Sunset Advisory Commission

Staff Report

Texas State Board of Podiatric Medical Examiners

2016–2017
85th Legislature

Sunset Advisory Commission

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Cover Photo: The iron perimeter fence was installed in the 1890s, a few years after the completion of the Texas State Capitol. The fence surrounds approximately 22 acres of the Capitol Grounds but only on the east, west, and south sides due to the addition of the Capitol Extension to the north in the early 1990s. Photo Credit: Janet Wood

Texas State Board of Podiatric Medical Examiners

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How to Read Sunset Reports

Each Sunset report is issued *three times*, at each of the three key phases of the Sunset process, to compile all recommendations and action into one, up-to-date document. Only the most recent version is posted to the website. (**The version in bold is the version you are reading**.)

1. Sunset Staff Evaluation Phase

   Sunset staff performs extensive research and analysis to evaluate the need for, performance of, and improvements to the agency under review.

   First Version: The *Sunset Staff Report* identifies problem areas and makes specific recommendations for positive change, either to the laws governing an agency or in the form of management directives to agency leadership.

2. Sunset Commission Deliberation Phase

   The Sunset Commission conducts a public hearing to take testimony on the staff report and the agency overall. Later, the commission meets again to vote on which changes to recommend to the full Legislature.

   Second Version: The *Sunset Staff Report with Commission Decisions*, issued after the decision meeting, documents the Sunset Commission's decisions on the original staff recommendations and any new issues raised during the hearing, forming the basis of the Sunset bills.

3. Legislative Action Phase

   The full Legislature considers bills containing the Sunset Commission's recommendations on each agency and makes final determinations.

   Third Version: The *Sunset Staff Report with Final Results*, published after the end of the legislative session, documents the ultimate outcome of the Sunset process for each agency, including the actions taken by the Legislature on each Sunset recommendation and any new provisions added to the Sunset bill.

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Summary of Sunset Staff Recommendations

Summary

The small size of the Texas State Board of Podiatric Medical Examiners in no way reflects its substantial responsibility to regulate the profession of podiatry. The practice of podiatry requires significant medical expertise and can result in serious harm to the public if not done properly. While podiatrists play an important role in the treatment of numerous foot ailments, their role has become increasingly significant in caring for the epidemic level of patients with diabetes who have complex medical needs.

Consistent with previous reviews, Sunset staff found this small agency struggles to carry out its mission effectively while operating as an independent state agency, especially on the heels of a costly eight-year scope of practice lawsuit and several statewide budget cuts. Having only four staff, every cut and crisis disproportionately affects the agency, particularly since it must perform the same regulatory and administrative functions as other larger health licensing agencies. To make ends meet, the executive director wears multiple hats, essentially acting as the chief executive officer, chief financial officer, and head of investigations and licensing.

This small agency struggles to carry out its mission effectively as an independent agency.

The cumulative impact of the agency's limited resources is most evident in the area of enforcement. Despite efforts to improve performance outcomes, the agency's complaint resolution times consistently fail to meet target performance measures. Over the last five years, the average time to resolve complaints is 493 days. An enforcement case has not gone to the State Office of Administrative Hearings (SOAH) in almost 20 years. While the agency could increase fees to fund additional staff and other resources, the state's approximately 1,100 podiatrists already pay a high annual licensing fee of $520 in fiscal year 2015, making further increases a strain for these individuals. Consequently, the agency finds itself between a rock and a hard place to address its regulatory resource needs.

While significant concerns exist about the agency's ability to adequately function independently, the decision to recommend an alternative organizational structure for the agency cannot be made until after the Sunset reviews of other health licensing agencies. Together, these reviews will consider the potential benefits of consolidation and determine if they are significant enough to justify a major organizational change. Regardless of the organizational structure, the agency should implement the best practices outlined in this report to gain efficiencies and better ensure fair and effective regulation of podiatry services in Texas.

The following material summarizes Sunset staff recommendations on the Texas State Board of Podiatric Medical Examiners.

Issues and Recommendations

Issue 1

Key Elements of the Texas State Board of Podiatric Medical Examiners' Licensing and Regulatory Functions Do Not Conform to Common Licensing Standards.

Sunset staff found that various licensing and enforcement processes of the agency do not match model standards or common practices observed through Sunset reviews of many regulatory agencies. The agency has not used technology fully to ease the burden on applicants and licensees when applying for a license. The agency's lack of a written policy to prioritize complaints increases the risk that scarce agency resources will not be spent most efficiently. The absence of monetary penalty ranges matched to types of infractions in the penalty schedule heightens the possibility of inconsistencies in applying penalties. The use of board members to both investigate complaints and participate in later related disciplinary proceedings introduces more possibility for bias in imposing sanctions. Infrequent use of SOAH risks minimizing the respondent's due process rights in the enforcement process.

Key Recommendations

- Direct the agency to accept all license and registration applications, renewals, and fee payments online; and to administer the Texas podiatric jurisprudence exam online.
- Require the agency to conduct fingerprint-based criminal background checks of all licensure applicants and licensees.
- Require the agency to establish written policies to guide the prioritization of complaints; and to develop and adopt in rule penalty amounts for violations.
- Direct the agency to establish a schedule for conducting each phase of the complaint resolution process.
- Direct the agency to prohibit a board member who investigates a complaint from participating in any resulting disciplinary proceeding.
- Direct the agency to incorporate SOAH into its complaint resolution process.

Issue 2

Texas Should Continue Regulating Podiatrists, but Decisions on the Structure of the Texas State Board of Podiatric Medical Examiners Await Further Review.

Texas has a continuing need to regulate the practice of podiatry. Podiatrists perform surgery, admit patients to the hospital, and have full prescriptive authority. These services, if not performed properly, can have serious consequences to a patient. However, this small independent agency struggles to carry out its important mission, with slow complaint resolution times, unmet performance measures, non-standard enforcement practices, and a lack of on-staff medical expertise.

These issues raise the question of whether the agency's functions should continue in a stand-alone or consolidated organization, particularly considering most states regulate podiatry through some form of combined agency. Several health licensing agencies are under Sunset review at this time. Through

these reviews, Sunset is considering the benefits of consolidation, such as enhanced administrative efficiencies and increased available staff time to perform critical licensing and regulatory functions. Sunset staff will complete the analysis of these benefits in November 2016.

Key Recommendation

- Continue the state's regulation of podiatrists, but postpone the decision on continuation of the Texas State Board of Podiatric Medical Examiners until completion of the Sunset reviews of other health licensing agencies.

Fiscal Implication Summary

Overall, the recommendations in this report would not have a significant fiscal impact to the state, as most are designed to improve internal operations and efficiency at the agency, or change procedures in ways that do not require additional resources.

Agency at a Glance

Agency at a Glance

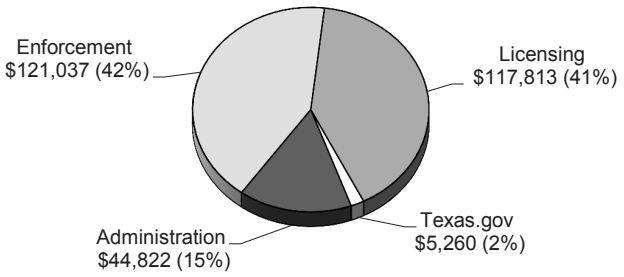
Texas began regulating the practice of podiatry in 1923. The mission of the Texas State Board of Podiatric Medical Examiners is to protect the public by ensuring quality podiatric medical care through enforcing the podiatry statute and agency rules. Key activities of the agency include

- licensing qualified podiatrists and registering podiatric medical radiological technicians; and
- investigating and resolving complaints against licensees and registrants, and taking disciplinary action when necessary.

