

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE C. OTHER PROFESSIONS PERFORMING MEDICAL PROCEDURES

CHAPTER 202. PODIATRISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 202.001. DEFINITIONS. (a) In this chapter:

(1) "Advisory board" means the Podiatric Medical Examiners Advisory Board.

(1-a) "Commission" means the Texas Commission of Licensing and Regulation.

(1-b) "Department" means the Texas Department of Licensing and Regulation.

(2) "Executive director" means the executive director of the Texas Department of Licensing and Regulation.

(3) "Podiatrist" means a person who:

(A) is licensed under this chapter to practice podiatry and who directly or indirectly charges money or other compensation for podiatric services; or

(B) publicly professes or claims to be a podiatrist, foot specialist, or doctor or uses any title, degree, letter, syllable, or word that would lead the public to believe that the person is a practitioner authorized to practice or assume the duties incident to the practice of podiatry.

(4) "Podiatry" means the treatment of or offer to treat any disease, disorder, physical injury, deformity, or ailment of the human foot by any system or method. The term includes podiatric medicine.

(b) In the laws of this state:

(1) "chiroprody" means podiatry; and

(2) "chiroprodist" means podiatrist.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. [3078](#)), Sec. 3, eff. September 1, 2017.

Sec. 202.003. APPLICATION OF CHAPTER. (a) This chapter does not apply to:

(1) a physician licensed by the Texas State Board of Medical Examiners;

(2) a surgeon of the United States Army, United States Navy, or United States Public Health Service, when performing that person's official duties; or

(3) a bona fide member of an established church in ministering or offering to minister to the sick or suffering by prayer, as set forth in the principles, tenets, or teachings of the church of which the person is a bona fide member.

(b) This chapter does not prohibit the recommendation, advertising, or sale of corrective shoes, arch supports or similar mechanical appliances, or foot remedies by a manufacturer, wholesaler, or retail dealer.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

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

Sec. 202.051. BOARD MEMBERSHIP. (a) The Podiatric Medical Examiners Advisory Board consists of nine members appointed by the governor as follows:

(1) six members who are licensed in this state to practice podiatry and have been actively engaged in the practice of podiatry for the five years preceding appointment; and

(2) three members who represent the public.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 26 (S.B. 402), Sec. 2, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 5, eff. September 1, 2017.

Sec. 202.053. PUBLIC MEMBER ELIGIBILITY. A person is not

eligible for appointment as a public member of the advisory board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the department or receiving funds from the department; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than reimbursement authorized by law for advisory board membership, attendance, or expenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 6, eff. September 1, 2017.

Sec. 202.054. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the advisory board if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(c) A person may not be a member of the advisory board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of

the advisory board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 26 (S.B. 402), Sec. 3, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 7, eff. September 1, 2017.

Sec. 202.055. TERMS; VACANCIES. (a) Members of the advisory board serve staggered six-year terms, with the term of three members expiring on February 1 of each odd-numbered year. At the expiration of the term of each member, the governor shall appoint a successor.

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

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 8, eff. September 1, 2017.

Sec. 202.056. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the advisory board that a member:

(1) does not have at the time of taking office the qualifications required by Section 202.051 or 202.053;

(2) does not maintain during service on the advisory board the qualifications required by Section 202.051 or 202.053;

(3) is ineligible for membership under Section 202.054;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year unless the absence is excused by a majority vote of the advisory board.

(b) The validity of an action of the advisory board is not

affected by the fact that the action is taken when a ground for removal of an advisory board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the governor and the attorney general that a potential ground for removal exists.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 26 (S.B. 402), Sec. 4, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 9, eff. September 1, 2017.

Sec. 202.057. COMPENSATION; REIMBURSEMENT OF EXPENSES. An advisory board member may not receive compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 26 (S.B. 402), Sec. 5, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 10, eff. September 1, 2017.

Sec. 202.058. PRESIDING OFFICER. The governor shall appoint one of the advisory board members to serve as presiding officer of the advisory board at the pleasure of the governor. The presiding officer may vote on any matter before the advisory board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 26 (S.B. 402), Sec. 6, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 11, eff. September 1, 2017.

Sec. 202.059. MEETINGS. (a) The advisory board shall meet

at the call of the presiding officer of the commission or the executive director.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(3), eff. September 1, 2017.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(3), eff. September 1, 2017.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 12, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(3), eff. September 1, 2017.

Sec. 202.061. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the department's programs, functions, and rules with respect to this chapter;

(3) the results of the most recent formal audit of the department with respect to this chapter;

(4) the scope and limitations on the rulemaking authority of the advisory board;

(5) the types of rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business regulated under this chapter, including rules, interpretations, and enforcement actions that:

(A) regulate the scope of practice of persons in a profession or business regulated under this chapter;

(B) restrict advertising by persons in a profession or business regulated under this chapter;

(C) affect the price of goods or services

provided by persons in a profession or business regulated under this chapter; and

(D) restrict participation in a profession or business regulated under this chapter;

(6) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of the advisory board in performing the members' duties; and

(7) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) The executive director shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each advisory board member. On receipt of the training manual, each advisory board member shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 26 (S.B. 402), Sec. 7, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 13, eff. September 1, 2017.

Sec. 202.062. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 14, eff. September 1, 2017.

#### SUBCHAPTER D. POWERS AND DUTIES

Sec. 202.1515. GENERAL POWERS AND DUTIES. (a) The executive director shall administer and enforce this chapter.

(b) The commission shall adopt rules necessary to

administer and enforce this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 16, eff. September 1, 2017.

Sec. 202.153. FEES. The commission by rule shall establish fees in amounts reasonable and necessary to cover the cost of administering this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 17, eff. September 1, 2017.

