Inspector General and the United States Department of Health and Human Services – Office of Inspector General. Although the Board's principal enforcement statute is Texas Occupations Code Chapter 202, the Board also investigates and enforces, in part, provisions related to Texas Occupations Code Chapter 53, the Texas Penal Code, the Texas Health & Safety Code, the Texas Government Code and other provisions related to Federal Mandates (Social Security Act; Medicare; Medicaid); other state statutes. Bottom line, if a matter involves a podiatrist or the practice of Podiatric Medicine, then the Board has regulatory jurisdictional responsibility (spirit of Governor Perry's July 2004 Executive Order "RP-36").

Texas Occupations Code §202.509(e) provides that: "The Board shall report to the appropriate law enforcement agency information obtained by the Board in the course of an investigation that indicates that a crime may have been committed. The Board shall cooperate and assist a law enforcement agency conducting a criminal investigation of a license holder by providing relevant information to the agency. Information provided to a law enforcement agency by the Board is confidential and may not be disclosed except as necessary to conduct the investigation."

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

In the course of executing investigations, the Board continues to interact with local/county/state/national podiatric medical associations, the Texas Legislature, the Texas Health Professions Council, local/state/national hospitals and clinics, medical licensing agencies,

other medical professional associations and health care entities, various municipal/county/state/federal law enforcement agencies such as the Texas Department of Public Safety, the Federal Bureau of Investigation, the United States Drug Enforcement Administration, the United States Postal Service – Office of Inspector General and the United States Department of Health and Human Services – Office of Inspector General. Although the Board’s principal enforcement statute is Texas Occupations Code Chapter 202, the Board also investigates and enforces, in part, provisions related to Texas Occupations Code Chapter 53, the Texas Penal Code, the Texas Health & Safety Code, the Texas Government Code and other provisions related to Federal Mandates (Social Security Act; Medicare; Medicaid); other state statutes. Bottom line, if a matter involves a podiatrist or the practice of Podiatric Medicine, then the Board has regulatory jurisdictional responsibility (spirit of Governor Perry’s July 2004 Executive Order “RP-36”).

Texas Occupations Code §202.509(e) provides that: “The Board shall report to the appropriate law enforcement agency information obtained by the Board in the course of an investigation that indicates that a crime may have been committed. The Board shall cooperate and assist a law enforcement agency conducting a criminal investigation of a license holder by providing relevant information to the agency. Information provided to a law enforcement agency by the Board is confidential and may not be disclosed except as necessary to conduct the investigation.”

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

Pursuant to Texas Occupations Code §202.204, the Board has entered into an “Investigator” contract with two reviewers for clinical case reviews. These physician services consultant contracts are capped at \$5,000.00 each per fiscal year. FY 2014 expenditures were \$5,000.00. The Board reviews and approves these contracts prior to the start of each biennium and the executive director evaluates case reviewer activity on a continual basis.

**L. Provide information on any grants awarded by the program.**

N/A

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**



Adequate funding and exemption from further budget reductions to “keep-up” with Texas population growth. Having a DPM medical director on staff would also tremendously assist with in-house clinical (i.e. standard of care and scope of practice) complaint reviews.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

Stated herein.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Our investigative process is needed to appropriately address complaints received on our licensees. We must determine if the podiatrist accused has acted outside of their scope of practice, if they have done anything medically or otherwise wrong and then, we must take any disciplinary action necessary to resolve the issue(s) at hand. In order to do this, we must walk down a clearly delineated path designed and properly funded by the Legislature and monitored by the courts of the land, to protect the rights of the accused, the complainant and the citizens of Texas, while ensuring the safe practice of podiatric medicine in Texas.

We regularly require those podiatrists under Board Order to do any number of things to ensure compliance with their Agreed Orders, such as: 1) Allow the scheduled or unscheduled inspection of their practice and patient records, 2) Require the podiatrist to obtain additional training and have the training hospital, etc. send us verification of the training (received by us directly from the entity), 3) Require the podiatrist to generate written reports, documenting their compliance with the provisions of their Order, 4) Require the podiatrist to make in-person reports to the full Board, at regularly scheduled meetings, on their progress in complying with the provisions of their Order and 5) Require the podiatrist to send us reports, results of medical screening and testing from drug programs, psychiatrists, etc. to verify compliance with mandatory monitoring as required by their Agreed Order. If any non-compliance of the Agreed Order is noted, the Board will move to revoke/suspend the license which re-opens the original investigation. Additional penalties including administrative fine, additional suspension and ultimately, revocation of the podiatrist’s license to practice may be initiated. Please see our response to Section “F” above for additional information on procedures for handling complaints against our licensees.

- P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.

**Texas State Board of Podiatric Medical Examiners  
Complaint Investigations  
Exhibit 11: Information on Complaints Against Regulated Persons or Entities  
Fiscal Years 2013 and 2014**

	Fiscal Year 2013	Fiscal Year 2014
Total number of regulated persons	1,508	1,535
Total number of regulated entities	0	0
Total number of entities inspected	1	0
Total number of complaints received from the public	84	65
Total number of complaints initiated by agency	7	8
Number of complaints pending from prior years	15	40
Number of complaints found to be non-jurisdictional	4	2
Number of jurisdictional complaints found to be without merit	36	15
Number of complaints resolved	76	33
Average number of days for complaint resolution	384.58	496.95
Complaints resulting in disciplinary action:	4	4
administrative penalty	3	2
reprimand	0	0
probation	1	0
suspension	0	0
revocation	2	1
other	1	3