Key Facts

- **Texas State Board of Podiatric Medical Examiners**. The board comprises nine governor-appointed members who serve staggered six-year terms. Six members are licensed podiatrists and three members represent the public. The board has appointed the following five subcommittees from among its membership: Licensing, Examination, Training, and Education; Investigations; Rules; Budget; and Executive.
- **Funding**. In fiscal year 2015, the agency operated on expenditures of $288,932 with about 96 percent of its funding coming from general revenue and the remainder from appropriated receipts. Revenue generated through fees paid by podiatrists and podiatric medical radiological technicians is deposited into the General Revenue Fund and more than covers the board's operating costs. The pie chart, *Texas State Board of Podiatric Medical Examiners Expenditures*, provides a breakdown of expenditures.

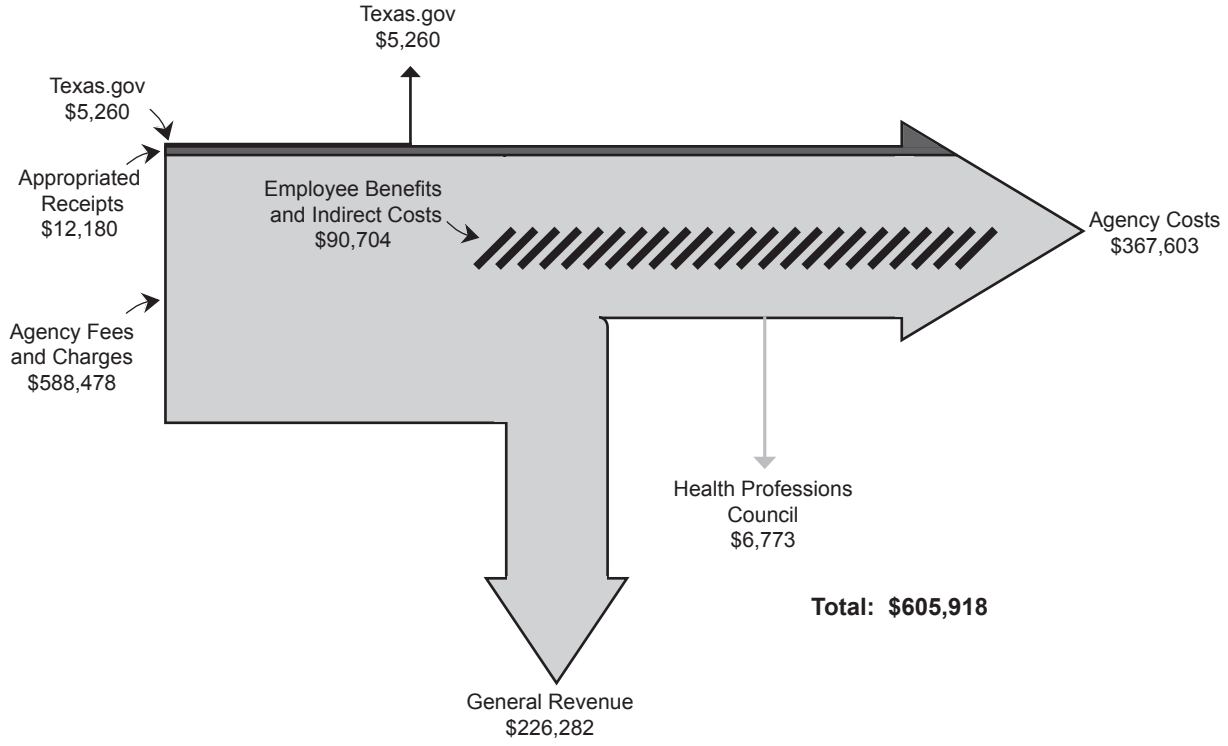
Texas State Board of Podiatric Medical Examiners Expenditures FY 2015



Total: $288,932

Historically, the agency generates revenue through fees well in excess of that needed to cover agency expenditures. As shown in the chart on the following page, *Flow of Texas State Board of Podiatric Medical Examiners Revenue and Expenditures*, the agency generated revenue of $605,918, mainly from licensing fees. After accounting for the agency's costs including employee benefits, payments to Texas.gov, and payments to the Health Professions Council, excess revenue of $226,282 was deposited to the General Revenue Fund in fiscal year 2015. Appendix A, *Historically Underutilized Businesses Statistics*, describes the agency's use of historically underutilized businesses in purchasing goods and services for fiscal years 2013–2015.

Flow of Texas State Board of Podiatric Medical Examiners Revenue and Expenditures FY 2015



- **Staffing**. In fiscal year 2015, the agency employed four staff, all of whom work in Austin. The agency also contracted with two part-time investigators who are licensed podiatrists in Dallas to assist with enforcement. Additionally, the agency is a member of the Health Professions Council that is described in Appendix B. The agency's executive director currently serves as the chair of the council.

- **Licensing and examination**. The agency determines eligibility and processes applications and renewals for two occupations, podiatrists and podiatric medical radiological technicians who perform x-rays and work under the supervision of licensed podiatrists. Candidates for licensure as podiatric physicians in Texas must

  – complete at least 90 semester hours of college courses for credit toward a bachelor's degree;

  – graduate from one of the nine accredited colleges of podiatric medicine in the United States;

  – complete at least one year of podiatric medical residency;

  – pass all three parts of the National Board of Podiatric Medical Licensing Examination;

  – pass the Texas jurisprudence exam, a multiple choice test covering state law and rules regulating podiatry that the agency administers three times a year in Austin; and

  – undergo a background check.

  To become a registered podiatric medical radiological technician, an applicant must be at least 18 years old and complete at least 20 hours of training that includes instruction on radiographic

equipment and radiologic procedures, radiation safety and protection, and methods of patient care and management essential to radiologic procedures.

In fiscal year 2015, the agency regulated 1,093 podiatrists and 469 podiatric medical radiological technicians. Podiatrists must renew their licenses annually for $520 in fiscal year 2015 and get a total of 50 hours of continuing medical education every two years. Podiatric medical radiological technicians must renew their certificates annually for a $35 fee.

- **Enforcement**. The agency receives and investigates complaints against licensees and takes disciplinary action against licensees found to be in violation of agency statute or rule. The agency may sanction licensees by reprimand, administrative penalties, suspension with probation, suspension, and revocation. The agency may require monitoring of sanctioned licensees to determine compliance with conditions placed on these individuals in board enforcement orders. In fiscal year 2015, the agency averaged 398 days to resolve a total of 88 jurisdictional complaints as reported to the Legislative Budget Board.

  The following table, *Enforcement Data for Resolved Complaints*, displays enforcement data by type of complaint and complaint action for the last three fiscal years. In these years, the agency ordered administrative penalties totaling $10,000 and refunds amounting to $16,087. Additionally, the agency assisted federal agencies such as the Federal Bureau of Investigations and the Drug Enforcement Administration with Medicare and Medicaid fraud and drug diversion investigations. Several of these cases resulted in federal courts ordering $1,238,047 in restitution in fiscal year 2013.

Enforcement Data for Resolved Complaints
FYs 2013–2015

					Complaints Dismissed		Complaints Generating Board Ordered Sanctions*			
Primary Complaint Allegation	**Total Complaints Resolved**	**Total Board Orders**	**No Violation Found**	**Out of Board's Jurisdiction**	**Warning Letter**	**Referral**	**Reprimands**	**Suspension**	**Probated Suspension**	**Revocation**
Death	0	0	0	0	0	0	0	0	0	0
Substance Abuse	7	0	0	0	3	4	0	0	0	0
Fraud	56	4	7	2	12	7	0	0	4	24**
Negligence	93	0	66	7	12	8	0	0	0	0
Impaired Physician	3	2	0	0	1	0	1	0	0	1
Inappropriate Physician Behavior	5	0	5	0	0	0	0	0	0	0
Advertising	4	0	3	0	1	0	0	0	0	0
Fees	12	0	7	1	2	2	0	0	0	0
Records	18	0	4	0	12	2	0	0	0	0
Office Inspection	0	0	0	0	0	0	0	0	0	0
TOTAL	**198**	**6**	**92**	**10**	**43**	**23**	**1**	**0**	**4**	**25**

* Multiple complaints against a podiatrist can be grouped and processed in one board order.
** Twenty of these complaints related to a single licensee and type of violation, resulting in one board order to revoke the respondent's license.