Sec. 202.160. INFORMATION PROVIDED TO LICENSE HOLDERS. At least once each biennium, the department shall provide to license holders information on:

(1) prescribing and dispensing pain medications, with particular emphasis on Schedule II and Schedule III controlled substances;

(2) abusive and addictive behavior of certain persons who use prescription pain medications;

(3) common diversion strategies employed by certain persons who use prescription pain medications, including fraudulent prescription patterns; and

(4) the appropriate use of pain medications and the differences between addiction, pseudo-addiction, tolerance, and physical dependence.

Added by Acts 2003, 78th Leg., ch. 1163, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 18, eff. September 1, 2017.

Sec. 202.161. POISON CONTROL CENTER INFORMATION. The department shall provide to license holders information regarding the services provided by poison control centers.

Added by Acts 2003, 78th Leg., ch. 1163, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 19, eff.



September 1, 2017.

#### SUBCHAPTER E. COMPLAINT PROCEDURES

Sec. 202.2025. COMPLAINT PRIORITY. The executive director shall develop, implement, and enforce a written policy for determining the complaints filed under this chapter that will be given priority for investigation and resolution by the department. Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 21, eff. September 1, 2017.

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

(b) The department is not required to provide notice under this section if the notice would jeopardize an investigation. Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 22, eff. September 1, 2017.

Sec. 202.2032. REQUIREMENTS FOR CERTAIN COMPLAINTS. (a) In this section:

(1) "Anonymous complaint" means a complaint that lacks sufficient information to identify the source or the name of the person who filed the complaint.

(2) "Insurance agent" means a person licensed under Chapter 4054, Insurance Code.

(3) "Insurer" means an insurance company or other entity authorized to engage in the business of insurance under Subtitle C, Title 6, Insurance Code.

(4) "Third-party administrator" means a person required to have a certificate of authority under Chapter 4151, Insurance Code.

(b) The department may not accept anonymous complaints.

(c) Notwithstanding any confidentiality requirements under Chapter 552, Government Code, or this chapter, a complaint filed

with the department by an insurance agent, insurer, pharmaceutical company, or third-party administrator against a license holder must include the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator filing the complaint.

(d) Not later than the 15th day after the date the complaint is filed with the department, the department shall notify the license holder who is the subject of the complaint of the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator who filed the complaint, unless the notice would jeopardize an investigation.

Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 22, eff. September 1, 2017.

#### SUBCHAPTER F. LICENSE REQUIREMENTS

Sec. 202.251. LICENSE REQUIRED. A person may not practice podiatry or hold the person out as a podiatrist unless the person is licensed under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.252. LICENSE APPLICATION. (a) An application for a license under this chapter must be submitted in the manner and on a form prescribed by the executive director.

(b) The commission by rule shall establish the information and documentation required to be submitted as part of an application for a license under this chapter, including evidence satisfactory to the commission or department that the applicant:

(1) is at least 21 years of age;

(2) has completed at least 90 semester hours of college courses acceptable at the time of completion for credit toward a bachelor's degree at an institution of higher education determined by the department to have acceptable standards;

(3) is a graduate of a reputable school of podiatry or chiropody; and

(4) has successfully completed any other course of training reasonably required by commission rule relating to the

safe care and treatment of patients.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(22), eff. September 1, 2017.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(22), eff. September 1, 2017.

(e) All educational attainments or credits for evaluation under this chapter must be completed within the United States. The department may not accept educational credits attained in a foreign country that are not approved by the department.

(f) For purposes of this section, a podiatry or chiropody school is reputable if:

(1) the course of instruction consists of four terms of approximately eight months each, or the substantial equivalent; and

(2) the school is approved by the department.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 23, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(22), eff. September 1, 2017.

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

(b) The department may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The department shall conduct a criminal history record information check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the department by the Department

of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history record information check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history record information check.

Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 24, eff. September 1, 2017.

Sec. 202.253. GROUNDS FOR DENIAL OF LICENSE. (a) The commission may refuse to issue a license or certificate to a person who violates this chapter, a rule adopted under this chapter, or an order of the commission or executive director.

(a-1) The commission or department may refuse to admit a person to an examination, and may refuse to issue a license to practice podiatry to a person, for:

(1) presenting a license, certificate, or diploma that was illegally or fraudulently obtained or engaging in fraud or deception in passing the examination;

(2) being convicted of:

(A) a felony;

(B) a crime that involves moral turpitude; or

(C) an offense under Section 202.606;

(3) engaging in habits of intemperance or drug addiction that in the department's opinion would endanger the health, well-being, or welfare of patients;

(4) engaging in grossly unprofessional or dishonorable conduct of a character that in the department's opinion is likely to deceive or defraud the public;

(5) directly or indirectly violating or attempting to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice;

(6) using any advertising statement of a character

tending to mislead or deceive the public;

(7) advertising professional superiority or the performance of professional service in a superior manner;

(8) purchasing, selling, bartering, or using or offering to purchase, sell, barter, or use a podiatry degree, license, certificate, diploma, or a transcript of a license, certificate, or diploma, in or incident to an application for a license to practice podiatry;

(9) altering, with fraudulent intent, a podiatry license, certificate, diploma, or a transcript of a podiatry license, certificate, or diploma;

(10) using a podiatry license, certificate, or diploma, or a transcript of a podiatry license, certificate, or diploma, that has been fraudulently purchased, issued, counterfeited, or materially altered;

(11) impersonating, or acting as proxy for, another person in a podiatry license examination;

(12) impersonating a license holder, or permitting another person to use the license holder's license to practice podiatry in this state, to treat or offer to treat, by any method, conditions and ailments of human feet;