Table 9 Exhibit 11 Information on Complaints Against Persons or Entities

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

**A. Provide the following information at the beginning of each program description.**

***Name of Program or Function:*** Administration, Licensing & Education

***Location/Division:*** 333 Guadalupe; Suite #2-320; Austin, TX 78701

***Contact Name:*** Christine Riffe, Staff Services Officer V

***Actual Expenditures, FY 2014:*** \$96,300.00

***Number of Actual FTEs as of June 1, 2015:*** 2

***Statutory Citation for Program:*** Texas Occupations Code Chapter 202

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The function of the Board is to: 1) Protect the citizens of Texas; 2) License Podiatric Physicians; 3) Perform an annual renewal of all Podiatric Physicians; 4) Register non-certified Podiatric Radiological Technicians; 5) Enforce the Podiatric Medical Practice Act of Texas (principal law: Texas Occupations Code Chapter 202); 6) Enforce Board rules (Title 22, Part 18, Texas Administrative Code) and 7) Enforce other applicable state statutes. Due to our size, all agency staff functions are cross-referenced but we work in pairs for 2 programs. Candidates for licensure as podiatric physicians in Texas are tested to ensure that they have the proper knowledge of medicine and of the Statute and Rules that govern their practice, to safely practice on the citizens of Texas. This is accomplished by the active verification of the candidates having passed all three parts of the National Board, having completed a minimum one-year residency program, passing our jurisprudence exam, and meeting all of the requirements contained in our Board Statute and Rules for licensure.

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

	# FTE	# "Active" DPM	# Rad-Tech	# Temps	Total Pop.
<b>FY 06</b>	4	894	291	38	1,223
<b>FY 07</b>	4	917	289	33	1,239
<b>FY 08</b>	4	938	273	38	1,249
<b>FY 09</b>	4	959	277	33	1,269
<b>FY 10</b>	4 → 3	972	392	40	1,404
<b>FY 11</b>	3	987	404	49	1,440
<b>FY 12</b>	3	1,009	460	55	1,524
<b>FY 13</b>	3	1,011	437	60	1,508
<b>FY 14</b>	3 → 4	1,016	452	67	1,535
<b>♦FY 15</b>	4	1,057	450	70	1,577
<b>TOTALS</b>	<b>N/A</b>	<b>976</b>	<b>372.5</b>	<b>48.3</b>	<b>1,397</b>

(♦FY15 to 07/26/2015)

- D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

Our licensing functions have not changed dramatically, other than in the complexity of the additional requirements for licensure that have been initiated since the agency's founding and in the increase of the number of licensees processed. This is a function that will always be needed in order to continue to ensure that only safe and qualified podiatric physicians can practice in Texas. Each year we seek to make improvements in licensing efficiency with the better use of technology.

Beginning in March 2002, we moved our licensing examination from an oral/practical clinical format to a written jurisprudence examination which agency staff administers in Austin, TX. This new format has the benefit of allowing examination candidates to experience less "down time" while waiting to take the exam, which if passed, will qualify them more quickly for licensure. The Board's jurisprudence examination is validated by the University of Texas at Austin - Department of Statistics and Data Sciences (Texas Occupations Code §202.254(c)). [Note: As a result of several lawsuits relating to oral/practical medical licensing examination issues in other similar states, it was the recommendation of our statutorily mandated Examination Testing Consultant and the Attorney General's Office that we move our licensing examination from an oral/practical format to a written jurisprudence examination. The Board officially implemented the written jurisprudence examination effective as of March 2002. The first of the new written jurisprudence examinations was administered on July 19, 2002. This format is more dependable (eliminates the potential for "human error") and is more legally defensible than the old oral format. It also allows us to offer our licensing examination three (3) times a year.] We continue to self-administer this exam process and remain with the validation services provided by the University of Texas at Austin - Department of Statistics and Data Sciences. Agency staff have also published on the Board's website a "Board Statute & Rule Regulatory Hi-Lites" document which allows candidates for examination access to study

materials. This document is also geared to provide existing licensees with a “Resource/Tool” to focus on specific Board Laws/Rules to “prevent complaints” as the overall regulations are quite extensive. It remains our position that proper licensee education protects the public proactively as opposed to solely the reactive complaint investigation process. The Texas Podiatric Medical Association has utilized this document to develop an “Ethics/Risk Management” Continuing Medical Education program for its members. This is a further collaborative effort with the TPMA to ensure the best possible practice of podiatric medicine. It should be further noted the Board presently is experiencing an increase in our licensed population of podiatric physicians and podiatry radiological technicians. We attribute this population increase to the healthy economic and regulatory climate of the State of Texas and it appears more individuals are seeking a livelihood in Texas; this is an asset to our local communities and tax bases. Nevertheless, with population growth comes growing demands for governmental services. Agency staff administers the Board’s Jurisprudence License Exam for Podiatric Physicians three (3) times per fiscal year (in October, March and July). For FY 2014, we had a total of 50 applicants for the entire fiscal year. For FY 2015, we had a total of 59 applicants sit for the entire fiscal year and expect still more applicants for the October 2015 Exam. The Examination fee is \$250.00. Again, as for “Active” Podiatric Physician License Renewals, our FY 2014 target was 975 individuals; we had renewed 1,083 individuals. The License Renewal fee is \$520.00. With regard to Radiological Technician Renewals, our FY 2014 target was 275 individuals; we had renewed (certified) 452 individuals (the majority of whom complete the TPMA radiological technician training course referenced above). The Radiological Technician Renewal fee is \$35.00. Lastly, for FY 2015 we had a “Temporary” podiatric physician resident population of 70 individuals (highest thus far). The Temporary License fee is \$125.00.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

See “Section C” chart above. Licensing affects all podiatric physicians practicing or wishing to practice in Texas and radiological technicians. The qualifications for licensing related to the practice podiatric medicine in Texas can be found here on the Board’s website:

DPM Licensing: <http://www.tsbpme.texas.gov/licensing.htm>

DPM Continuing Education: <http://www.tsbpme.texas.gov/education.htm>

DPM License Renewal: [http://www.tsbpme.texas.gov/licensing.license\\_renewals.htm](http://www.tsbpme.texas.gov/licensing.license_renewals.htm)

Radiological Technician Registration & Renewal:  
<http://www.tsbpme.texas.gov/radiologytechnicians.htm>

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The Board is headquartered in Austin, TX and has no field/regional offices/services.