Issues

Issue 1

Key Elements of the Texas State Board of Podiatric Medical Examiners' Licensing and Regulatory Functions Do Not Conform to Common Licensing Standards.

Background

The mission of the Texas State Board of Podiatric Medical Examiners is to protect the public's health and safety by ensuring podiatrists and podiatric medical radiological technicians are qualified, competent, and adhere to appropriate professional standards. The agency accomplishes this purpose by licensing podiatrists and registering podiatric medical radiological technicians, and by investigating complaints and taking disciplinary action when necessary.

The Sunset Advisory Commission has a long history in evaluating licensing agencies, as the increase of occupational licensing programs served as an impetus behind the creation of the commission in 1977. Since then, the Sunset Commission has completed more than 100 licensing agency reviews. Sunset staff has documented standards in reviewing licensing programs to guide future reviews of licensing agencies. While these standards provide a guide for evaluating a licensing program's structure, they are not intended for blanket application. The following material highlights areas where the agency's statute and rules differ from these model standards and describes the potential benefits of conforming to standard practices.

Findings

Statutory licensing provisions and agency procedures do not follow model licensing practices, presenting unnecessary hurdles to applicants and reducing the efficiency of agency operations.

- **Missing fingerprint background checks**. To help protect the public's safety, licensing agencies commonly conduct criminal background checks using the Department of Public Safety's (DPS) fingerprint system, which accurately identifies the individual, uncovers criminal history on applicants and licensees nationwide, and provides automatic criminal history updates. The agency began conducting fingerprint background checks on new license applicants in 2005 in place of the less reliable name-based system. However, the agency never required existing licensed podiatrists to undergo a fingerprint background check. Instead, the agency relies on these licensees to self-disclose any criminal history when renewing their licenses. Directing the agency to require licensees who were not fingerprinted for initial licensure to get a fingerprint-based criminal background check at their next renewal would help the agency comprehensively assess each licensee's criminal history to better protect the public.

The agency relies on podiatrists licensed before 2005 to self-disclose criminal history at renewal.

- **Subjective qualification for licensure**. Qualifications for licensure should not overburden applicants or unreasonably restrict entry into practice. Currently, statute requires applicants for licensure to be of "good moral character."[1] Good moral character is a subjective, vague requirement that may be determined inconsistently. In reviewing applications, the agency relies on several provisions in statute and rule that set out guidelines for denying a license based on criminal history.[2] Removing the statutory requirement that applicants be of good moral character would be in line with the agency's current practice of reviewing an applicant's criminal history and denying licenses based on criminal history related to the practice of podiatry.

- **Inadequate use of technology**. The agency does not take sufficient advantage of technology to carry out its licensing, examination, and renewal functions, creating additional work for staff and a burden on the regulated profession.

  Unnecessary and cumbersome application requirements. Application forms should be simple and straightforward, and only require information necessary for the agency to determine the applicant's eligibility for a license. The agency's license application requires notarization, an unnecessary requirement on the applicant that adds no value to the process. The primary purpose of notarization is to verify identity, not truthfulness, and state law already prohibits a person from knowingly making a false entry in a government record.[3] Furthermore, all license applications must be submitted in hard copy and fees must be paid by check. Other state licensing agencies including the State Board of Dental Examiners and the State Board of Pharmacy accept license applications and fees online, which is easier for the applicant and adds little cost to the licensee. The cost to the licensee for online fee payment varies from $2 to $5, depending on the amount of the licensing fee. For example, podiatry residents would pay $4 in addition to the $125 temporary license fee, a small amount when compared to the fee itself and the convenience of online payment. Removing the requirement that applications be notarized and allowing applications and fees to be submitted online would lessen filing hurdles on applicants without reducing the agency's ability to determine an applicant's eligibility for licensure. Accepting online license applications and fees would also be easier and more efficient for agency staff.

The agency does not accept applications and related payments online, reducing convenience to applicants.

  Inflexible examination administration. The exam process should be administered with enough frequency and in enough locations to accommodate demand. The agency only administers the written Texas jurisprudence exam three times a year in Austin, which limits the opportunities for license applicants to sit for the exam. Furthermore, agency staff must devote their already limited time to exam administration. Several occupational licensing agencies, including the State Board of Dental Examiners and Board of Chiropractic Examiners, outsource the administration of their jurisprudence exams at no extra cost through testing service contracts available through the Department of Information

Resources. These exams can be taken online at any time. Outsourcing the Texas jurisprudence exam for podiatric licensure to a testing service would save staff time, and make the exam more accessible and less costly for applicants who would no longer have to travel to Austin.

- **Burdensome license renewal process**. A regulatory agency should have a renewal process that helps ensure adequate oversight of persons or activities regulated. The agency's statute requires podiatrists to renew their licenses annually, which adds to the administrative workload of the agency's small, four-member staff. The agency already uses a two-year timeframe for practitioners' continuing medical education requirements and several other health professionals, including medical doctors, nurses, and pharmacists, renew their licenses every two years. Changing the podiatry license renewal to every two years would ease the administrative tasks of agency staff, and allow the agency to synchronize license renewal and continuing education requirements without compromising oversight of the licensees.

Renewing licenses every two years would ease staff's workload.

- **Restrictive fee authority**. A licensing agency should have authority to set its own licensing and renewal fees. Setting a fee floor in statute limits the agency's ability to lower fees in line with the agency's actual cost to adequately regulate a program. The board's statute currently includes a fee floor, which requires the board to set fees at or above amounts established in 1993.[4] The floor requires a minimum license renewal fee for podiatrists of $250. Removing the statutory fee floor would improve the agency's fee management authority to ensure a funding structure that funds needed operations while also being fair to licensees.

Nonstandard enforcement practices could reduce the agency's effectiveness in protecting the public.

- **Unnecessary and burdensome complaint filing requirement**. As with licensure application forms, complaint forms should be simple and without unnecessary barriers discouraging complaint filing. Although not set out in statute, agency rules authorize notarized complaint forms. The agency estimates it requires notarized complaints about half the time. Notarization could inhibit someone from submitting a complaint because of the time and potential cost just to verify identity. In addition, this requirement is unnecessary as state law already prohibits a person from knowingly making a false entry in a government record.[5] Elimination of the notarization requirement would make complaint filing easier and reduce the possibility of missing a valid enforcement issue.

- **Limited maintenance of complainants' confidentiality**. When investigating complaints, the agency generally sends an un-redacted photocopy of the complaint directly to the podiatrist for response, potentially discouraging people from filing legitimate complaints. For complaints that relate to podiatry services or care, the agency's actions risk potential retaliation against complainants, who could include patients, podiatric office staff,

The agency's actions risk potential retaliation against complainants.

or other healthcare practitioners. While podiatrists may ultimately find out the identity of the complainant as the investigation process proceeds, many other health licensing agencies do their best to protect the identity of complainants for as long as possible.

- **Undefined prioritization of complaints**. Agencies should have a structured and clear process to prioritize complaints to ensure limited resources are allocated to complaints in order of importance. Laws for licensing agencies such as the Texas Medical Board, Board of Nurse Examiners, Board of Examiners of Psychologists, and Board of Veterinary Medical Examiners either establish or require the agency to establish priorities for complaints.

The agency has not developed a consistent means for prioritizing complaints.

Neither statute nor rules of the board establish such requirements, and the agency has not developed a consistent and systematic means of ranking complaints for investigation. The need to set clear priorities is particularly important to allocate scarce investigative resources in an agency of this small size. A statutory directive requiring the agency to develop written guidelines for prioritizing complaints would improve the transparency of the agency's complaint resolution process and help ensure best use of staff's investigative time.

