

Texas State Board of Podiatry Examiners

Final Action: *The Texas State Board of Podiatry Examiners was continued for a 12-year period with changes.*

SB 1080 by I. Harris

Analysis of Major Provisions in the Final Bill

Senate Bill 1080, as introduced, contained the Sunset Commission's recommendations for the Texas State Board of Podiatry Examiners. All of the recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Authorize the board to assess administrative penalties for violations of law or board rules. The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$2,500 per day of violation against licensees who commit serious violations of law or board rules. An administrative penalty may be assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day. The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day of violation be added to the enforcement powers provided in the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without

a license. The board may request the attorney general to bring an action to assess a civil penalty.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. Unless the training requirements are developed by another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The board is required to establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes the state jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Require fees be set by the health care licensing boards to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of administering the board's enabling Act. The board may not set a fee at an amount less than the fee's level as of September 1, 1993.

Set up a process to check, if needed, the services of a podiatrist by a group of peers to see if the care provided is adequate. The legislature authorized podiatric medical societies or association in the state to establish podiatric peer review committees. A review committee evaluates the quality of service rendered by a podiatrist and the competence of the podiatrist

based on the laws governing podiatry. Peer review action may be initiated based on a disagreement or complaint brought before a peer review committee. The records and proceedings of the committee may be disclosed to the Texas State Board of Podiatry Examiners, appropriate federal and state governments, and national accreditation bodies. The records and determinations of the peer review committee are confidential and not subject to subpoena or admissible as evidence in civil or administrative proceedings unless a waiver of the privilege is secured. The peer review is a way for the board to ensure that practitioners are providing quality services.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1080 with the original recommendations of the Sunset Commission related to the Texas State Board of Podiatry Examiners shows that all recommended Sunset Commission across-the-board recommendations were included in the final bill.

All of the Sunset Commission's specific program recommendations remained in the final bill.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Texas State Board of Podiatry Examiners
SB 1080 - I. Harris

Bill Reference	Bill Provision
Page 1, Line 8	Changes references from "chiropractors" or "chiropractic" to "podiatrist" and "podiatry". Adds definitions of the board and the executive director.
Page 2, Line 3 thru Page 7, Line 6	Provides authority for an adequate range of enforcement powers.
Page 7, Line 19 Page 30, Line 7	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 7, Line 23 thru Page 8, Line 16 Page 30, Line 7	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 8, Line 17 thru Page 9, Line 17 Page 30, Line 7	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 9, Line 18 Page 30, Line 7	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 10, Line 1 thru Page 11, Line 3 Page 28, Line 4	Defines grounds for removing a board member and requires the executive director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 11, Line 4	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 11, Line 10	Requires the executive director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 11, Line 14	Requires the executive director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 11, Line 18	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)

**Bill Summary - Enrolled Version
Texas State Board of Podiatry Examiners
SB 1080 - I. Harris**

Bill Reference	Bill Provision
Page 11, Line 21	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 12, Line 1	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 12, Line 10	Continues the Texas State Board of Podiatry Examiners until 2005.
Page 12, Line 13 thru Page 13, Line 16	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 12, Line 22	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 13, Line 19 thru Page 14, Line 2	Establishes training requirements for members of the board.
Page 14, Line 11	Requires that all licensing examinations be validated.
Page 14, Line 13 thru Page 15, Line 3	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 15, Line 5	Requires the board, upon request of an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance. (ATB)
Page 15, Line 11 thru Page 16, Line 13 Page 16, Line 14 Page 16, Line 19 Page 16, Line 25	Requires mandatory continuing education.
Page 16, Line 24 thru Page 17, Line 17	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 17, Line 20 thru Page 19, Line 8	Authorizes a full range of licensing options and requires the boards to set a limit for temporary licenses.

Bill Summary - Enrolled Version
Texas State Board of Podiatry Examiners
SB 1080 - I. Harris

Bill Reference	Bill Provision
Page 18, Line 21	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)
Page 18, Line 22 thru Page 20, Line 2	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 19, Line 11	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 20, Line 3	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 20, Line 19 thru Page 23, Line 17	Standardizes the enforcement process of the podiatry board. Require that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develop procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 23, Line 20 thru Page 28, Line 5	Establishes podiatric peer review committees to evaluate the quality of services rendered by a podiatrist and the competence of the podiatrist.
Page 27, Line 16	Establishes a 1-800 telephone number for complaint information.
Page 28, Line 8	Requires that fees be set by the board as necessary to cover the cost of regulation.
Page 28, Line 23 thru Page 29, Line 24	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 30, Line 2	Specifies that a pending case before the podiatry board is transferred to the State Office of Administrative Hearings on the effective date of the Act.
Page 30, Line 7	Specifies that the changes made related to the requirements for membership for the podiatry board apply only to a member appointed on or after September 1, 1993.
Page 30, Line 14	Establishes the effective date of the Act as September 1, 1993.
Page 30, Line 15	Emergency clause.