Annual Renewal Deadlines by License / Registration Type:	Deadline (@ Midnight):	Renewal Notices Mailed:	Renewal Method:
▪ Podiatric Physician License (DPM - Podiatric Physician)	November 1 <sup>st</sup>	September 1 <sup>st</sup> (Yellow Postcard)	"GO - ONLINE" (TXOL)
▪ Radiology Technician Registration (RadTech - Xray)	December 31 <sup>st</sup>	December 1 <sup>st</sup> (Paper Form)	Paper Form
▪ Hyperbaric Oxygen Registration (DPM - HBO)	January 31 <sup>st</sup>	December 31 <sup>st</sup> (Paper Form)	Paper Form
▪ Nitrous Oxide Registration (DPM - N2O)	January 31 <sup>st</sup>	December 31 <sup>st</sup> (Paper Form)	Paper Form
▪ Podiatry Resident License (DPM - Temporary)	June 30 <sup>th</sup>	May 1 <sup>st</sup> (Paper Form)	Paper Form

- 1) DPM Podiatric Physician License Renewals *BEGIN* Annually on September 1st.
  - a. DPM Podiatric Physician Licenses *EXPIRE* Annually on November 1st @ Midnight.
  - b. Renewal (upon successful application) is complete (*i.e.* "Active" Status) when "Fee Received" and is then processed ("Expiration Date") through next cycle/year.
  - c. For otherwise "Active" Status licensees who have renewed near/on/about the November 1st deadline, their "Status" is reflected as "Pending" due to awaiting completion of the TXOL payment process. Once payment is complete ("Fee Received"), the license status changes to "Active". The purpose of "Pending" status is a courtesy to reflect initiation of license renewal without designating the licensee as "Delinquent".
  - d. DPM License is "Delinquent" for failure to renew. DPM has 1-year to renew accruing penalty fees. "Status" changes from "Active" to "Delinquent" at renewal cycle end (*i.e.* on November 2nd.); reflected in "Status Change" date BUT Do Not change "Expiration Date".
  - e. DPM License is "Cancelled" upon request OR by operation of law upon passage of 1-year "Delinquent" period (*i.e.* on November 2nd.) "Status" changes from either "Active" OR "Delinquent" to "Cancelled" dependent upon scenario. When "Cancelled", this is reflected in "Status Change" date when cancellation made BUT "Expiration Date" does not change.
  - f. DPM's who have Complaint/Enforcement issues & need to be blocked from TXOL renewals are "Flagged", thus forcing the licensee to contact agency staff to remedy the Complaint/Enforcement matter.
- 2) "Applicant" Status = DPM has applied for either March, July or October Exam. Base data entry.
- 3) "New" Status = DPM has successfully passed Exam. Awaiting payment of "Activation" fee which is a prorated License Renewal for the current cycle/year. "New" status is valid for 1-year from Exam date. If not "Activated" within 1-year, the "New" license is "Cancelled".
- 4) DPM Provisional License is ISSUED Prior to Next Regularly Scheduled Jurisprudence Exam.

- a. DPM Provisional License EXPIRES Upon Notice of Passage/Failure of Exam or 180 Days; Whichever Comes First. When "Cancelled", this is reflected in "Status Change" the date when cancellation made.
  - b. DPM Provisional License May Be Issued a Maximum of Three (3) Times; Upon Re-Examination Application.
- 5) DPM Hyperbaric Oxygen (HBO) Registration Renewals BEGIN Annually on December 31st.
- a. DPM Hyperbaric Oxygen (HBO) Registrations EXPIRE Annually on January 31st @ Midnight.
- 6) DPM Nitrous Oxide (N2O) Registration Renewals BEGIN Annually on December 31st.
- a. DPM Nitrous Oxide (N2O) Registrations EXPIRE Annually on January 31st @ Midnight.
- 7) Podiatry Resident (Temporary) License Renewals *BEGIN* Annually on May 1st.
- a. Podiatry Resident (Temporary) Licenses *EXPIRE* Annually on June 30th @ Midnight.
  - b. "Temporary" Licenses ("New" & "Renewals") are "Issued" effective July 1st and "Expire" effective June 30th of the next year. Although they are complete/processed when "Fee Received", they are only effective July 1st.
  - c. A new "Temporary" license number is issued each year for Residents whether it be a "New" license or a "Renewal".
  - d. "Temporary" Licenses are "Cancelled" by operation of law at cycle/year end. This is reflected in the change of "Status" and in the "Expiration Date" field ... but no changes are made to the "Status Change" field.
- 8) Rad-Tech Registration Renewals BEGIN Annually on December 1st.
- a. Rad-Tech Registrations EXPIRE Annually on December 31st @ Midnight.
  - b. Registration ("New" or "Renewal", upon successful application) is complete (i.e. "Active" Status) when "Fee Received".
  - c. Q1 Note: TPMA typically sends in "New" Rad-Tech applications after their September meeting/training conference. Those "New" September Rad-Techs are issued registrations for a full cycle through the next year since all other prior/existing registered Rad-Tech's will renew beginning in December with a December 31st deadline through the next cycle/year.
  - d. "Expired" Status = Failure to renew annual registration. Expired by operation of law. No need to reflect in "Status Change Date". "Status" changes from "Active" to "Expired" at cycle end.
  - e. "Cancelled" Status = Registration cancelled upon request of DPM or Rad-Tech; no longer employed by DPM's practice. Reflected in "Status Change Date" when cancellation made.
- 9) DPM LICENSE STATUS: "License Status" has the following possible meanings:
- a. NEW = Upon successfully passing the examination, an applicant is given a "New" designation and then shall submit an "Activation" fee for an "Active" license (i.e. registration for the remainder of the current year) in order to lawfully practice podiatric medicine in the State of Texas. Practice without activating a license is a criminal act in violation of Texas Occupations Code §202.605 "General Criminal Penalty: Practice Without License." If a "New" license is not activated within one