- **Lack of required complaint resolution schedule**. Statute requires the agency to establish a schedule for conducting each phase of the complaint resolution process within 30 days after it is received, and to dispose of all complaints in a timely manner.[6] The agency has not established such a schedule. Complaint backlogs have consistently increased from none at the end of fiscal year 2011 to 30 at the end of fiscal year 2015, and the average time for resolution of jurisdictional complaints was 398 days in fiscal year 2015, well over the performance measure target of 295 days. The agency indicates difficulties in complying with the statutory requirements because of staff and funding losses resulting from budget cuts. The agency should set a schedule for resolving complaints to comply with its statutory requirement, reduce backlogs, and offer more timely protection to the public.

- **Nonstandard process for resolving minor complaints**. In general, regulatory agencies should process and take responsibility for complaints within their jurisdiction because enforcement of the law is one of the major functions underlying their existence. The agency has developed a nonstandard complaint resolution practice whereby the agency forwards minor complaints to the Texas Podiatric Medical Association (TPMA) for "peer review" rather than staff investigating and resolving them. The agency started this process to speed resolution of minor complaints and help eliminate complaint backlogs resulting from its limited staff and budget. However, the process has not been frequently used, with 12 complaints closed through peer review in fiscal years 2011–2015.

The agency has developed a nonstandard complaint resolution practice.

By rule, the agency refers minor complaints to TPMA for peer review on topics such as fee disputes, bedside manner, rude behavior, and common orthotic issues, and receives a report from TPMA on the outcome of

forwarded complaints.[7] TPMA does not charge the agency for this service because the association already carries out this function free of charge for complaints it receives from other sources about its members. TPMA assigns referred complaints to a reviewer who coordinates efforts at complaint resolution between the complainant and respondent. Use of the peer review process does not keep the complainant from initiating a further complaint with the agency if desired.

The agency's use of this nonstandard approach, though well intended, raises a number of issues. A complainant might not see peer review as unbiased and prefer the agency's full complaint resolution process, but does not have the opportunity to do so until after the peer review. Also, the agency cannot treat all complainants similarly, a characteristic promoting fairness, because only those complaints involving a TPMA member qualify for the association's peer review. Eliminating this seldom-used process would bring the agency in line with standard practice and help promote consistent treatment of complainants.

Contrary to best practice, a board member investigating a complaint may participate in the Informal Settlement Conference.

- **Undesirable overlap of investigatory and disciplinary functions**. In general, board members should not be involved in both the investigation of complaints and determining disciplinary action; ideally, complaint investigation should be a staff function. However, if a board member is involved in an investigation, as a best practice, that board member should not be involved in any resulting disciplinary proceedings related to the complaint such as an informal settlement conference or a full board vote on the matter. In-depth exposure to the complaint could result in the board member developing biases about the complaint's validity that could prejudice the outcome of later disciplinary action.

  Typically, the agency's executive director and two podiatrist investigators on contract investigate complaints and prepare investigative reports for future action. However, the agency estimates a board member performs the investigation in about 25 percent of the cases to help process complaints faster. Contrary to best practice, a board member who investigates a complaint may, and occasionally does, participate as one of the three voting board members in the related informal settlement conference. The agency should prohibit a board member involved in investigating a complaint from participating in the resulting informal settlement conference to eliminate the possibility of any bias in determining disciplinary action and promote impartial disciplinary proceedings.

Monetary penalty ranges associated with violations promote consistent decision making.

- **Lack of penalty amount ranges**. An agency's administrative penalty schedule should not only establish levels of severity to guide application of penalties, but also should set out monetary penalty ranges associated with those levels. Such a structure, common in most agencies' administrative penalty schedules adopted in rule, promotes consistency in the application of penalties for similar infractions and gives the public the opportunity to deliberate on fair penalty ranges in the rulemaking process.

The agency has an administrative penalty schedule adopted in rule outlining five increasing levels of severity of violations. These levels of severity relate to violations in categories such as substance abuse, fraud, negligence, misleading advertising, and inappropriate physician behavior. However, no monetary penalty amounts are associated with the violations. Statute permits the agency to levy up to $5,000 per violation per day. The agency applies penalties as it sees fit in lower amounts for minor administrative infractions such as deceptive advertising up to the maximum $5,000 limit for major standard of care issues such as those that could result in death. Adding a range of monetary penalty amounts to the agency's administrative penalty schedule would promote fairness in establishing and levying administrative penalties.

The agency has not sent a case to SOAH since 1997.

- **Infrequent use of hearings at SOAH**. An agency's enforcement process should provide for due process to the parties in a regulatory dispute. The opportunity to have a formal hearing is an essential part of meeting that legal requirement. The State Office of Administrative Hearings (SOAH) currently receives funding to conduct one formal hearing for the agency per year; however, the agency has not sent a case to SOAH since 1997. The agency explained that, although SOAH has funding to conduct the hearing, the potential additional expenses of expert witnesses, travel, and transcripts discourage the use of this important step in complaint resolution. The agency, however, had not fully researched this cost at the time the Sunset review started. The agency should fully explore these costs and incorporate SOAH into its complaint process in appropriate situations to ensure respondents' legal rights and fairness of the regulatory process.

- **Need to strengthen drug enforcement through inspections**. An agency whose licensees can prescribe controlled substances should have clear authority to monitor licensees for inappropriate prescribing patterns and take action as necessary. A nationwide epidemic of prescription drug abuse, including drug diversion, has raised awareness of medical professionals improperly prescribing controlled substances with serious consequences to patients and the public, including addiction, overdoses, and diversion of drugs for illegal sale on the street. The agency currently responds to drug-related complaints against podiatrists and offers information on its website about requirements of podiatrists who prescribe controlled substances.

The agency now has access to a new searchable database to monitor licensee opioid prescribing history.

Research has shown proactive monitoring of prescribing patterns has a positive effect on curbing prescription drug abuse and misuse.[8] As of September 1, 2016, the agency had access to a new searchable database to monitor a licensee's prescribing history through the Texas State Board of Pharmacy's Prescription Monitoring Program. The agency should establish a process to efficiently use this tool to identify practitioners who may be improperly prescribing controlled substances. If a review of the database uncovers a podiatrist engaging in potentially harmful prescribing patterns, the agency should investigate and take any necessary enforcement action. By actively monitoring the prescribing patterns of

its licensees in a targeted approach, the agency could further protect the public by helping address the prescription drug abuse epidemic.

Recommendations

Change in Statute

1.1 Require the agency to conduct fingerprint-based criminal background checks of all licensure applicants and licensees.

New licensees already undergo a fingerprint-based background check. This change would require existing licensees who did not undergo a fingerprint-based criminal background check upon initial licensure to undergo the check. Licensees would pay the approximately $40 cost to do so upon their next license renewal. This recommendation would ensure the agency can effectively monitor all licensees for criminal conduct and take disciplinary action to protect the public when warranted.

1.2 Remove a subjective qualification required of applicants for licensure.

This recommendation would remove the requirement for applicants to be of "good moral character," which is vague and subjective. The board already adheres to Chapter 53 of the Occupations Code and would continue to receive and review criminal history information to determine applicants' eligibility for licensure.

1.3 Remove the notarization requirement for individuals applying for licensure.

This recommendation would remove the statutory requirement for licensure applicants to verify by affidavit the information in the license application. Current provisions of the Penal Code that make falsifying a government record a crime would continue to apply to these applications. This recommendation would remove an unnecessary step in the application process and an obstacle to putting applications online, making the process less burdensome for applicants and more efficient for agency staff.