(13) directly or indirectly employing a person whose license to practice podiatry has been suspended or associating in the practice of podiatry with a person whose license to practice podiatry has been suspended or who has been convicted of the unlawful practice of podiatry in this state or elsewhere;

(14) wilfully making in the application for a license to practice podiatry a material misrepresentation or material untrue statement;

(15) being unable to practice podiatry with reasonable skill and safety to a patient because of age, illness, drunkenness, or excessive use of drugs, narcotics, chemicals, or other substances or as a result of a mental or physical condition;

(16) failing to practice podiatry in an acceptable manner consistent with public health and welfare;

(17) being removed, suspended, or disciplined in another manner by the podiatrist's peers in a professional podiatry

association or society, whether local, regional, state, or national in scope, or being disciplined by a licensed hospital or the medical staff of a hospital, including removal, suspension, limitation of hospital privileges, or other disciplinary action, if the commission or department determines that the action was:

(A) based on unprofessional conduct or professional incompetence likely to harm the public; and

(B) appropriate and reasonably supported by evidence submitted to the association, society, hospital, or medical staff; or

(18) having repeated or recurring meritorious health care liability claims filed against the podiatrist that in the commission's or department's opinion are evidence of professional incompetence likely to injure the public.

(b) In enforcing Subsection (a-1)(15), the department, on probable cause, shall request the affected podiatrist to submit to a mental or physical examination by a physician designated by the department. If the podiatrist refuses to submit to the examination, the commission or executive director shall issue an order requiring the podiatrist to show cause why the podiatrist will not submit to the examination and shall schedule a hearing on the order not later than the 30th day after the date notice is served on the podiatrist. The podiatrist shall be notified by either personal service or certified mail with return receipt requested.

(c) At the hearing, the podiatrist and the podiatrist's attorney may present testimony and other evidence to show why the podiatrist should not be required to submit to the examination. After a complete hearing, the commission or executive director shall issue an order either requiring the podiatrist to submit to the examination or withdrawing the request for examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 25, eff. September 1, 2017.

Sec. 202.254. EXAMINATION. (a) Except as provided by Section 202.261, each applicant for a license to practice podiatry in this state must pass an examination approved by the department.

(b) The department shall recognize, prepare, administer, or arrange for the administration of an examination under this chapter.

(c) The license examination must consist of a written and practical component. The department shall determine the passing score for the examination using accepted criterion-referenced methods. The department shall have the examination validated by an independent testing professional.

(d) The examination must cover the subjects of anatomy, chemistry, dermatology, diagnosis, pharmacology, pathology, physiology, microbiology, orthopedics, and podiatry, as related to ailments of the human foot.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(23), eff. September 1, 2017.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 26, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(23), eff. September 1, 2017.

Sec. 202.256. REEXAMINATION. (a) An applicant who fails an examination and is refused a license based on that failure may retake the examination. The applicant must pay the regular examination fee for any reexamination.

(b) Each reexamination must cover each subject tested in Section 202.254(d).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.257. ISSUANCE OF LICENSE. The department shall issue a license to each applicant who possesses the qualifications required for a license and passes the examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 27, eff. September 1, 2017.

Sec. 202.258. REFUSAL OF ADMITTANCE TO EXAMINATION. An applicant who is refused admittance to examination may try the issue in a district court in Travis County.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.259. TEMPORARY LICENSE. (a) The commission by rule may adopt a procedure for the issuance of a temporary license to an applicant other than an applicant for a provisional license under Section 202.260.

(b) Rules adopted under this section must establish:

(1) the criteria for issuance of a temporary license; and

(2) a maximum period during which a temporary license is valid.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 28, eff. September 1, 2017.

Sec. 202.260. PROVISIONAL LICENSE. (a) On application, the department shall grant a provisional license to practice podiatry to an applicant who:

(1) is licensed in good standing as a podiatrist in another state that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the department relating to the practice of podiatry; and

(3) is sponsored by a person licensed under this chapter with whom the provisional license holder may practice under this section.

(b) The department may excuse an applicant for a provisional license from the requirement of Subsection (a)(3) if the department determines that compliance with that subdivision constitutes a



hardship to the applicant.

(c) A provisional license is valid until the date the department approves or denies the provisional license holder's application for a license. Except as provided by Subsection (e), the department shall issue a license under this chapter to the holder of a provisional license under this section if:

(1) the provisional license holder passes the examination required by Section [202.254](#);

(2) the department verifies that the provisional license holder has the academic and experience requirements for a license under this chapter; and

(3) the provisional license holder satisfies any other license requirements under this chapter.

(d) The department shall complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The department may extend that deadline to allow for the receipt of pending examination results.

(e) A provisional license holder is not required to pass a part of an examination related to the testing of clinical skills that an applicant for an original license under this chapter with substantially equivalent experience is not required to pass.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 26 (S.B. [402](#)), Sec. 14, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. [3078](#)), Sec. 29, eff. September 1, 2017.

Sec. 202.261. LIMITED LICENSE FOR PODIATRY FACULTY MEMBERS.

(a) The department may issue a license to practice podiatry without administering the examination under Section [202.254](#) to a podiatrist who:

(1) at the time of applying for a license has accepted an appointment or is serving as a full-time member of the faculty of an educational institution in this state offering an approved or accredited course of study or training leading to a degree in

podiatry;

(2) is licensed to practice podiatry in another state that has licensing requirements substantially equivalent to those established by this state; and

(3) otherwise satisfies the requirements of Section [202.252](#).

(b) For purposes of Subsection (a)(1), a course of study, training, or education is considered to be approved or accredited if it is approved or accredited by the department as constituting a reputable course of study, training, or education. In deciding whether to approve or accredit a course of study, training, or education, the department shall consider whether the course is approved or accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor organization.