year of examination date, the license will be "Cancelled." The applicant is then required to re-submit the entire application and applicable fees for licensure which includes re-taking the examination.

- b. PENDING = The term "Pending" indicates that a DPM license renewal has been initiated but the Board is awaiting completion of financial/payment verification through the Texas Comptroller of Public Accounts. Once payment verification has been completed, the license status will be changed to "Active."
- c. ACTIVE = DPM license is current and has been renewed. A person may renew his unexpired license by paying to the Board before the expiration date of the license the required renewal fee. A license to practice podiatric medicine expires ANNUALLY on November 1<sup>st</sup> @ 11:59 p.m. To be eligible to renew the license, a licensee must comply with the continuing education requirements prescribed by the Board. Upon completion of proper renewal, an annual renewal certificate for the current year is issued. For purposes of public verification, the license is considered to be in an "Active" status.
- d. INACTIVE = DPM license has been placed on "Inactive" status at the request of the licensee. A holder of a license that is on "Inactive" status may NOT practice podiatric medicine in this state and may remain on "Inactive" status for four (4) years. If licensee does not return to "Active" status prior to the expiration of four (4) years, the license is "Delinquent" and the licensee must pay a late renewal penalty in addition to the requirements for returning to "Active" status.
- e. DELINQUENT = DPM has failed to renew license for the current year. For purposes of public verification, the license is considered to be in a "Delinquent" status. Subject to certain limitations, a licensee in a "Delinquent" status is not fully prohibited from practicing during a 30-day grace period from November 1<sup>st</sup> - December 1<sup>st</sup>. However, if any entity providing the licensee clinical privileges wishes to restrict a licensee in a "Delinquent" status, for liability reasons, they may do so. "Delinquent" license holders are allowed a 30-day grace period to renew their licenses. Beginning on December 1<sup>st</sup> of each year, the Board will enforce practicing without a license penalties to include the issuance of Cease & Desist Notices or Orders. If a person's "Delinquent" license has been expired for 90 days or less, the person may renew the license by paying to the Board a fee equal to 1-1/2 times the required renewal fee. If a person's "Delinquent" license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the Board all unpaid renewal fees and a fee that is equal to two times the required renewal fee. A person with an expired license 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.
- f. CANCELLED = DPM license is "Cancelled" by request or if a person's "Delinquent" license has been expired for one year or longer (operation of law), the person may not renew the license. For purposes of public verification, the license is then considered to have been "Cancelled". The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license. A person with a "Cancelled" license



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.

- g. TEMPORARY = Podiatry Residents enrolled in an accredited GPME residency (training) program hold a "Temporary" license (i.e. No. "T##-####"). All "Temporary" licenses expire ANNUALLY by June 30<sup>th</sup>. Licenses not applied for or not renewed by this deadline are subject to all administrative and criminal penalties of "Practicing Without A License." A "Temporary" licensee (i.e. Podiatry Resident) granted a "Temporary" license for the purpose of pursuing a GPME program in the State of Texas shall not engage in the ("Active") practice of podiatric medicine, whether for compensation or free of charge, outside the scope and limits of the GPME program in which he or she is enrolled. A "Temporary" license holder shall not be considered to be a fully "Active" licensed podiatrist as provided under §378.13 of the Board Rules who independently practices podiatric medicine without supervision. A "Temporary" license holder is a person in training and is limited by the GPME program in which he or she is enrolled for residency based supervised patient encounters, supervision of which is designed to protect patients and the citizens of Texas.
- h. PROVISIONAL = DPM who has met the qualifications for "Active" licensure and is awaiting the next scheduled License Exam, but is allowed to conditionally practice (with certain limitations) under the sponsorship of an "Actively" licensed DPM in good standing.
- i. EMERGENCY PROVISIONAL = DPM who is allowed to conditionally practice (with certain limitations) under the sponsorship of an "Actively" licensed DPM in good standing ... BUT ONLY for the purpose of responding to a disaster in the state of Texas upon the issuance of a declaration by the Governor of Texas or the President of the United States.
- j. RETIRED = DPM license has been "Retired" and person shall not practice.
- k. EXEMPT = DPM is in Full-Time Active Duty U.S. Military Service. Pursuant to Texas Occupations Code §202.304, Full-Time Active Duty U.S. Military podiatrists are not required to pay the license renewal fee; however, they are required to renew their licenses annually and must along with the renewal submit a letter to the Board from their Commanding Officer affirming U.S. Military service.
- l. DECEASED = DPM licensee is deceased.
- m. REVOKED = DPM license has been revoked by "Disciplinary Action" and person shall not practice.
- n. SUSPENDED = DPM license has been suspended by "Disciplinary Action" and person shall not practice within a specified period of time in accordance with Board order.
- o. DISCIPLINARY ACTION: If the "Disciplinary Action" field contains a "YES" it means that the TSBPME has taken disciplinary action against the licensee. Board orders can be viewed/printed at the following [www.tsbpme.texas.gov/verification.disciplinary.htm](http://www.tsbpme.texas.gov/verification.disciplinary.htm).

