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"Ensuring Quality Podiatric Medicine For The Citizens Of Texas"

FY 2011 - FY 2015 AGENCY STRATEGIC PLAN

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For the:

State of Texas

Governor's Office of Budget, Planning and Policy

Legislative Budget Board

(Pursuant to Texas Government Code Chapter 2056)

AGENCY STRATEGIC PLAN

FOR THE FISCAL YEARS 2011-2015 PERIOD

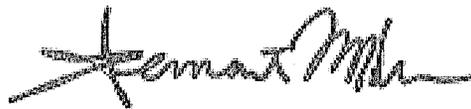
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TEXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS

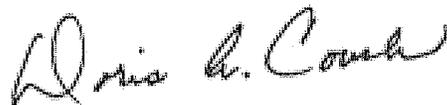
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(Extension granted from June 18, 2010 deadline upon agency request to LBB due to June 18, 2010 "Foot" scope of practice ruling from the Texas Supreme Court thus requiring changes to initial developed FY 2011 – FY 2015 Strategic Plan)



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Executive Director



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Public Explanation: What is a “Strategic Plan”?

INTRODUCTION

Beginning in 1991, Texas initiated a comprehensive process of strategic planning for all state agencies within the executive branch of government. House Bill 2009, Seventy-second Legislature, Regular Session, 1991, authorized the process. This legislation established the requirements and time frame under which Texas completed its first planning cycle.

House Bill 2009 was subsequently codified as Chapter 2056 of the Government Code.

In 1993, the Legislature amended Chapter 2056 of the Government Code to consolidate certain planning requirements and to change the required planning horizon from six years to five years (i.e., the second year of the current biennium and the next two biennia). Agencies must complete and submit plans every two years; however, they may engage in planning on a continual basis and may adjust plans internally as changing conditions dictate.

CONCEPTUAL FRAMEWORK

Strategic planning is a long-term, iterative, and future-oriented process of assessment, goal setting, and decision-making. It includes a multiyear view of objectives and strategies for the accomplishment of agency goals. Clearly defined results provide feedback that leads to program performance that influences future planning, resource allocation, and operating decisions. The strategic planning process incorporates and sets direction for all agency operations.

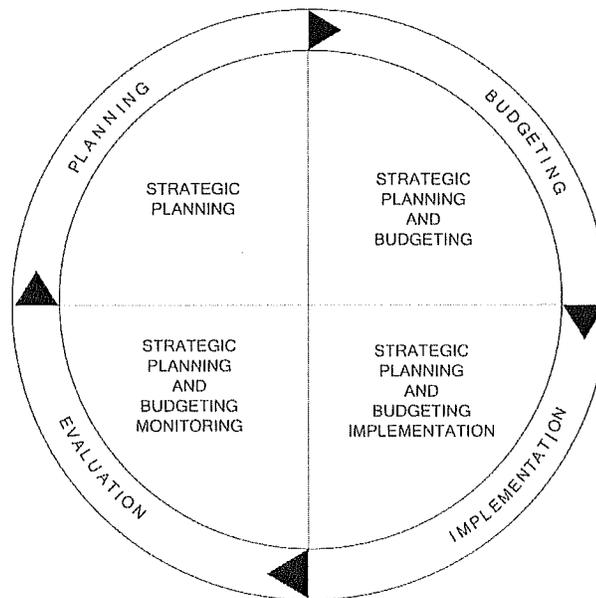
An agency's "Strategic Plan" (with a minimum "9 Tiers") is a formal document that communicates its goals, directions, and outcomes to various audiences, including the Governor and the Legislature, client and constituency groups, the public, and the agency's employees.

STRATEGIC PLANNING AND BUDGETING

A successful strategic planning process provides many benefits to agencies and those affected by their operations. As an agency clarifies its purpose and direction, it will develop a stronger identity. The plan enhances decision-making by improving internal communication, and by identifying the agency's long-term goals and the factors affecting the agency.

The process of developing the strategic plan also improves the agency's external communications and emphasizes customer service (see chart below).

Strategic planning will guide budget preparation and establish a basis for measuring success. Strategic planning relies on careful consideration of an agency's capabilities and environment and may lead to priority-based allocation of fiscal, human, technological, capital, and other resources. The strategic plan defines what an agency is and intends to be, as well as the principles guiding it. The plan outlines agency goals and objectives and produces strategies that lead to priority-based resource allocation decisions the agency plans to follow to achieve these long-term goals. Successful strategic planning is characterized not only by compliance with statutory requirements, but also by leaders, managers, and all employees of the agency being committed to the planning process and to the strategic plan. Ultimately, strategic planning will succeed or fail according to how well the process results in quality services. Producing identifiable and meaningful results is essential to a successful process.