1.4 Authorize the agency to provide biennial license renewal.

This recommendation would allow for biennial renewal for licensees by the agency. The agency would determine when to start biennial renewals. This recommendation would reduce staff time spent on renewals and allow the agency to streamline licensing and continuing medical education processes, without compromising agency oversight of licensees.

1.5 Remove the statutory limitation currently restricting the agency's authority to set fees.

This recommendation would remove the fee floor currently listed in statute. The agency would have greater discretion to set its own fees, thus giving the agency increased autonomy over its funding structure.

1.6 Require the agency to establish written policies to guide the prioritization of complaints.

These policies would ensure the agency uses scarce agency resources to address complaints in order of importance. Written policies would promote transparency and consistency in the prioritization system.

1.7 Require the agency to develop and adopt in rule penalty amounts for the categories in its penalty schedule.

This recommendation would help guide the agency in applying consistent penalties for similar infractions. The recommendation also would promote fairness and transparency in penalty amounts because the agency would need to develop the penalty amount ranges through the public rulemaking process.

1.8 Clarify statute and provide direction for the agency to monitor podiatrists' prescribing of controlled substances.

This recommendation would clarify the agency's authority to proactively monitor the Prescription Monitoring Program (PMP) database for improper prescribing of controlled substances by podiatrists. The agency would conduct any necessary investigations based on a search of the database, and take any appropriate action, including notifying the podiatrist about the potentially dangerous prescribing pattern or pursuing enforcement action. The agency, in its monitoring efforts, should consider the overall volume or combinations of the four classes of drugs the Legislature recognizes as those most likely to be abused (opioids, benzodiazepines, barbiturates, and carisoprodol), as well as additional controlled substances and dangerous combinations of drugs identified by the agency as commonly used by podiatrists.[9]

This recommendation requires the agency to regularly use the PMP database to monitor licensees, establish red flags, and conduct investigations. Such actions are similar to the Texas Board of Nursing's current use of the PMP database and investigations. For example, the agency could begin requesting and receiving quarterly reports on the top 100 prescribing podiatrists, establish a threshold for the amounts that would raise a red flag, and target investigations accordingly. By using the database, the agency could better monitor licensees for improper prescribing patterns.

Management Action

1.9 Direct the agency to accept all license and registration applications, renewals, and fee payments online.

The agency should work with the Health Professions Council and Texas.gov to enable receipt of all license and registration applications and renewals online, as well as the associated fee payments. This recommendation would reduce the burden on applicants by eliminating the requirement to obtain and submit hard copy application forms and mail in checks, while also reducing the administrative burden on agency staff to mail out applications and process payments.

1.10 Direct the agency to administer the Texas podiatric jurisprudence exam online.

The agency should explore options available through contracts at the Department of Information Resources for outsourcing and administering the exam online. The agency would make necessary changes in rule to allow for online testing of applicants. This recommendation would free up staff time and make testing more accessible and convenient for applicants.

1.11 Direct the board to eliminate the rule allowing the use of notarized complaints.

This recommendation would remove a potential barrier to filing complaints with the agency, increasing the accessibility of the complaint process to the public. Current provisions of the Penal Code that make falsifying a government record a crime would continue to apply to complaint submissions.

1.12 Direct the agency to maintain complainants' confidentiality when possible.

This recommendation would direct the agency to protect the identity of complainants to the extent possible, while ensuring that licensees still have access to all necessary information to fully respond to complaints. To accomplish this recommendation, the agency could consider summarizing the complaint allegations or redacting copies of complaints when providing notice of a complaint to respondents. By better protecting complainants' identities, this recommendation would make the public more comfortable filing complaints without fear of retaliation.

1.13 Direct the agency to establish a schedule for conducting each phase of the complaint resolution process.

Meeting the statutory requirement for establishing a complaint resolution schedule would provide a roadmap to more timely completion of complaints and help reduce complaint backlogs. Quicker resolution of complaints would offer greater protection to the public from the consequences of unsafe or fraudulent practice of podiatry.

1.14 Eliminate the use of TPMA's peer review process for resolving minor jurisdictional complaints.

The agency would handle all complaints within its own enforcement process and would need to modify its rules and complaint form to eliminate the TPMA peer review process. Eliminating the outsourced peer review process for jurisdictional complaints would bring the agency in line with standard licensing agency practice, eliminating the possible appearance of bias, promoting fairness by treating all complainants similarly, and making the full range of the agency's authority available to complainants.

1.15 Direct the agency to prohibit a board member who investigates a complaint from participating in any resulting disciplinary proceeding, including an informal settlement conference.

The policy would allow the agency to continue to use a board member to investigate a complaint, if considered necessary, but would eliminate the board member's participation in the disciplinary process. The board member would not be allowed to participate in an informal settlement conference considering the complaint and would continue to be required to recuse him or herself if the matter advances to the full board for final disciplinary action. Eliminating board members who perform complaint investigations from later participating in disciplinary proceedings on the same matter would promote impartiality and a fair enforcement process.

1.16 Direct the agency to incorporate SOAH into its complaint resolution process.

The opportunity for an independent, formal hearing at SOAH is an important component of the agency's regulatory process. Incorporating SOAH into the process as needed would enhance due process in the agency's disciplinary proceedings, and better ensure respondents' legal rights and fairness of the regulatory process.

Fiscal Implication

While several recommendations would reduce administrative burdens on the agency's four person staff, overall the recommendations would not have a significant fiscal impact to the state.

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[1] All citations to Texas statutes are as they appear on http://www.statutes.legis.state.tx.us/. Section 202.252(b)(2), Texas Occupations Code.

[2] Chapter 53 and Section 202.253, Texas Occupations Code; 22 T.A.C. Section 376.31.

[3] Section 37.10, Texas Penal Code.

[4] Section 202.153, Texas Occupations Code.

[5] Section 37.10, Texas Penal Code.

[6] Sections 202.204(b)(1) and 202.204(b)(2), Texas Occupations Code.

[7] 40 T.A.C. Section 376.27(a)(4).

[8] Ronald Simeone and Lynn Holland, *An Evaluation of Prescription Drug Monitoring Programs*, (New York: Simeone Associates, Inc., 2006), accessed September 30, 2016, http://simeoneassociates.com/simeone3.pdf; Research and Policy Analysis Group of Carnevale Associates, LLC, *Prescription Drug Monitoring Information Brief*, (Maryland: Carnevale Associates, LLC, 2007), accessed September 30, 2016, http://www.carnevaleassociates.com/pdmp_info_brief-_2007.pdf.

[9] Section 168.001(1), Texas Occupations Code.

Issue 2

Texas Should Continue Regulating Podiatrists, but Decisions on the Structure of the Texas State Board of Podiatric Medical Examiners Await Further Review.

Background

The practice of podiatry, as defined by Texas statute, means the treatment of any disease, disorder, physical injury, deformity, or ailment of the human foot by any system or method.[1] Texans seek the services of a podiatrist for a number of conditions including plantar fasciitis, neuromas, bunions, and problems related to diabetes. Texas has regulated podiatrists since 1923, first through the predecessor to the Texas Medical Board, and since 1939 through an independent agency.

The mission of the Texas State Board of Podiatric Medical Examiners is to protect the public's health and safety by ensuring podiatrists are qualified and competent, and adhere to appropriate professional standards. The agency licenses podiatrists, investigates complaints, and takes disciplinary action when necessary to accomplish this purpose. In fiscal year 2015, the board regulated nearly 1,100 podiatrists, received 75 jurisdictional complaints, and resolved 88 jurisdictional complaints, issuing two board orders resulting in one reprimand and one license revocation.

Findings

Texas has a continuing need to regulate the practice of podiatry.

Podiatry has evolved into a complex profession in the last several decades, and podiatrists now perform surgery, admit patients to hospitals, and have full prescriptive authority. Some podiatrists complete three-year residencies to become certified to perform complex reconstructive surgeries, others are joining medical practices to work alongside orthopedic medical doctors, and many are recognized in the treatment of diabetic wound care.