- G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

Licensing is exclusively funded by the agency's appropriation (GR); we receive no federal funding.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

There are no other programs that provide this licensing function for podiatric physicians in Texas and the registration function for podiatry radiological technicians.

- I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

- J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

N/A

- K. If contracted expenditures are made through this program please provide:**
- a short summary of the general purpose of those contracts overall;
  - the amount of those expenditures in fiscal year 2014;
  - the number of contracts accounting for those expenditures;
  - top five contracts by dollar amount, including contractor and purpose;
  - the methods used to ensure accountability for funding and performance; and
  - a short description of any current contracting problems.

Texas Occupations Code §202.254(c) "Examination" requires that the Board's license exam be validated by an independent testing professional. To that end, we have entered into an interagency contract with the University of Texas at Austin - Department of Statistics and Data Sciences for exam validation services valued at \$800.00 per fiscal year. The interagency contract amount has never exceeded \$800.00 per fiscal year. The University of Texas at Austin - Department of Statistics and Data Sciences provides detailed exam analyses reports and these reports are tracked per exam date to review exam performance and report quality.

**L. Provide information on any grants awarded by the program.**

N/A

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

Outsourcing of the license exam to a national testing vendor would reduce examination costs for the agency and for the applicants, in addition to allowing the applicants to test from their home state thus reducing their travel costs to Austin. We would require funding for the initial step in development of outsourcing the exam.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

In 2002, the Board approved a change in its licensing examination process, moving the clinical licensing examination from its old oral/practical format to its present form, a written jurisprudence examination. This new examination format was rolled out and utilized for the first time on July 19, 2002. The Board's jurisprudence examination is independently validated by the University of Texas at Austin - Department of Statistics and Data Sciences via interagency contract, in accordance with Texas Occupations Code §202.254(c).

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

See Item F above. Licensing is necessary to ensure that only well qualified and properly trained podiatric physicians can practice in Texas. The DPM license is valid for a one-year period. This allows us to monitor each licensee annually for compliance with the Board's Rules and Statute regarding licensing, including Continuing Medical Education Units. If a licensee is found to be non-compliant, they are not allowed to renew their license.

## VIII. Statutory Authority and Recent Legislation

A. Fill in the following charts, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2011–2015, or earlier significant Attorney General opinions, that affect your agency’s operations.

**Texas State Board of Podiatric Medical Examiners  
Exhibit 12: Statutes / Attorney General Opinions**

**Statutes**

Citation / Title	Authority / Impact on Agency <i>(e.g., “provides authority to license and regulate nursing home administrators”)</i>
Title IV of Public Aaw 99-660; the Health Care Quality Improvement Act of 1986, as amended 42 USC Sec. 11101 01/26/98	Authority to Query & Report to the National Practitioner Databank.
TGC Sections 411.087, 411.088, 411.122, 411.135, 411.1405 (HB 660; 78th Regular Legislative Session); CCP Article 60.061 and, 28 CFR 16.34 & 50.12.	Authority to conduct Criminal Background Checks

Table 10 Exhibit 12 Statutes

**Attorney General Opinions**

Attorney General Opinion No.	Impact on Agency
N/A	N/A

Table 11 Exhibit 12 Attorney General Opinions

**B. Provide a summary of recent legislation regarding your agency by filling in the charts below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). Place an asterisk next to bills that could have a major impact on the agency.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 13: 84th Legislative Session**

***Legislation Enacted***

<b>Bill Number</b>	<b>Author</b>	<b>Summary of Key Provisions</b>
SB195*	Schwertner	Prescription Drug Monitoring Program Changes (from TxDPS to TSBP).
SB202*	Nelson, Birdwell, Campbell, Hinojosa, Schwertner	Relating to the transfer of certain occupational regulatory programs and the deregulation of certain activities and occupations (affecting Podiatry Radiology Technician Training provided by the Texas Podiatric Medical Association).
SB207*	Hinojosa, Birdwell, Campbell, Nelson, Schwertner	Relating to the authority and duties of the office of inspector general of the Health and Human Services Commission (creating a MOU between the TxHHSC-OIG & TSBPME).

Table 12 Exhibit 13 Legislation Enacted 84th Leg

***Legislation Not Passed***

<b>Bill Number</b>	<b>Author</b>	<b>Summary of Key Provisions / Reason Bill Did Not Pass</b>
N/A	N/A	N/A

Table 13 Exhibit 13 Legislation Not Passed 84th Leg

## IX. Major Issues

The purpose of this section is to briefly describe any potential issues raised by your agency, the Legislature, or stakeholders that Sunset could help address through changes in statute to improve your agency's operations and service delivery. Inclusion of an issue does not indicate support, or opposition, for the issue. Instead, this section is intended to give the Sunset Commission a basic understanding of the issues so staff can collect more information during our detailed research on your agency. Some questions to ask in preparing this section may include: (1) How can your agency do a better job in meeting the needs of customers or in achieving agency goals? (2) What barriers exist that limit your agency's ability to get the job done?

Emphasis should be given to issues appropriate for resolution through changes in state law. Issues related to funding or actions by other governmental entities (federal, local, quasi-governmental, etc.) may be included, but the Sunset Commission has no authority in the appropriations process or with other units of government. If these types of issues are included, the focus should be on solutions which can be enacted in state law. This section contains the following three components.

