



# Texas State Board of Podiatric Medical Examiners

## Agency at a Glance

The mission of the Texas State Board of Podiatric Medical Examiners is to protect the public by ensuring that those who provide podiatric services are qualified, competent, and adhere to established professional standards. The State began regulating the practice of podiatry in 1923 through the Board of Chiropody Examiners within the Board of Medical Examiners. It became an independent agency in 1939 and, in 1967, the Legislature changed the name of the agency to more accurately reflect its responsibility to regulate podiatry instead of chiropody. In 1995, the Legislature gave the agency its current name of Board of Podiatric Medical Examiners.

To accomplish its mission, the Board:

- licenses qualified podiatrists and registers podiatric medical radiologic technologists;
- ensures compliance with the Podiatric Medical Practice Act and Board rules by investigating and resolving complaints alleging illegal or incompetent practice of podiatry, and by taking disciplinary action when necessary; and
- provides information to the public.

## Key Facts

- **Funding.** In fiscal year 2004, the Board operated on a \$205,000 budget and collected about \$390,000 in revenue from licensing and examination fees.
- **Staffing.** The Board currently has four staff, up from two in fiscal year 2004, all based in Austin.
- **Licensing.** The Board regulates about 850 podiatrists and 325 podiatric medical radiologic technicians.
- **Enforcement.** In fiscal year 2004, the Board resolved 107 complaints from the public, insurance companies, other government agencies, and those initiated by the Board.



*For additional information, please contact Amy Trost at 512-463-1275.*

## **Board Members (9)**

Bradford Glass, DPM, President (Midland)  
Bruce A. Scudday, DPM, Vice President (El Paso)  
Richard C. Adam, DPM (San Antonio)  
Carol Lee Roberts Baker (Houston)  
Doris A. Couch (Burlleson)

Sandra Cuellar, DPM (Dallas)  
Paul Kinberg, DPM (Dallas)  
Matthew Lynch, DPM (Temple)  
Matthew Washington (Missouri City)

## **Agency Head**

Jim Zukowski, Ed.D., Executive Director  
(512) 305-7000

## **Recommendations**

1. Continue the Texas State Board of Podiatric Medical Examiners for 12 Years.
2. Conform Key Elements of the Board's Licensing and Regulatory Functions to Commonly Applied Licensing Agency Practices.

## ***Issue 1***

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### **Texas Has A Continuing Need for the Texas State Board of Podiatric Medical Examiners.**

#### **Key Findings**

- Texas has a continuing interest in licensing and regulating podiatrists.
- The Texas State Board of Podiatric Medical Examiners protects the public by ensuring that qualified individuals practice podiatry.

Over the last 50 years, podiatry has evolved into a complex profession, with podiatrists now having full prescriptive authority, performing surgery, and admitting patients to hospitals. Only medical and osteopathic doctors also have these same privileges. The Board receives complaints of serious allegations against podiatrists, including death, fraud, and substance abuse. To protect the public safety and welfare, the need exists for the continued licensing and regulation of podiatry in Texas.

#### **Recommendation**

##### **Change in Statute**

##### **1.1 Continue the Texas State Board of Podiatric Medical Examiners for 12 years.**

This recommendation would continue the Board as a separate, stand-alone agency for the standard 12-year period.

## ***Issue 2***

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### **Key Elements of the Board's Licensing and Regulatory Functions Do Not Conform to Commonly Applied Licensing Practices.**

#### **Key Findings**

- Licensing provisions of the Board's statute do not follow model licensing practices and could potentially affect the fair treatment of licensees and consumer protection.
- Nonstandard enforcement provisions of the Board's statute could reduce the agency's effectiveness in protecting the consumer.
- Certain administrative provisions of the Board's statute conflict with standard practice, potentially reducing the Board's efficiency.

Over the past 25 years, the Sunset Commission has reviewed more than 80 occupational licensing agencies, and in doing so, has identified common standards among them. For example, lack of a full range of penalties may affect the agency's ability to protect the public from practitioners who violate the law and Board rules. A comparison of the Board's statute, rules, and practice with model licensing standards identified variations from these standards and the needed changes to bring the Board in line with model standards.

## Recommendations

### Licensing

#### Change in Statute

- 2.1 Clarify that the Board must address felony and misdemeanor convictions in the standard manner defined in the Occupations Code.**

This recommendation would require the Board to develop rules that follow the general guidelines in Chapter 53 of the Occupations Code, regarding the type of criminal convictions that affect the licensee's ability to practice podiatry and should have a bearing on licensing and disciplinary decisions.

- 2.2 Simplify the process for a podiatrist who holds an active license in another state to be licensed in Texas.**

This recommendation would add a statutory provision that permits a podiatrist to receive a Texas license if the podiatrist holds an active, unencumbered license in another state and complies with other statutory licensing requirements, including taking the jurisprudence examination. The Board would not be required to issue a license, but must ensure that out-of-state applicants meet substantially the same licensing requirements as Texas podiatrists.