(c) Except for the examination requirement, an applicant for a license under this section must comply with all application, license, and license renewal requirements relating to podiatry and is subject to all laws relating to the practice of podiatry.

(d) A license issued under this section permits the practice of podiatry only for purposes of instruction in the educational institution.

(e) A license issued under this section terminates when the faculty appointment of a podiatrist licensed under this section is terminated. This section does not:

(1) prohibit the podiatrist from applying for and obtaining a license; or

(2) affect a license obtained by the podiatrist by complying with Section [202.254](#) and other applicable laws relating to the practice of podiatry.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. [3078](#)), Sec. 30, eff. September 1, 2017.

Sec. 202.262. DISPLAY OF LICENSE. (a) A person licensed under this chapter must conspicuously display both the license and

an unexpired renewal certificate at the location where the person practices.

(b) The person shall exhibit the license and renewal certificate to a department representative on the representative's official request for examination or inspection.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 31, eff. September 1, 2017.

Sec. 202.263. ISSUANCE OF DUPLICATE OR AMENDED LICENSE.

(a) If a license issued by the department is lost, destroyed, or stolen from the person to whom it was issued, the license holder shall report the fact to the department and include detailed information as to the loss, destruction, or theft, giving dates, place, and circumstances.

(b) A license holder may apply to the department for an amended license because of a lawful change in the person's name or degree designation or for any other lawful and sufficient reason. The license holder must state the reasons that the issuance of an amended license is requested.

(c) The department shall issue a duplicate or amended license on application by a license holder and payment of a fee set by the commission for the duplicate or amended license. The department may not issue a duplicate or amended license unless:

(1) the license holder submits sufficient evidence to prove the license has been lost, destroyed, or stolen or establishes the lawful reason that an amended license should be issued; and

(2) the department's records show a license had been issued and was in effect at the time of the loss, destruction, or theft or on the date of the request for an amended license.

(d) If an amended license is issued, the license holder shall return the original license to the department.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 32, eff.

September 1, 2017.

#### SUBCHAPTER G. LICENSE RENEWAL

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

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

Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 33, eff. September 1, 2017.

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

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

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 202.2525 for the initial issuance of the license; or

(2) this section as part of a prior license renewal.

Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 34, eff. September 1, 2017.

Sec. 202.303. PRACTICE WITHOUT RENEWING LICENSE. A person who practices podiatry with an expired renewal certificate is considered to be practicing without a license and is subject to all the penalties of the practice of podiatry without a license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 35, eff. September 1, 2017.

Sec. 202.304. RENEWAL AFTER MILITARY SERVICE. (a) Except as provided by Subsection (c), this section applies to a podiatrist whose license has been suspended or revoked, or whose most recently issued renewal certificate has expired, while the podiatrist has been:

- (1) engaged in federal service or on active duty with:
  - (A) the United States Army;
  - (B) the United States Navy;
  - (C) the United States Marine Corps;
  - (D) the United States Coast Guard; or
  - (E) the United States Air Force;
- (2) called into service or training of the United States; or
- (3) in training or education under the supervision of the United States before induction into military service.

(b) A podiatrist subject to this section may renew the podiatrist's license without paying a renewal fee for the expired license or passing an examination if, not later than the first anniversary of the date of the termination of service, training, or education described by Subsection (a), other than by dishonorable discharge, the podiatrist furnishes to the department an affidavit stating that the podiatrist has been so engaged and that the service, training, or education has terminated.

(c) This section does not apply to a podiatrist whose license is revoked under Section 202.502.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 36, eff. September 1, 2017.

Sec. 202.305. CONTINUING EDUCATION. (a) The commission by rule shall establish the minimum number of hours of continuing education required for license renewal.

(a-1) The department shall develop a mandatory continuing

education program in accordance with commission rules. In developing its program, the department shall:

(1) identify the key factors that lead to the competent performance of professional duties;

(2) develop a process to evaluate and approve continuing education courses; and

(3) develop a process to assess the participation and performance of license holders in continuing education courses to enable the department to evaluate the overall effectiveness of the program.

(b) The department may assess the continuing education needs of a license holder and require the license holder to attend continuing education courses specified by the department.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 37, eff. September 1, 2017.

#### SUBCHAPTER H. PRACTICE BY LICENSE HOLDER

Sec. 202.351. **PODIATRY SERVICES FOR CERTAIN HEALTH ORGANIZATIONS.** A licensed podiatrist may contract with a health organization approved by the Texas State Board of Medical Examiners under Chapter 162 to provide podiatry services for the health organization.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.352. **APPROVAL OF NAMES UNDER WHICH PODIATRIST MAY PRACTICE.** (a) The commission may adopt rules establishing standards or guidelines for the name, including a trade name or assumed name, under which a podiatrist may conduct a practice in this state. In its rules, the commission may also establish procedures to review and make determinations approving or disapproving a specific name submitted to the department by one or more podiatrists desiring to practice under a particular name.

(b) The authority granted to the commission and department by this section includes any form of business organization under

which a podiatrist conducts a practice, including:

- (1) a sole proprietorship;
- (2) an association;
- (3) a partnership;
- (4) a professional corporation;
- (5) a clinic;
- (6) a health maintenance organization; and
- (7) a group practice with a practitioner of another

branch of the healing art.

(c) A podiatrist may not practice podiatry in this state under any name, including a trade name or assumed name, unless the name is in compliance with the applicable rules adopted or determinations made under this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 38, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 39, eff. September 1, 2017.