- A. Brief Description of Issue**
- B. Discussion**
- C. Possible Solutions and Impact**

Texas population growth along with the public's expectations and needs for state agency service delivery have not decreased, in spite of several budget/staff reductions since our last (2003-2005) Sunset review. We continue to attempt to reconcile the public's service delivery needs/expectations with the reality of budgetary limitations. We remain weary of having to increase license fees every 2 years to fund the Board's functions in meeting legislative mandates. Podiatrists already pay some of the highest "Annual" license renewal fees at \$520.00 and they do not want any further fee increases. The Board strives to seek a fair balance amongst the complex challenges of rising fees, increased mandates, increased costs and reduced/limited resources. One could argue that state agencies increasingly face the notion of "regulatory poverty" whereby current funding levels/limitations are not sufficient to meet day-to-day mandates. Nevertheless, the Texas Legislature appropriates agency funds in accordance with performance and target expectations via the Legislative Appropriations Request (LAR) process every 2 years.

The Board does not have a medical director (FTE position) like that of the Texas Medical Board, the Texas State Board of Pharmacy, the Texas Board of Nursing and the Texas State Board of Dental Examiners. Our licensing & enforcement efficiency would benefit greatly by having an in-house DPM medical director who could better assist the Board and the executive director in rendering day-to-day clinical (i.e. standard of care & scope of practice) reviews relating to license applications, continuing education and the investigation of complaints. A DPM medical

director would offload the executive director's workload in attending to those issues as the executive director's job duties relate, including but not limited, to: 1) Supporting all agency staff and clinical case reviewers in their functions; 2) Capitol/Legislative/Executive/Judicial branch & Board member/meeting, Interagency affairs; 3) Investigations/Enforcement and related travel/on-site activities; 4) Personnel/Human Resources; 5) "Foot" rules/litigation & Scope of Practice; 6) Open Records/Public requests for information; 7) Audits; 8) Website content/development/maintenance; 9) Information Technology coordination; 10) Health Professions Council Chair; 11) Agency's Chief Financial Officer and 12) Other duties as assigned.

We must obtain additional funding that will allow us to be able to fund the SOAH hearings necessary to complete investigations that are at the point of needing to be heard by SOAH. We continue to witness license holders committing criminal violations (e.g. Medicare/Medicaid fraud, drug abuse) along with a new trend of out-of-state applicants with criminal convictions/histories attempting to obtain a Texas podiatry license. We believe that the climate of low litigation/regulation in Texas is attracting bad actors from out-of-state who are escaping trouble in their home state thinking they can come to a large state like Texas without facing consequences here for their criminal conduct, conduct of which places the public at direct risk for harm.

Regarding the perennial "Foot" (rule) scope of practice contest, on 11/07/2002 the TOA/TMA filed a lawsuit against the TSBPME. The TPMA subsequently intervened. As of 06/18/2010 & 07/30/2010, final "Foot" litigation (formerly pending since 2008) before the Texas Supreme Court (Case No. 08-0485) resulted in a decision by the Texas Supreme Court upholding the March/May 2008 Texas 3rd Court of Appeals (3rd COA) Opinions invalidating the Board's definition of "Foot." The medical (TMA/TOA) and podiatric (TPMA) trade associations continue to deliberate podiatry scope of practice; with this agency remaining hopeful for an ultimate/final legislative remedy as directed by the Texas 3rd COA (i.e. "Footnote 7"). This matter remains of primary importance as scope of practice sets the parameters in which the profession and the agency functions/exists. As long as scope of practice remains unclear, there remains ambiguity on the agency's potential for clear regulation (Licensure/Enforcement) and to seek legislative resources (additional staff and funding) to ensure the agency can proactively remain strong for the future. Podiatry scope of practice ultimately is a matter for final determination by the Texas Legislature. The 82nd Legislative Session began in January 2011. By the conclusion of the 82nd Texas Legislative Session in May 2011, HB1980/Laubenberg & SB 1264/Uresti died in Committee. As no action was taken by the 82nd Texas Legislature on those identical/companion bills, podiatry scope of practice determinations continue to be made in reference to and in accordance with the March/May 2008 Texas 3rd Court of Appeals Opinions (upheld by the Texas Supreme Court on July 30, 2010) and the statutory definition of "Podiatry" found in Texas Occupations Code §202.001(a)(4). This matter is discussed in detail in our FY 2015-2019 Strategic Plan.

The opportunity exists to strengthen our agency's operating budget by recovering and increasing our appropriation with requisite additional funds and staff that are necessary to provide the level of regulation and service that we are committed to, that our licensees have a right to expect and that citizens of Texas demand. These funds already reside in revenue

(licensing fees) that our agency collects as un-appropriated funds. We request that this appropriation increase come from these unappropriated funds.



## X. Other Contacts

**A. Fill in the following charts with updated information on people with an interest in your agency, and be sure to include the most recent email address.**

### Texas State Board of Podiatric Medical Examiners Exhibit 14: Contacts

#### **Interest Groups**

*(groups affected by agency actions or that represent others served by or affected by agency actions)*

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Texas Podiatric Medical Association; Don Canada, Executive Director	918 Congress Ave, Suite 200 Austin, Texas, 78701	512-494-1123	don@txpma.org
Law Offices of Hanna & Anderton; Mark Hanna, JD	900 Congress Avenue, Suite 250 Austin, Texas 78701	512-477-6200	mhanna@markjhanna.com

Table 14 Exhibit 14 Interest Groups

#### **Interagency, State, or National Associations**

*(that serve as an information clearinghouse or regularly interact with your agency)*

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Federation of Podiatric Medical Boards; Russel Stoner, Executive Director	12116 Flag Harbor Drive Germantown, MD 20874-1979	202-810-3762	fpmb@fpmb.org