These services could have serious consequences to patients if performed incorrectly, justifying the need for licensing podiatrists to ensure their competence. Licensing ensures a podiatrist has completed 90 hours of undergraduate coursework, four years at an approved podiatry school, and at least a one-year residency. A podiatrist also must pass both a three-part national podiatry exam and a state jurisprudence exam. To maintain the license, the podiatrist must pay an annual renewal fee of $520 in fiscal year 2015 and get 50 hours of continuing medical education every two years.

The services of podiatrists could have serious consequences to patients if performed incorrectly.

The agency develops and implements rules consistent with its enabling act to ensure licensees practice podiatry safely. To enforce the podiatry statute and rules, the agency investigates and acts on complaints received from the public or initiated by the agency. These complaints have included serious allegations against podiatrists, including death, negligence, fraud, and substance abuse.

With its limited resources, the agency struggles to regulate podiatrists effectively, potentially putting the public at risk.

The agency is one of the smallest in state government, with only four staff to carry out its mission.

The Texas State Board of Podiatric Medical Examiners is one of the smallest agencies in state government. Although the agency raises about $600,000 per year from fees and other receipts, the agency operates on an annual budget of about $289,000 and has only four staff to perform its mission. With its limited budget and staff, the agency must still carry out its primary licensing and enforcement functions typical of all health licensing agencies. In addition, with some assistance from outside sources, the agency must fulfill the basic administrative requirements of typical state agencies such as budgeting, accounting, information technology, human resources, and reporting.

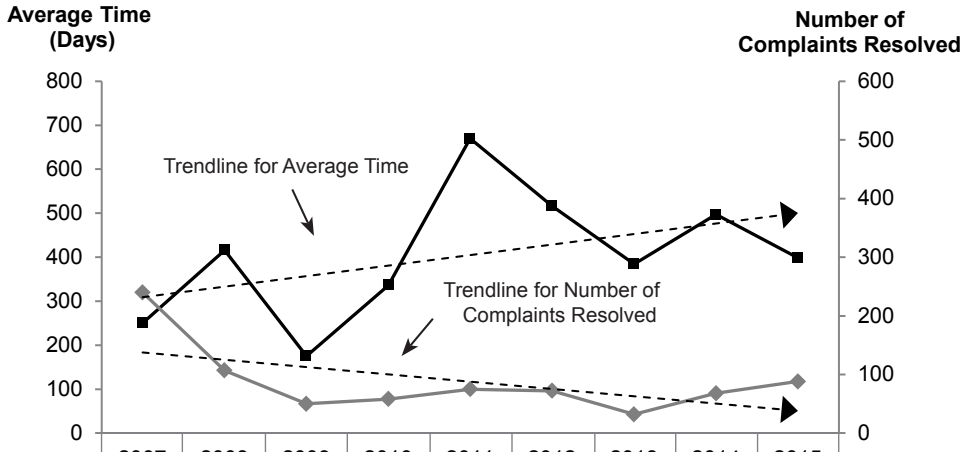
The review found problems in the operations of the agency as discussed below, raising questions as to how best to carry out needed regulation of podiatry in the future.

The average time to resolve complaints over the last five years is 493 days.

- **Slow complaint resolution resulting in backlogs**. The agency's fiscal year 2015 performance target for resolving complaints is 295 days, but the average time to resolve complaints over the last five years is 493 days. Long delays in resolving complaints are a significant concern, given the serious outcomes that could result from the improper practice of podiatry. In 2012, the agency made an emergency budget request to the Legislative Budget Board to address these delays, but withdrew the request due to the state economic crisis.

  The graph, *Number of Agency Complaints Resolved vs. Average Time per Complaint,* shows that, through the nine years displayed, the average time for resolution of complaints has taken from a minimum of 175 days to a maximum of 670 days. In six of those nine years, the average time for complaint resolution was more than a year. In addition, the graph shows

Number of Agency Complaints Resolved vs. Average Time per Complaint FYs 2007–2015

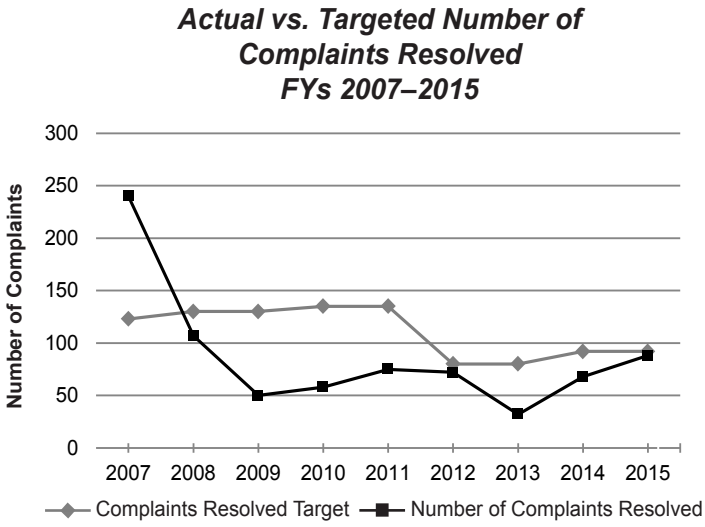


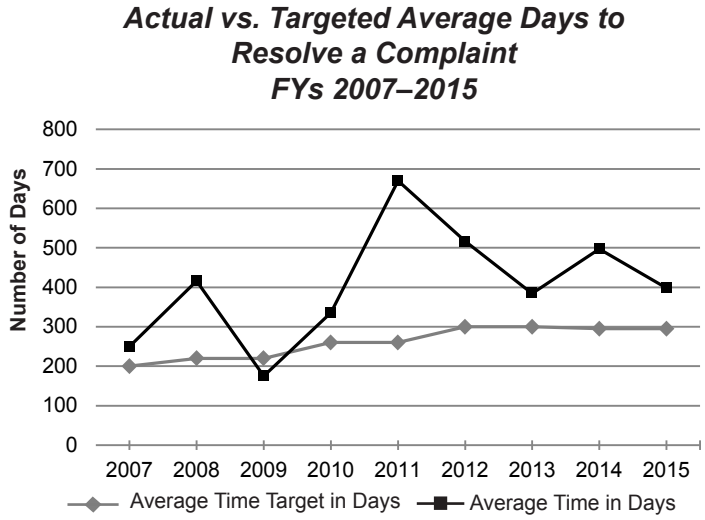
	2007	2008	2009	2010	2011	2012	2013	2014	2015
Average Time in Days	250	416	175	336	670	516	385	497	398
Number of Complaints Resolved	240	107	50	58	75	72	32	68	88

trends in which average time for complaint resolution is increasing as the number of complaints resolved is decreasing. These trends suggest difficulties in the agency accomplishing its enforcement mission.

Some of these delays result from the infrequent meetings of both the investigative committee that performs the informal settlement conferences and the board that determines the final resolution of complaints. The cost of reimbursing board members for travel when they perform these services influences the frequency of these meetings. The agency only held two informal settlement conferences in fiscal year 2015 to consider two cases, and held even fewer conferences in previous years. In addition, the board only met twice in fiscal year 2015, voting on two agreed orders out of 88 jurisdictional complaints resolved that year.

- **Unmet performance measure targets**. The agency has not met complaint-related performance measure targets established through the state's budgeting process in fiscal years 2007–2015. The graph, *Actual vs. Targeted Number of Complaints Resolved,* shows the actual number of complaints resolved has been below targeted levels in all years with one exception in fiscal year 2007. Similarly, the graph, *Actual vs. Targeted Average Days to Resolve a Complaint*, shows the average time for complaint resolution has not met targeted levels with one exception in 2009. These targets were eased over time, with the goal for the number of complaints resolved dropping significantly in fiscal year 2012 and the goal for the average time to resolve complaints generally increasing. These shifts possibly suggest some recognition of the agency's difficulties in meeting its performance goals, particularly given its continuing budget and staffing limitations.