Sec. 202.353. MALPRACTICE CLAIM REPORTS. (a) An insurer who delivers or issues for delivery in this state professional liability insurance coverage to a podiatrist who practices in this state shall furnish to the department the information specified in Subsection (b) relating to:

(1) a notice of claim letter or a complaint filed against the insured in a court, if the notice of claim letter or the complaint seeks the recovery of damages based on the insured's conduct in providing or failing to provide medical or health care services; or

(2) a settlement of a claim or other legal action made by the insurer on behalf of the insured.

(b) The insurer shall furnish the following information not later than the 30th day after the date the insurer receives the notice of claim letter or complaint against the insured:

- (1) the name of the insured;
- (2) the number of the insured's license to practice

podiatry in this state;

(3) the insured's insurance policy number; and

(4) a copy of the notice of claim letter or complaint.

(c) If a podiatrist who practices in this state is not covered by professional liability insurance or is insured by an insurer who is not authorized to write professional liability insurance for podiatrists in this state, the affected podiatrist shall submit information to the department relating to any malpractice action brought against that podiatrist. The podiatrist shall submit the information as required by rules adopted by the commission under Subsections (d)-(f).

(d) In consultation with the commissioner of insurance, the commission shall adopt rules for reporting the information required under Subsections (a) and (b) and any additional information required by the department.

(e) The department shall consider other claim reports required under state or federal law in determining:

(1) any additional information to be reported;

(2) the form of the report; and

(3) reasonable reporting intervals.

(f) The department may require additional information, including:

(1) the date of a judgment, dismissal, or settlement of a malpractice action;

(2) whether an appeal has been taken and the identity of the party appealing; and

(3) the amount of any judgment or settlement.

(g) An insurer, an agent or employee of the insurer, a commission member, or an employee or representative of the department is not liable or subject to a cause of action for an action taken as required under this section.

(h) A report or information submitted to the department under this section or the fact that a report or information has been submitted may not be offered in evidence or in any manner used in the trial of an action brought against a podiatrist based on the podiatrist's conduct in providing or failing to provide medical or health care services.



(i) The department shall review the information relating to a podiatrist against whom three or more malpractice claims have been reported during any five-year period in the same manner as if a complaint against that podiatrist had been made to the department under Subchapter E.

(j) The commissioner of insurance may impose the sanctions authorized by Chapter 82, Insurance Code, against an insurer subject to this section who fails to report as prescribed by this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.544, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 40, eff. September 1, 2017.

#### SUBCHAPTER I. PRIVILEGE AND CONFIDENTIALITY REQUIREMENTS

Sec. 202.401. DEFINITIONS. In this subchapter:

(1) "Patient" means a person who consults or is seen by a podiatrist to receive podiatric care.

(2) "Podiatric record" means a record relating to the history, diagnosis, treatment, or prognosis of a patient.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.402. SCOPE OF PRIVILEGE. (a) A communication that relates to or is in connection with professional services provided by a podiatrist for a patient is confidential and privileged and may not be disclosed except as provided by this subchapter.

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a podiatrist that are created or maintained by a podiatrist are confidential and privileged and may not be disclosed except as provided by this subchapter.

(c) A person who receives information from confidential communications or podiatric records, other than a person listed under Section 202.405 or 202.406 who is acting on the patient's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the

information was first obtained.

(d) The prohibitions of this section continue to apply to confidential communications or records concerning a patient without regard to when the patient received the services of a podiatrist.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.403. CLAIM OF PRIVILEGE. (a) The privilege of confidentiality under this subchapter may be claimed by the patient or by a podiatrist acting on the patient's behalf.

(b) A podiatrist may claim the privilege of confidentiality only on behalf of the podiatrist's patient. The authority to claim the privilege is presumed in the absence of evidence to the contrary.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.404. EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY IN CERTAIN PROCEEDINGS. (a) The privilege and confidentiality requirements under this subchapter do not apply in a court or administrative proceeding if:

(1) the proceeding is brought by a patient against a podiatrist, including a malpractice proceeding, a criminal proceeding, or a license revocation proceeding in which the patient is a complaining witness and in which disclosure is relevant to the claims or defense of a podiatrist;

(2) a patient or a person authorized to act on the patient's behalf submits written consent to the release of confidential information, as provided by Section [202.406](#); or

(3) the purpose of the proceeding is to substantiate and collect on a claim for podiatric services provided to a patient.

(b) The privilege and confidentiality requirements under this subchapter do not apply in a civil litigation or administrative proceeding brought by a patient or a person authorized to act on the patient's behalf if the plaintiff is attempting to recover monetary damages for a physical or mental condition, including the patient's death. Information that is otherwise confidential under this subchapter is discoverable in a

court or administrative proceeding in this state if the information is relevant to the proceeding and the court or administrative body has jurisdiction over the subject matter under the applicable rules of procedure specified for that matter.

(c) The privilege and confidentiality requirements under this subchapter do not apply in a disciplinary investigation or proceeding against a podiatrist conducted under this chapter.

(d) The privilege and confidentiality requirements under this subchapter do not apply in a criminal investigation of or criminal proceeding against a podiatrist in which the department is participating or assisting by providing certain records obtained from the podiatrist. This subsection does not authorize the release of any confidential information to instigate or substantiate criminal charges against a patient.

(e) The department shall protect the identity of a patient whose podiatric records are examined or provided under Subsection (c) or (d), other than a patient who:

(1) is covered under Subsection (a)(1); or

(2) has submitted written consent to the release of the patient's podiatric records as provided by Section [202.406](#).

(f) The privilege and confidentiality requirements under this subchapter do not apply in a criminal prosecution in which the patient is a victim, witness, or defendant. Records or communications are not discoverable under this subsection until the court in which the prosecution is pending makes an in camera determination as to the relevancy of the records or communications or part of the records or communications. The court's determination does not constitute a determination as to the admissibility of the records or communications or part of the records or communications.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. [3078](#)), Sec. 41, eff. September 1, 2017.