Table 15 Exhibit 14 Interagency, State, and National Association

#### **Liaisons at Other State Agencies**

*(with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)*

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Texas AG's Office; Melissa Juarez, JD, AAG	300 W 15th St Austin, Texas 78701	512-475-3209	melissa.juarez@texasattorneygeneral.gov
Governor's Office of Budget & Policy; We have not been contacted by our GOB&P analyst	Office of the Governor P.O. Box 12428 Austin, Texas 78711-2428	512-463-2000	We have not been contacted by our GOB&P analyst
Legislative Budget Board; Trevor Whitney, Analyst	1501 Congress Ave, 5th Fl Austin TX 78711	512-463-8203	Trevor.Whitney@lbb.state.tx.us
Texas Health Professions Council; John Monk, Administrative Officer	333 Guadalupe St, Ste 2-220 Austin, Texas 78701	512-305-8550	john@hpc.texas.gov

Table 16 Exhibit 14 Liaisons at Other State Agencies

## XI. Additional Information

**A. Texas Government Code, Sec. 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 15: Evaluation of Agency Reporting Requirements**

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
Other than 66 "general reports" required, we do not have any other "agency-specific" reports to identify.	N/A	N/A	N/A	N/A	N/A

**Table 17 Exhibit 15 Agency Reporting Requirements**

*Note: If more than one page of space is needed, please provide this chart as an attachment, and feel free to convert it to landscape orientation or transfer it to an Excel file.*

**B. Has the agency implemented statutory requirements to ensure the use of "first person respectful language"? Please explain and include any statutory provisions that prohibits these changes.**

This appears to relate to Texas Government Code §531.0227 and the Texas Health & Human Services Commission agencies. We use respectful language in all agency communications.

**C. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 16: Complaints Against the Agency — Fiscal Years 2013 and 2014**

	Fiscal Year 2013	Fiscal Year 2014
Number of complaints received	0	0
Number of complaints resolved	0	0
Number of complaints dropped / found to be without merit	0	0
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	0	0

Table 18 Exhibit 16 Complaints Against the Agency

**D. Fill in the following charts detailing your agency's Historically Underutilized Business (HUB) purchases.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 17: Purchases from HUBs**

**Fiscal Year 2013**

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction	N/A	N/A	N/A	N/A	11.2%
Building Construction	N/A	N/A	N/A	N/A	21.1%
Special Trade	N/A	N/A	N/A	N/A	32.7%
Professional Services	\$4,406.50	\$4,406.50	100%	20%	23.6%
Other Services	\$5,934.31	\$0.00	0%	20%	24.6%
Commodities	\$4,274.74	\$3,360.42	78.61%	20%	21.0%
<b>TOTAL</b>	<b>\$14,615.55</b>	<b>\$7,766.92</b>	<b>53.14%</b>	<b>20%</b>	

Table 19 Exhibit 17 HUB Purchases for FY 2013

\* If your goals are agency specific-goals and not statewide goals, please provide the goal percentages and describe the method used to determine those goals. (TAC Title 34, Part 1, Chapter 20, Rule 20.13)

**Fiscal Year 2014**

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	N/A	N/A	N/A	N/A	11.2%
Building Construction	N/A	N/A	N/A	N/A	21.1%
Special Trade	N/A	N/A	N/A	N/A	32.7%
Professional Services	\$12,571.00	\$12,571.00	100%	20%	23.6%
Other Services	\$9,977.92	\$267.75	2.68%	20%	24.6%
Commodities	\$9,914.60	\$7,065.90	71.27%	20%	21.0%
<b>TOTAL</b>	<b>\$32,463.52</b>	<b>\$19,904.65</b>	<b>61.31%</b>	<b>20%</b>	

Table 20 Exhibit 17 HUB Purchases for FY 2014

**Fiscal Year 2015**

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	N/A	N/A	N/A	N/A	11.2%
Building Construction	N/A	N/A	N/A	N/A	21.1%
Special Trade	N/A	N/A	N/A	N/A	32.7%
Professional Services	\$4,588.50	\$4,588.50	100%	20%	23.6%
Other Services	\$4,132.60	\$0.00	0%	20%	24.6%
Commodities	\$13,195.61	\$12,970.79	98.30%	20%	21.0%
<b>TOTAL</b>	<b>\$21,916.71</b>	<b>\$17,559.29</b>	<b>80.12%</b>	<b>20%</b>	

Table 21 Exhibit 17 HUB Purchases for FY 2015

**E. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)**

Yes. Review Comptroller Annual HUB Reports for expenditure data to identify if purchases can be made with a HUB vendor if possible.

**F. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)**

N/A

**G. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.**

**1. Do you have a HUB coordinator? If yes, provide name and contact information. (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.26)**

N/A

**2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.27)**

N/A

**3. Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.28)**

N/A

**H. Fill in the charts below detailing your agency's Equal Employment Opportunity (EEO) statistics.**

**Texas State Board of Podiatric Medical Examiners  
Exhibit 18: Equal Employment Opportunity Statistics**

**1. Officials / Administration**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	3	0%	8.99%	66.66%	19.51%	66.66%	39.34%
2014	3	0%	8.99%	66.66%	19.51%	66.66%	39.34%
2015	3	0%	8.99%	66.66%	19.51%	66.66%	39.34%

Table 22 Exhibit 18 EEO Statistics for Officials/Administration

**2. Professional**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	3	0%	11.33%	66.66%	17.4%	66.66%	59.14%
2014	3	0%	11.33%	66.66%	17.4%	66.66%	59.14%
2015	3	0%	11.33%	66.66%	17.4%	66.66%	59.14%

Table 23 Exhibit 18 EEO Statistics for Professionals

**3. Technical**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	N/A	N/A	14.16%	N/A	21.36%	N/A	41.47%
2014	N/A	N/A	14.16%	N/A	21.36%	N/A	41.47%
2015	N/A	N/A	14.16%	N/A	21.36%	N/A	41.47%