PURPOSES OF STRATEGIC PLANNING

The goal of strategic planning is to anticipate and accommodate the future by identifying issues, opportunities, and problems. Strategic planning for Texas state government serves a number of distinct, though interrelated, purposes. These purposes include:

- to establish *statewide direction* in key policy or functional areas to move away from crisis-driven decision-making;
- to provide a starting point for *aligning resources* in a rational manner to address the critical issues facing the state now and in the future;
- to make state government *more responsive* to the needs of Texans by placing greater emphasis on benefits and results than on simply service efforts and workload;
- to bring *focused issues* to policymakers for review and debate;
- to provide a context to *link* the budget process and other legislative processes with priority issues, and to improve *accountability* for the use of state resources;
- to establish a means of *coordinating* the policy concerns of public officials with implementation efforts and to build interagency, intergovernmental, and public/private/nonprofit *partnerships*; and
- to provide a forum for communication between service providers and the constituents they serve.

STRATEGIC PLANNING TEMPLATE OVERVIEW

The Texas strategic planning template comprises nine “tiers.” The Governor and the Legislative Budget Board develop the first two, which contain the statewide vision, mission, philosophy, goals, and benchmarks (i.e., “statewide elements”). These elements serve as a foundation for the strategic planning process. Agencies develop the elements in the remaining tiers as they prepare their strategic plans. The chart below shows the “9 Tiers” of the strategic planning template. Each tier is linked to the others. The tiers are briefly described below.

1. STATEWIDE VISION, MISSION, AND PHILOSOPHY

- Vision—an inspiring view of the preferred future
- Mission—a concise statement of the basic purpose and role of Texas state government
- Philosophy—a statement of the core values and principles underlying Texas state government service

2. STATEWIDE GOALS AND BENCHMARKS

- Statewide Goals—general ends toward which the state directs its efforts
- Statewide Benchmarks—specific performance indicators and targets used to assess progress at the statewide level in achieving statewide goals

3. AGENCY MISSION

- The reason for an agency’s existence (to be developed and submitted by agencies)

4. AGENCY PHILOSOPHY

- The expression of core values and principles for the conduct of the agency in carrying out its mission (to be developed and submitted by agencies)

5. EXTERNAL/INTERNAL ASSESSMENT

- An evaluation of key factors that influence the success of an agency in achieving its mission and goals (to be developed and submitted by agencies)

6. AGENCY GOALS

- General ends toward which agencies direct their efforts (to be developed and submitted by agencies in the order of their priority)

7. OBJECTIVES AND OUTCOME MEASURES

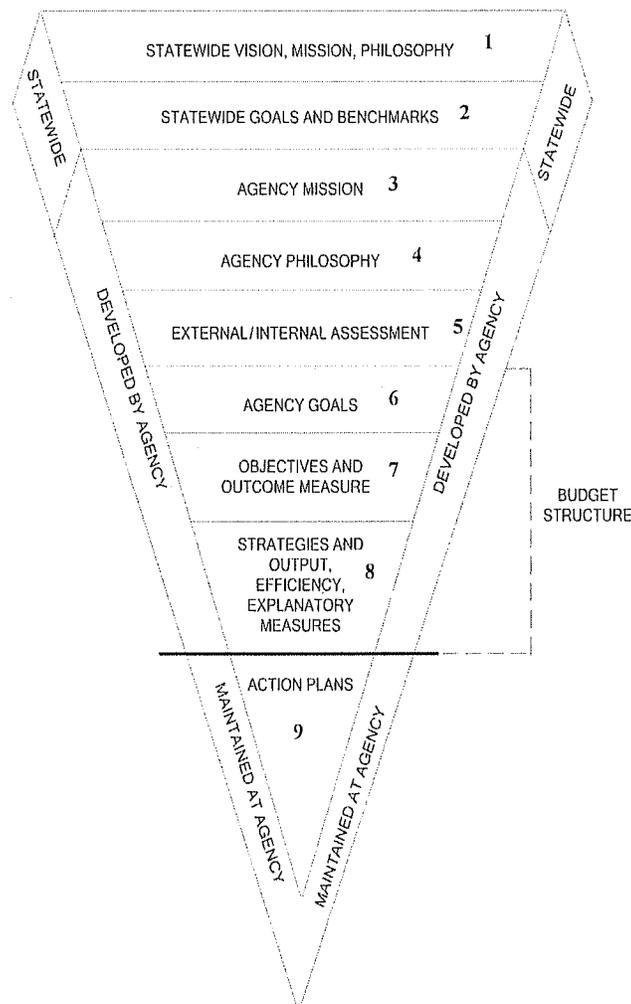
- Clear targets for specific action and the quantified results or effects of that action (to be developed and submitted by agencies in the order of their priority)