Sec. 202.405. OTHER EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY REQUIREMENTS. (a) The privilege and

confidentiality requirements of this subchapter do not apply to, and a podiatrist may disclose information made confidential under this subchapter to:

(1) a government agency, if:

(A) the disclosure is required or permitted by law; and

(B) the agency protects the identity of a patient whose podiatric records are examined;

(2) medical or law enforcement personnel, if the podiatrist determines that there is a probability of:

(A) imminent physical injury to the patient, the podiatrist, or another person; or

(B) immediate mental or emotional injury to the patient;

(3) qualified personnel for a management audit, financial audit, program evaluation, or research;

(4) a person who presents the written consent of the patient or a person authorized to act on the patient's behalf for the release of confidential information, as provided by Section [202.406](#);

(5) an individual, corporation, or governmental entity involved in the payment or collection of fees for services provided by a podiatrist; or

(6) another podiatrist and a person under the direction of the podiatrist who is participating in the diagnosis, evaluation, or treatment of the patient.

(b) A person who receives information under Subsection (a)(3) may not directly or indirectly identify the patient in any report of the research, audit, or evaluation or otherwise disclose the patient's identity.

(c) Records reflecting charges and specific services provided may be disclosed only when necessary to collect fees for services provided by a podiatrist, professional association, or another entity qualified to provide or arrange for services.

(d) Records created by a state hospital, a state school, or an employee of the state hospital or state school that are otherwise confidential under this subchapter may be disclosed in an official

legislative inquiry regarding the state hospital or state school. Information or records that identify a patient or client may not be released for any purpose unless proper consent to the release is given by the patient.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.406. CONSENT FOR RELEASE OF CONFIDENTIAL INFORMATION. (a) Consent for the release of information made confidential under this subchapter must be made in writing and signed by:

(1) the patient;

(2) the patient's parent or legal guardian if the patient is a minor;

(3) a legal guardian if the patient has been adjudicated incompetent to manage the patient's personal affairs;

(4) an attorney ad litem appointed for the patient, as authorized by:

(A) Subtitle B, Title 6, Health and Safety Code;

(B) Subtitle C, D, or E, Title 7, Health and Safety Code;

(C) Title 3, Estates Code;

(D) Chapter 107, Family Code; or

(E) another applicable law; or

(5) the patient's personal representative if the patient is deceased.

(b) The written consent required under this section must specify:

(1) the information and records covered by the release;

(2) the reason or purpose for the release; and

(3) the person to whom the information is to be released.

(c) A patient or other person authorized to consent may withdraw consent to the release of any information. Withdrawal of consent does not affect information disclosed before the written notice of the withdrawal.

(d) A podiatrist shall furnish copies of podiatric records

requested or a summary or narrative of the records under a written consent for release of the information as provided by this section unless the podiatrist determines that access to the information would be harmful to the physical, mental, or emotional health of the patient. The podiatrist may delete confidential information about another person who has not consented to the release.

(e) The podiatrist shall furnish the information within a reasonable period of time. The patient or another person acting on the patient's behalf shall pay a reasonable fee charged by the podiatrist for furnishing the information.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.054, eff. September 1, 2017.

Sec. 202.407. DISCLOSURE OF RELEASED INFORMATION. A person who receives information made confidential by this subchapter may disclose the information to another person only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### SUBCHAPTER J. PEER REVIEW

Sec. 202.451. DEFINITIONS. In this subchapter:

(1) "Podiatric medical society or association" means a membership organization of podiatrists:

(A) incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); or

(B) exempt from the payment of federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 and its subsequent amendments by being listed as an exempt entity under Section 501(c) of that code.

(2) "Podiatric peer review committee" means the podiatric peer review, judicial, or grievance committee of a podiatric medical society or association that is authorized to

evaluate the quality of podiatry services or the competence of a podiatrist. A committee includes the members, employees, and agents of the committee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.452. DISCLOSURE OF COMMUNICATIONS MADE TO PEER REVIEW COMMITTEE. (a) Written or oral communications made to a podiatric peer review committee and the records and proceedings of a peer review committee may be disclosed to:

- (1) another podiatric peer review committee;
- (2) an appropriate state or federal agency;
- (3) a national accreditation body; or
- (4) the department or the state board of registration or licensing of podiatrists in another state.

(b) The disclosure of confidential podiatric peer review committee information to the affected podiatrist that is relevant to the matter under review by the committee does not constitute a waiver of the confidentiality provisions of this subchapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 42, eff. September 1, 2017.

Sec. 202.453. INFORMATION PROVIDED TO AFFECTED PODIATRIST. A podiatric peer review committee that takes action that could result in censure or suspension, restriction, limitation, or revocation of a license by the commission or executive director or a denial of a podiatrist's membership or privileges in a health care entity shall provide the affected podiatrist a written copy of the committee's recommendation and a copy of the final decision, including a statement of the basis for the decision.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 43, eff. September 1, 2017.

Sec. 202.454. CONFIDENTIALITY REQUIREMENTS. (a) Except as otherwise provided by this subchapter, the proceedings and records of a podiatric peer review committee are confidential and all communications made to a podiatric peer review committee are privileged.

(b) If a court makes a preliminary finding that the proceedings, records, or communications of a podiatric peer review committee are relevant to an anticompetitive action or to an action brought under federal civil rights laws, the proceedings, records, or communications are not considered to be confidential to the extent the proceedings, records, or communications are determined to be relevant to that action.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.455. PRIVILEGE OF CONFIDENTIALITY; WAIVER. (a) The records or determinations of a podiatric peer review committee or communications made to a committee are not subject to subpoena or discovery and are not admissible as evidence in a civil or administrative proceeding unless disclosure is required or authorized by law. A committee may in writing waive the privilege of confidentiality.