- 2.3 Base delinquent license renewal fees on the Board's normally required renewal fee.**

The renewal fee for podiatrists who are delinquent in renewing their licenses would be based on the normal renewal fee set by the Board, not the examination fee. A person whose license has been expired for 90 days or less would pay a renewal fee equal to 1-1/2 times the standard renewal fee. Those whose licenses have been expired for more than 90 days, but less than one year, would pay an amount equal to two times the standard renewal fee.

#### Management Action

- 2.4 The Board should contract with an external entity for jurisprudence examination administration, if found to be cost effective.**

The Board would develop a request for proposal to determine whether an external entity could administer its jurisprudence examination more efficiently and cost effectively than staff. In determining whether to contract for exam administration, the Board should consider advantages and disadvantages to licensees, such as more frequent testing opportunities and exam locations.

- 2.5 The Board should consider implementing staggered license renewals.**

Under this recommendation the Board should strongly consider switching to staggered renewals, taking into account the tremendous burden on staff of the current approach. In considering whether to stagger renewals, the Board should take into account the effects of the increasing number of licensees who renew their licenses through Texas Online. If adopted, the Board would then create a system in which licenses expire on a licensee's birthday for podiatrists, at a minimum. If beneficial, the Board would also stagger renewals for radiologic technicians.

## **Enforcement**

### **Change in Statute**

#### **2.6 Authorize the Board to conduct inspections of podiatrists' premises in the course of an investigation, or to determine compliance with a Board order.**

Under this recommendation, the Board would be able to inspect – on an unannounced basis during reasonable business hours – the offices or clinics of podiatrists in response to a complaint and in the course of an investigation, or to determine compliance with a Board order.

#### **2.7 Require the Board to include one of its public members in the informal settlement process.**

Requiring the Board to include at least one public member in its informal settlement conferences would ensure consumer interests are properly represented in determining whether a violation occurred and what action to take.

#### **2.8 Increase the amount of the Board's administrative penalty authority, and require the Board to adopt an administrative penalty matrix in rule.**

The amount of an administrative penalty the Board would be able to impose on an individual who violates the podiatry statute or Board rule would be increased from \$2,500 to \$5,000 per violation per day. This recommendation reflects the significant amounts of money that can be involved in cases of fraud and would pose as a larger deterrent than the existing penalty amount. The Board would be required to adopt an administrative penalty matrix in agency rules to ensure that the Board develops administrative penalty sanctions that appropriately relate to different violations of the Board's Act or rules.

#### **2.9 Authorize the Board to temporarily suspend a license under certain circumstances.**

The Board would be authorized to temporarily suspend a podiatrist's license upon determination by a committee of the Board that continued practice by the podiatrist threatens the public welfare. Action by a panel of three Board members would be required to temporarily suspend a podiatry license, and could occur by telephone conference call. The Board would also ensure due process to the license holder through subsequent proceedings to resolve issues that are the basis of the temporary suspension.

#### **2.10 Authorize the Board to require a refund as part of the settlement conference process.**

The Board would be allowed under this recommendation to include refunds as part of an informal settlement conference. Refunds would be limited to the amount the consumer paid the podiatrist, and would not include an estimation of other damages or harm.

#### **2.11 Authorize the Board to issue cease-and-desist orders.**

Allowing the Board to issue cease-and-desist orders would enable it to move more quickly to stop unlicensed activity that threatens the health and safety of the public. The recommendation would also authorize the Board to assess administrative penalties against persons who violate cease-and-desist orders.

## Administration

### Change in Statute

#### 2.12 Authorize Board members to receive reimbursement for travel expenses.

This recommendation would remove the conflict between the Podiatry statute and the General Appropriations Act. As a result, Board members would have clear authority to receive reimbursement for all travel expenses, including transportation, meals, and lodging expenses, incurred while conducting Board business.

#### 2.13 Prohibit Board members from serving as voting members on task forces or advisory committees.

This recommendation would prevent Board members from serving as voting members of task forces or advisory committees that develop recommendations to the Board and then voting on the recommendations while serving on the Board.

## Fiscal Implication Summary

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Two recommendations would have a small fiscal impact to the State. These impacts are summarized below.

- **Issue 2** – Basing late license renewal fees on the cost of the renewal, rather than the cost of the licensing exam, would result in an estimated annual revenue gain of \$6,000 because the renewal fee is higher than the examination fee. The Board would need \$820 a year to cover travel costs associated with requiring a public member to attend informal conferences. Authorizing Board members to receive reimbursement for meals and lodging could cost the Board \$3,960 annually.

<i>Fiscal Year</i>	<i>Cost to the General Revenue Fund</i>	<i>Gain to the General Revenue Fund</i>	<i>Net Effect on the General Revenue Fund</i>
2006	\$4,780	\$5,100	\$320
2007	\$4,780	\$5,100	\$320
2008	\$4,780	\$5,100	\$320
2009	\$4,780	\$5,100	\$320
2010	\$4,780	\$5,100	\$320