- **Nonstandard enforcement practices**. The review found several instances in which the agency does not follow model enforcement practices, which can affect the fair treatment of licensees and reduce the agency's effectiveness

in protecting the public. The agency defended some of these practices, such as not referring cases to the State Office of Administrative Hearings and using a trade association to help resolve minor complaints as being a result of the agency's lack of resources. Issue 1 describes each of these practices in more detail and makes recommendations to better align the agency's enforcement procedures with best practices.

The agency lacks on-staff medical expertise to assist with licensing and enforcement.

- **Lack of on-staff medical expertise**. The agency does not have on-staff medical expertise to render clinical reviews relating to license applications, continuing education, and the investigation of complaints. Instead, the agency contracts with two podiatrists in Dallas who serve as part-time investigators, each receiving $5,000 per year to conduct complaint investigations requiring medical expertise. In addition, the agency uses two podiatrist board members to help handle the investigations workload and other functions requiring medical expertise. This part-time approach leads to over-reliance on board members in the investigations process contrary to best practice, as described in Issue 1, and slow complaint resolution.

Health Professions License Fees – FY 2015

Profession	Annualized Fee
Podiatrists	$520
Medical Doctors	$226*
Dentists	$217
Optometrists	$209
Chiropractors	$150
Physical Therapists and Occupational Therapists	$124*
Pharmacists	$138*
Nurses (RN)	$30*

* The agencies with these fees have two-year renewals. Fees shown have been annualized for comparative purposes.

To address these problems, the agency has requested an additional position for a medical director as an exceptional item in its 2018–2019 legislative appropriations request. However, legislative approval of such an addition could require the agency to raise fees to cover the cost, as happened in fiscal year 2014 when the agency added a staff member. Increasing fees again may not be a realistic option. Podiatrists already pay more than the other health professions under Sunset review this biennium, and notably more than twice the license fee of the next highest group, the medical doctors, as shown in the table, *Health Professions License Fees*.

The agency's website is outdated and not user friendly.

- **Outdated and cumbersome website**. The agency's website design is outdated and not user friendly for either the public or licensees. The website falls short of meeting basic standards for good government websites, such as simple navigation; quick and obvious access to disciplinary actions taken or instructions on complaint submission; a prominent search function; and emphasis on use of images to help convey messages instead of text-dense web pages. Absence of these attributes diminishes the public's ability to readily look up disciplinary actions to help make informed choices, easily find guidance and forms to make complaints, and search the website for other important information about the regulation of podiatry. Although the agency receives information technology support from the Health Professions Council, as the smallest agency in the council, it must wait its turn for services, such as needed upgrades to its website.

- **Lack of administrative resources**. Like other small agencies with limited resources, the agency must rely on other entities to perform some of its

administrative functions. Through an interagency agreement, the Board of Nursing handles the agency's payroll, timesheets, and voucher entries. A contracted accountant prepares the agency's legislative appropriations request, annual financial and compliance report, and operating budget. The agency also relies on the Health Professions Council for information technology support.

Most other states regulate podiatry through some form of consolidated agency.

Only nine states including Texas regulate podiatry through an independent agency.

The chart, *Regulation of Podiatry in the United States*, describes the structure of podiatry regulatory agencies in the United States. Only nine states, including Texas, regulate podiatrists through an independent agency. Twelve states regulate podiatrists through their medical boards, 14 states use an agency with a department of health or a health licensing agency, and 15 states have a general umbrella licensing agency similar to the Texas Department of Licensing and Regulation.

Regulation of Podiatry in the United States

Structure	Number of States	States
Independent Agency	9	AL, AZ, AR, KY, NV, NC, ND, TX, WY
Medical Board	12	AK, CA, HI, LA, MS, MT, NJ, OH, OR, VT, VA, WV
Department of Health or Health Licensing Agency	14	CT, FL, IN, IA, KS, MD, MN, NE, NH, OK, RI, SD, TN, WA
General Umbrella Licensing Agency	15	CO, DE, GA, ID, IL, MA, ME, MI, MO, NM, NY, PA, SC, UT, WI

States with combined organizations use a variety of internal structures. For example, some arrangements feature a separate podiatry board with licensing, enforcement, and rulemaking authority while others incorporate a podiatry advisory body into the larger organization or representation of podiatrists on the parent agency's board. Podiatry functions can be staffed by employees of the parent organization or employees assigned to a podiatry board.

The agency's statute does not reflect updated requirements for board member training.

The agency's statute contains standard language requiring board members to receive training and information necessary for them to properly discharge their duties. However, statute does not contain a newer requirement that the agency create a training manual for all board members or specify that the training must include a discussion of the scope of and limitations on the board's rulemaking authority.

While the agency's functions should continue, its organizational structure must be evaluated in conjunction with the Sunset Commission's review of other comparable health licensing agencies.

The Texas State Board of Podiatric Medical Examiners is one of many agencies that regulate healthcare professionals in Texas. Although podiatrists have an independent and distinct scope of practice from other healthcare professionals, the licensing, regulation, and enforcement of the profession under the agency's enabling act require activities that mirror those taken by comparable health licensing boards, many of which are under Sunset review at this time, as shown in the textbox, *Health Licensing Agencies Under Sunset Review*.

Health Licensing Agencies Under Sunset Review 2016–2017

- Texas Board of Chiropractic Examiners
- State Board of Dental Examiners
- Texas State Board of Examiners of Marriage and Family Therapists
- Texas Medical Board
- Texas Board of Nursing
- Texas Board of Occupational Therapy Examiners
- Texas Optometry Board
- Texas State Board of Pharmacy
- Executive Council of Physical Therapy and Occupational Therapy Examiners
- Texas Board of Physical Therapy Examiners
- Texas State Board of Podiatric Medical Examiners
- Texas State Board of Examiners of Professional Counselors
- Texas State Board of Examiners of Psychologists
- Texas State Board of Social Worker Examiners
- State Board of Veterinary Medical Examiners

These reviews will explore the benefits of consolidation, with the goal of eliminating duplication of effort and maximizing agency time spent on core licensing and regulatory functions. Additionally, opportunities may exist to achieve administrative efficiencies, provide greater coordination, and deliver more consistent regulation across Texas' health licensing agencies. These reviews, including an analysis of the benefits of consolidation, will be completed in November 2016.

Recommendations

Change in Statute

2.1 Continue the state's regulation of podiatrists, but postpone the decision on continuation of the Texas State Board of Podiatric Medical Examiners until completion of the Sunset reviews of other health licensing agencies.

While state regulation of podiatrists should be continued, this recommendation would postpone the Sunset Commission's decision on the status of the board as a separate agency until completion of the Sunset reviews of other health licensing agencies under review this biennium. The results of these reviews should be used to determine if administrative efficiencies and greater operational effectiveness could be achieved in the organization of the state's separate health licensing agencies. Delaying the decision on continuation of the agency would allow Sunset staff to finish its work on all the professional licensing agencies, and base its recommendation on the most complete information.

The Texas State Board of Podiatric Medical Examiners would be a likely candidate for consolidation. The agency has struggled to effectively regulate podiatry with its history of slow complaint resolution and failure to meet performance measures set by the Legislature. Further, strong precedent exists for a combined organizational structure, with 41 states currently using such an approach.

2.2 Update the standard across-the-board requirement related to board member training.

This recommendation would require the agency to develop a training manual that each board member attests to receiving annually, and require existing board member training to include information about the scope of and limitations on the agency's rulemaking authority. The training should provide clarity that the Legislature sets policy and boards have rulemaking authority necessary to implement legislative policy.

Fiscal Implication

These recommendations would not have a significant fiscal impact to the state.