8. STRATEGIES AND OUTPUT, EFFICIENCY, AND EXPLANATORY MEASURES

- Methods to achieve goals and objectives and the quantified end products, proficiencies, and descriptive indicators of the agencies' efforts (to be developed and submitted by agencies in the order of their priority)

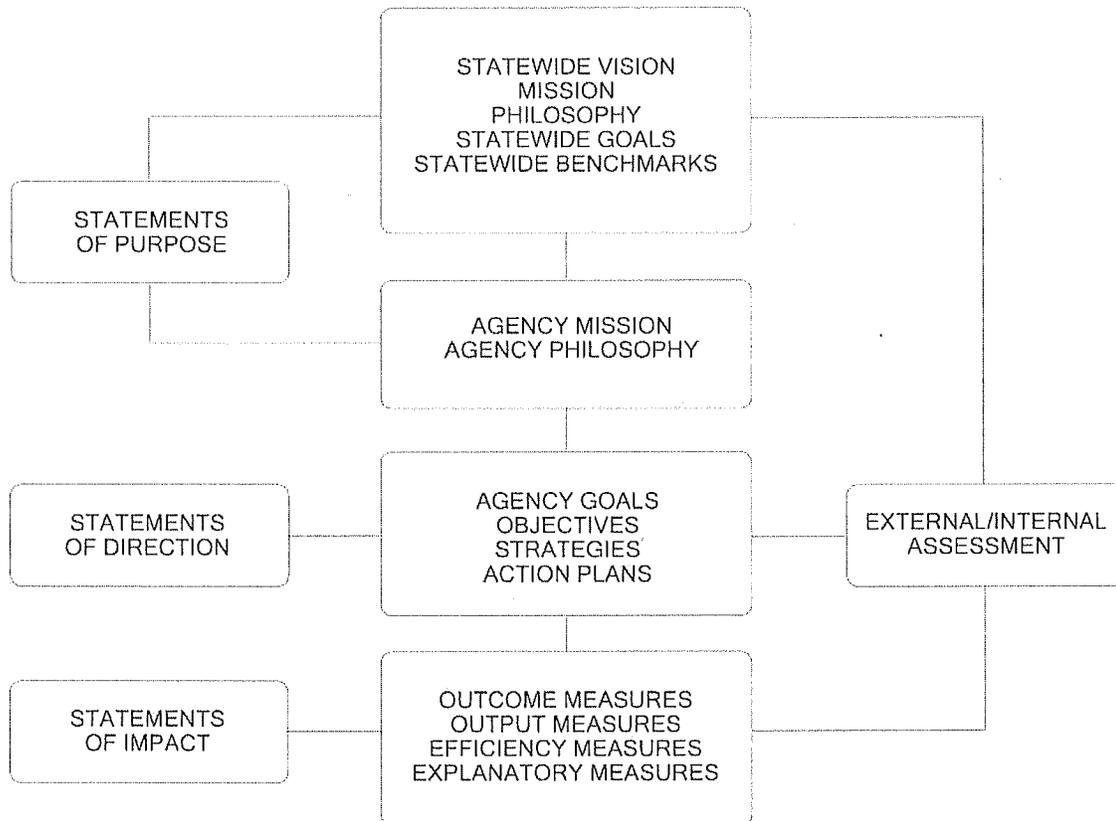
9. ACTION PLANS

- Detailed methods for implementing the strategies (to be developed and maintained by agencies, but not included as part of their strategic planning submissions)



STRATEGIC PLANNING ELEMENTS

The chart below shows the relationship between the elements of the strategic planning process. Each of these elements is described in greater detail in other parts of this document.