(b) The evidentiary privilege under this subchapter may be invoked by any person in a civil or administrative proceeding unless the person has secured a waiver of the privilege executed in writing by the chairman, vice chairman, or secretary of the affected podiatric peer review committee.

(c) If a podiatric peer review committee, a person participating in peer review, or an organization named as a defendant in a civil action filed as a result of participating in peer review is permitted to use confidential information in the defendant's defense or in a claim or suit under Section 202.457, the plaintiff in that proceeding also may disclose the records or determinations of a peer review committee or communications made to a peer review committee to rebut the defendant.

(d) A person who seeks access to privileged information must plead and prove waiver of the privilege.

(e) A member, employee, or agent of a podiatric peer review



committee who provides access to otherwise privileged communications or records in cooperation with a law enforcement authority in a criminal investigation does not waive a privilege established under this subchapter.

(f) The disclosure of documents or information under a subpoena issued by the department does not constitute a waiver of the confidentiality privilege associated with a podiatric peer review committee proceeding.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 44, eff. September 1, 2017.

Sec. 202.456. IMMUNITY. (a) Except for an action involving fraud, conspiracy, or malice, a podiatric peer review committee is immune from liability and may not be subject to a suit for damages for any act arising from the performance of the committee's duties in:

- (1) investigating a disagreement or complaint;
- (2) holding a hearing to determine facts; or
- (3) making an evaluation, recommendation, decision,

or award involving:

(A) a podiatrist who is a member of the podiatric medical society or association; or

(B) another podiatrist, podiatric patient, or third party who requests the services of the committee.

(b) A person, including a health care entity or podiatric peer review committee, that participates in podiatric peer review activity or furnishes records, information, or assistance to a podiatric peer review committee or to the department is immune from civil liability arising from those acts if the person acted in good faith and without malice.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 45, eff. September 1, 2017.

Sec. 202.457. CLAIMS FOR DEFENSE COSTS. A podiatric peer review committee, a person participating in peer review, or another entity named as a defendant in a civil action filed as a result of the defendant's participation in peer review may file a counterclaim in the pending action or may prove a cause of action in a subsequent suit to recover defense costs, including court costs, attorney's fees, and damages incurred as a result of the civil action, if the plaintiff's original suit is determined to be frivolous or to have been brought in bad faith.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### SUBCHAPTER K. DISCIPLINARY ACTIONS AND PROCEDURES

Sec. 202.501. DISCIPLINARY POWERS; ADMINISTRATIVE PROCEDURE. (a) The commission or executive director shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by the commission under this chapter.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(28), eff. September 1, 2017.

(c) Proceedings for the suspension or revocation of a license under this section are subject to Chapter 2001, Government Code.

(d) A person whose license to practice podiatry has been revoked or suspended by order of the commission or executive director may appeal the action to a district court in Travis County. The decision of the commission or the executive director may not be enjoined or stayed except on application to the district court after notice to the department.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 46, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 47, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(28),

eff. September 1, 2017.

Sec. 202.5015. CERTAIN CONDUCT CONSTITUTING CHAPTER VIOLATION. A license holder who engages in conduct described by Section [202.253](#) violates this chapter.

Added by Acts 2001, 77th Leg., ch. 1259, Sec. 2, eff. Sept. 1, 2001.

Sec. 202.502. REVOCATION AND SUSPENSION OF LICENSE FOR DRUG-RELATED FELONY CONVICTION. (a) The commission or executive director shall suspend a person's license after an administrative hearing conducted in accordance with Chapter [2001](#), Government Code, in which the commission or executive director determines that the license holder has been convicted of a felony under Chapter [481](#) or [483](#), Health and Safety Code, or Section [485.033](#), Health and Safety Code.

(b) On the person's final conviction, the commission or executive director shall revoke the person's license.

(c) The department may not reinstate or reissue a license to a person whose license is suspended or revoked under this section except on an express determination based on substantial evidence contained in an investigative report indicating that the reinstatement or reissuance of the license is in the best interests of the public and of the person whose license has been suspended or revoked.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. [3078](#)), Sec. 48, eff. September 1, 2017.

Sec. 202.503. PROBATION. (a) The commission or executive director may probate an order revoking a podiatrist's license conditioned on the podiatrist conforming to any order or rule the commission adopts as the condition of probation. The commission or executive director, at the time of probation, shall set the term of the probationary period.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. [3078](#)), Sec. 62(29), eff. September 1, 2017.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(29), eff. September 1, 2017.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(29), eff. September 1, 2017.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(29), eff. September 1, 2017.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 49, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 50, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 62(29), eff. September 1, 2017.

Sec. 202.504. REISSUANCE OF LICENSE. (a) On application, the department may reissue a license to practice podiatry to a person whose license has been revoked or suspended.

(b) A person whose license has been revoked may not apply for a reissued license before the first anniversary of the date of the revocation. The person shall apply for the license in the manner and form required by the department.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 51, eff. September 1, 2017.

Sec. 202.505. REEXAMINATION IF LICENSE SUSPENDED OR REVOKED. The department may refuse to reinstate a license or to issue a new license until a podiatrist has passed the regular license examination if the commission or executive director suspended or revoked the license for:

(1) failure to satisfy continuing education requirements under Section 202.305; or

(2) nonpayment of the license renewal fee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 52, eff. September 1, 2017.