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[1] All citations to Texas statutes are as they appear on http://www.statutes.legis.state.tx.us/. Section 202.001(a)(4), Texas Occupations Code.

APPENDICES

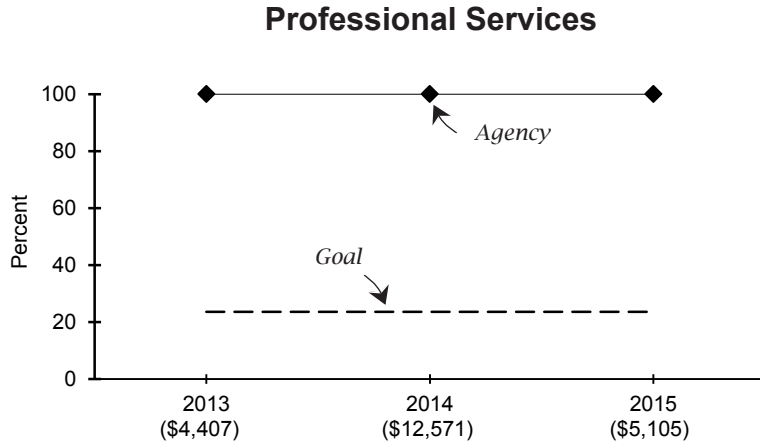
Appendix A

Historically Underutilized Businesses Statistics 2013 to 2015

The Legislature has encouraged state agencies to increase their use of historically underutilized businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.[1]

The following material shows trend information for the Texas State Board of Podiatric Medical Examiners' use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in statute.[2] In the charts, the dashed lines represent the goal for HUB purchasing in each category, as established by the comptroller's office. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from 2013 to 2015. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category.

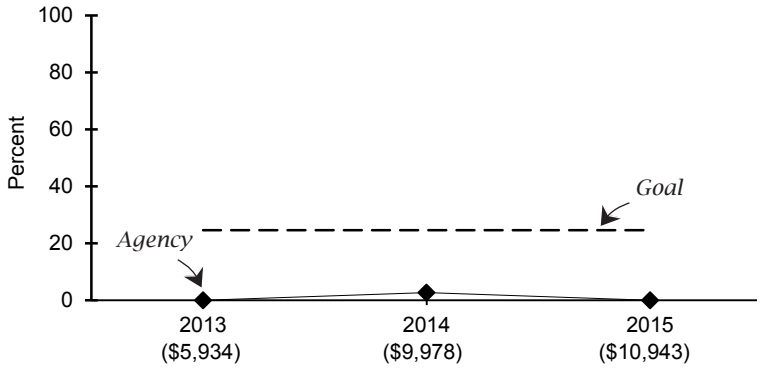
The agency well exceeded statewide purchasing goals for professional services and commodities in fiscal years 2013–2015, but fell short of such goals for other services. The agency has neither biennial appropriations nor contracts large enough to mandate other HUB-related requirements such as creating HUB subcontracting plans for large contracts, appointing a HUB coordinator, creating a HUB forum program, and developing a mentor protégé program.



The board far exceeded the statewide purchasing goal for professional services in fiscal years 2013–2015, with 100 percent of the board's purchases in this category going to HUB vendors in all three fiscal years.

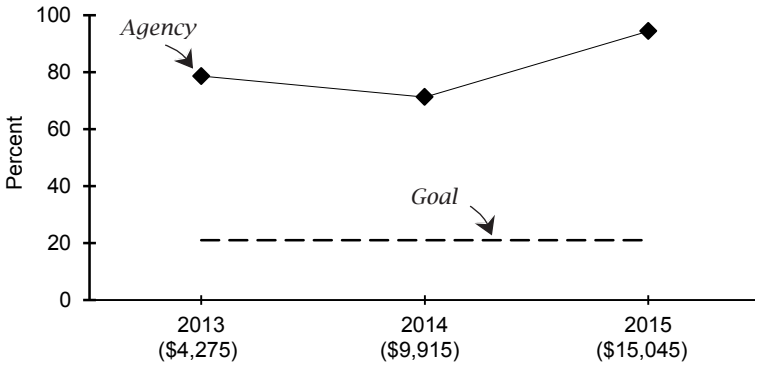
Appendix A

Other Services



The board fell well short of meeting the statewide purchasing goal for other services during the last three fiscal years. HUB availability is limited for services in this category, which includes agency expenditures for physician investigators, FedEx, and Verizon Wireless.

Commodities



The agency far exceeded the statewide purchasing goal in this category in all three fiscal years.

[1] All citations to Texas statutes are as they appear on http://www.statutes.legis.state.tx.us/. Section 325.011(9)(B), Texas Government Code.

[2] Chapter 2161, Texas Government Code.

Appendix B

Health Professions Council

In 1993, the 73rd Legislature created the Health Professions Council (HPC) to increase efficiency across member agencies by providing administrative support services. The council consists of representatives from 12 independent licensing boards and the Department of State Health Services Professional Licensing and Certification Unit (PLCU), as reflected in the table, *HPC Member Agencies*.

HPC Member Agencies – FY 2016

Agency	Licenses (at start of FY16)	Funds Transferred to HPC in FY16
Texas Board of Chiropractic Examiners	6,537	$20,361
State Board of Dental Examiners	31,280	$257,118
Texas Funeral Service Commission	4,811	$43,845
Texas Medical Board	85,244	$32,378
Texas Board of Nursing	419,685	$71,651
Texas Board of Occupational Therapy Examiners	13,985	$33,527
Texas Board of Physical Therapy Examiners	24,412	
Texas Optometry Board	4,409	$27,715
Texas State Board of Pharmacy	113,806	$331,400
Texas State Board of Podiatric Medical Examiners	1,162	$13,401
Texas State Board of Examiners of Psychologists	9,512	$52,774
Department of State Health Services – PLCU	175,140	$11,846
State Board of Veterinary Medical Examiners	9,770	$31,038
Non-Member Agencies Receiving Limited Services		
Texas Board of Professional Geoscientists receives information technology support services		$13,000
Texas Board of Professional Land Surveying receives database administration and support		$11,808
Texas State Board of Plumbing Examiners receives database administration and support		$130,658
Office of Public Insurance Counsel receives information technology support services		$6,641
Total		**$1,089,161**

- **Funding and staffing**. The council's funding comes from transferred appropriations from member agencies, with each agency paying for services it receives. Council members elect a chair and vice chair to preside over the council for two-year terms. The council has seven employees to perform its main functions and occasionally uses staff from member agencies to carry out specific programs. For

Appendix B

example, an Optometry Board staff member provides added technology support to the eight smallest member agencies, and a Board of Nursing staff member offers new employee Equal Employment Opportunity (EEO) training to all member agencies.

- **Services**. HPC offers the following services to member agencies:
  - Website, information technology, and document imaging software support
  - Shared regulatory database and database administration
  - Purchasing, payroll, and human resources support
  - Trainings relating to state finance, accounting, auditing, and EEO guidelines
  - Shared toll-free telephone line for consumer complaints

Appendix C

Staff Review Activities

During the review of the Texas State Board of Podiatric Medical Examiners, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; met with various board members; conducted interviews and solicited written comments from interest groups, stakeholders, and the public; reviewed agency documents and reports, state statutes, previous legislation, and literature; researched the organization and functions of similar agencies in other states; and performed background and comparative research.

In addition, Sunset staff performed the following activities unique to this agency:

- Reviewed agency enforcement case files
- Toured and observed procedures performed at a podiatric medical clinic
- Surveyed interest groups, individual licensees and registrants, federal agencies, hospitals, insurance companies, and consumers of podiatric medicine
- Observed informal settlement conferences considering agency enforcement actions
- Attended a meeting of the Health Professions Council
- Interviewed staff at the Department of Information Resources, office of the comptroller of public accounts, and eStrategy Solutions

Sunset Staff Review of the *Texas State Board of Podiatric Medical Examiners*

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