Table 24 Exhibit 18 EEO Statistics for Technical

**4. Administrative Support**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	0	N/A	13.57%	N/A	30.53%	N/A	65.62%
2014	1	0%	13.57%	25%	30.53%	25%	65.62%
2015	1	0%	13.57%	25%	30.53%	25%	65.62%

Table 25 Exhibit 18 EEO Statistics for Administrative Support

**5. Service / Maintenance**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	N/A	N/A	14.68%	N/A	48.18%	N/A	40.79%
2014	N/A	N/A	14.68%	N/A	48.18%	N/A	40.79%
2015	N/A	N/A	14.68%	N/A	48.18%	N/A	40.79%

Table 26 Exhibit 18 EEO Statistics for Service and Maintenance

**6. Skilled Craft**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	N/A	N/A	6.35%	N/A	47.44%	N/A	4.19%
2014	N/A	N/A	6.35%	N/A	47.44%	N/A	4.19%
2015	N/A	N/A	6.35%	N/A	47.44%	N/A	4.19%

Table 27 Exhibit 18 EEO Statistics for Skilled Craft

**I. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?**

Yes. All employees at this agency are considered to be minorities.

**XII. Agency Comments**

We understand the tremendous and incredible continued economic challenges facing the State of Texas and the United States of America. We submit our budgetary requests to the Texas Legislature in careful balance of limiting costs while seeking to maintain an effective service delivery level for our licensees (whose fees 100% fund the operations of the Board and whose excess fees remain in GR) and the public. Nevertheless, Texas population growth along with the public's expectations and needs for state agency service delivery have not decreased, in spite of several budget/staff reductions since our last (2003-2005) Sunset review. We continue to attempt to reconcile the public's service delivery needs/expectations with the reality of budgetary limitations.

In order to resolve these issues and achieve the goal of operating the best licensing and complaint investigation process possible for the public, we are in need of the following: 1) Budget stability, 2) A DPM medical director, 3) Increased SOAH funding and 4) Scope of practice resolution. These resources will allow us to “keep-up” with Texas Population growth.

Thank you for the opportunity to make this submission.

## ATTACHMENTS

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### Attachments Relating to Key Functions, Powers, and Duties

1. TSBPME Enabling Statute – Texas Occupations Code Chapter 202.  
<http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.202.htm>
2. Annual report published by the agency from FY 2012–2015. (N/A)
3. Internal or external newsletters published by the agency from FY 2014–2015.  
TSBPME Board Statute & Rules Regulatory Hi-Lites  
<http://www.tsbpme.texas.gov/ga.htm#g6>
4. List of publications and brochures describing the agency. (Link Only)  
<http://tsbpme.texas.gov/>  
<http://tsbpme.texas.gov/info.htm>  
<http://tsbpme.texas.gov/ga.htm>
5. List of studies that the agency is required to do by legislation or riders. (N/A)
6. List of legislative or interagency studies relating to the agency that are being performed during the current interim. (N/A)
7. List of studies from other states, the federal government, or national groups/associations that relate to or affect the agency or agencies with similar duties or functions. Provide links if available.  
Federation of Podiatric Medical Boards Compendium  
<https://www.fpmbo.org/Resources/Compendium.aspx>

### Attachments Relating to Policymaking Structure

8. TSBPME Board Member Biographical Information.  
<http://www.tsbpme.texas.gov/info.members.htm>
9. TSBPME most recent rules.  
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=3&ti=22&pt=18](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=22&pt=18)

### Attachments Relating to Funding

10. TSBPME Legislative Appropriations Request for FY 2016–2017.  
<http://www.tsbpme.texas.gov/agencydocuments/84thSessionLARsubmission-TSBPME.PDF>
11. TSBPME Annual Financial Reports from FY 2012–2014.  
<http://www.tsbpme.texas.gov/agencydocuments/FY12-AFR-TSBPME.pdf>  
<http://www.tsbpme.texas.gov/agencydocuments/FY13-AFR-TSBPME.pdf>  
<http://www.tsbpme.texas.gov/agencydocuments/FY14-AFR-TSBPME.PDF>
12. TSBPME Operating Budgets from FY 2013–2015.  
<http://www.tsbpme.texas.gov/agencydocuments/FY14-OperatingBudget-TSBPME.pdf>

### Attachments Relating to Organization

13. TSBPME map to illustrate headquarters location. (Link Only)  
<http://www.tsbpme.texas.gov/contact.htm>

### Attachments Relating to Agency Performance Evaluation

14. TSBPME Quarterly Performance Reports completed by the agency in FY 2012–2015.
15. Any recent studies on the agency or any of its functions conducted by outside management consultants or academic institutions. (N/A)
16. TSBPME current internal audit plan (Risk Assessment).
17. TSBPME current (2014) Strategic Plan FY 2015 - 2019.  
<http://www.tsbpme.texas.gov/agencydocuments/FY2015-2019SPreportFinal.PDF>
18. Internal audit reports from FY 2011–2015 completed by or in progress at the agency. (N/A; See #16)
19. List of State Auditor reports from FY 2011–2015 that relate to the TSBPME or any of its functions.  
<http://www.sao.state.tx.us/reports/main/11-046.pdf>  
<http://www.sao.state.tx.us/reports/report.aspx?reportnumber=12-708>  
<http://www.sao.state.tx.us/reports/main/14-701.pdf>



<https://www.sao.state.tx.us/reports/report.aspx?reportnumber=14-703>

<https://www.sao.state.tx.us/reports/report.aspx?reportnumber=14-705>

20. TSBPME Customer Service Surveys in FY 2014–2015.

<http://www.tsbpme.texas.gov/agencydocuments/FY2015-2019SPreportFinal.PDF>