Sec. 202.506. APPLICATION TO CERTAIN DRUG OFFENSES. A person convicted of a felony under Chapter 481 or 483, Health and Safety Code, or Section 485.033, Health and Safety Code, is not eligible for:

(1) probation of a license suspension or revocation under Section 202.503; or

(2) reissuance of a license under Section 202.504.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.5071. SUBPOENA AUTHORITY. The department may issue a subpoena as provided by Section 51.3512.

Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 53, eff. September 1, 2017.

Sec. 202.5085. REFUND. (a) Subject to Subsection (b), the commission or executive director may order a person licensed under this chapter to pay a refund to a consumer as provided in an agreed settlement, default order, or commission order instead of or in addition to imposing an administrative penalty against the person.

(b) The amount of a refund ordered may not exceed the amount the consumer paid to the person for a service regulated by this chapter. The commission or executive director may not require payment of other damages or estimate harm in a refund order.

Added by Acts 2005, 79th Leg., Ch. 26 (S.B. 402), Sec. 18, eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 54, eff. September 1, 2017.

Sec. 202.509. CONFIDENTIALITY AND DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Except as provided by Subsections (b), (d), and (f) of this section, Section 202.2031, and Section 202.2032, a complaint, report, investigation file, or other investigative information in the possession of or received or

gathered by the department or an employee or agent of the department that relates to a license holder, a license application, or a criminal investigation or proceeding is privileged, confidential, and not subject to discovery, subpoena, or any other legal method of compelling release.

(b) Subject to any other privilege or restriction established by law, not later than the 30th day after the date the department receives a written request from a license holder, or the license holder's attorney, who is the subject of a formal complaint, the department shall provide the license holder with access to all information in the department's possession that the department intends to offer into evidence at the contested case hearing on the complaint. The department may provide access to the information to the license holder after the 30th day after the date the department receives a request only on a showing of good cause.

(c) The department is not required under Subsection (b) to provide access to the department's investigative reports or memoranda, release the identity of a complainant who will not testify at the hearing, or release information that is an attorney's work product or protected by the attorney-client privilege or another privilege recognized by the Texas Rules of Civil Procedure or Texas Rules of Evidence.

(d) Investigative information in the department's possession that relates to a disciplinary action regarding a license holder may be disclosed to:

(1) a licensing agency regulating the practice of podiatry in another state or country in which the license holder is also licensed or has applied for a license;

(2) a peer review committee reviewing a license holder's application for privileges or the license holder's qualifications with regard to retaining the privileges;

(3) a person involved with the department in a disciplinary action against the license holder;

(4) a peer assistance program approved by the commission under Chapter 467, Health and Safety Code;

(5) a law enforcement agency; and

(6) a person engaged in bona fide research, provided

all individual-identifying information has been deleted.

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

(f) The department shall provide information to a health care entity on the written request of the entity concerning:

(1) a complaint filed against a license holder that was resolved after an investigation by the department or resolved by an agreed settlement; and

(2) the basis for and status of an active investigation concerning a license holder.

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

(h) The department shall protect the identity of a complainant to the extent possible.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 55, eff. September 1, 2017.

#### SUBCHAPTER M. PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 202.6011. PENALTY SCHEDULE. The commission by rule shall develop a standardized penalty schedule, including recommended penalty amounts for each category of punishable conduct listed in the schedule, based on the criteria listed in Section 51.302(b).

Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 57, eff. September 1, 2017.

Sec. 202.602. MONITORING AND INSPECTION OF LICENSE HOLDER.

(a) The commission by rule shall develop a system to monitor a podiatrist's compliance with this chapter. The system must include:

(1) procedures for determining whether a podiatrist is in compliance with an order issued by the commission or executive director; and

(2) a method of identifying and monitoring each podiatrist who represents a risk to the public.

(b) The department, during reasonable business hours, may enter the business premises of a person regulated by the department under this chapter without notice to:

(1) investigate a complaint filed with the department;  
or

(2) determine compliance with an order of the commission or executive director issued under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 26 (S.B. 402), Sec. 21, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 58, eff. September 1, 2017.

Sec. 202.603. PROSECUTION OF VIOLATION. The department shall take action to ensure the prosecution of each person who violates this chapter and may incur reasonably necessary related expenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 59, eff. September 1, 2017.

Sec. 202.604. CIVIL PENALTY: USE OF TRADE NAME; INJUNCTION. (a) A person who violates Section 202.352 or a rule adopted or a determination made by the commission under that section is subject to a civil penalty of not less than \$50 or more



than \$500 for each day of violation.

(b) If it appears that a person has violated or is violating Section 202.352 or a rule adopted or determination made by the commission under that section, the department may institute a civil action in district court for:

(1) injunctive relief to restrain the person from continuing the violation;

(2) the assessment and recovery of a civil penalty under Subsection (a); or

(3) both injunctive relief and the civil penalty.

(c) At the request of the department, the attorney general shall institute and conduct the action in the name of the state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 60, eff. September 1, 2017.

Sec. 202.605. GENERAL CRIMINAL PENALTY: PRACTICING WITHOUT LICENSE. (a) A person commits an offense if the person professes to be a podiatrist or practices or assumes the duties incident to the practice of podiatry without holding a license to practice podiatry.

(b) An offense under this section is punishable by:

(1) a fine of not less than \$50 or more than \$500;

(2) confinement in the county jail for not less than 30 days or more than six months; or

(3) both the fine and confinement.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 202.606. CRIMINAL PENALTY: AMPUTATION OF FOOT. (a) A podiatrist commits an offense if the podiatrist amputates a human foot.

(b) An offense under this section is punishable by:

(1) a fine of not less than \$100 or more than \$500;

(2) confinement in the county jail for not less than 30 days or more than six months; or

(3) both the fine and confinement.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.