STRATEGIC PLANNING AND THE APPROPRIATIONS PROCESS

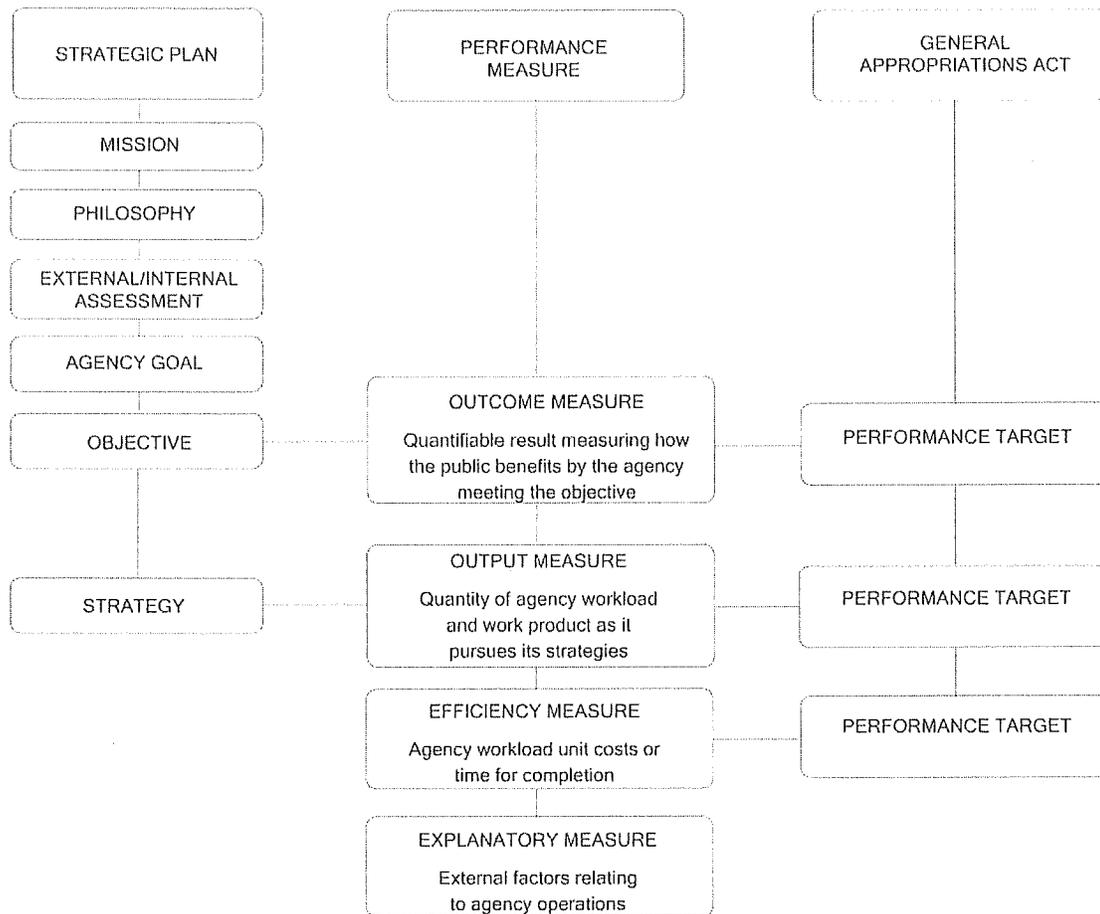
Since 1992, strategic planning has been the first step in Texas' Strategic Planning and Performance Budgeting System. This system recognizes a relationship between strategic planning, allocation of resources, and performance evidenced by quality service.

The chart below shows linkages within the Strategic Planning and Performance Budgeting System.

An agency's strategic plan is often used as a starting point for developing the agency's budget structure, (i.e., goals, strategies, measures, measure definitions, and other items of appropriation).

Agencies must develop budget structures that provide sufficient detail to be understandable. An agency's budget structure does not necessarily need to mirror its strategic plan.

Any changes to an agency's 2012–13 budget structure must be requested in writing by April 16, 2010, using the format shown in Appendix C of the instructions and approved by the Governor's Office of Budget, Planning and Policy and the Legislative Budget Board.



STATE AGENCY PARTICIPATION AND DEFINITION

Chapter 2056 of the Texas Government Code requires strategic planning for all agencies in the executive branch of state government. For these purposes, a state agency is defined as a department, commission, board, office, or other entity of state government, other than a university system or an institution of higher education, as defined by Section 61.003, Texas Education Code that has the following characteristics:

- has authority that is not limited to a geographical portion of the state;
- was created by the constitution or a state statute and has an ongoing mission and responsibilities;
- is not the Office of the Governor or Lieutenant Governor;
- is not within the judicial or legislative branch of government; and
- is not a committee created under state law whose primary function is to advise an agency.

“STRENGTHENING OUR PROSPERITY: THE STATEWIDE STRATEGIC PLANNING ELEMENTS for TEXAS STATE GOVERNMENT”





TIER I: “STATEWIDE VISION, MISSION and PHILOSOPHY OF TEXAS GOVERNMENT”

GOVERNOR’S STATEWIDE VISION

March 2010

Fellow Public Servants:

Since the last exercise in strategic planning began in March 2008, much has changed in the national economic picture. States across the nation have struggled with severe budget shortfalls and the national economy has yet to rebound as many hoped and predicted. Texas, however, has weathered the economic downturn better than other states and been recognized as an example for other states to follow.

Our position relative to other states is not by accident. Texas has demonstrated the importance of fiscal discipline, setting priorities, and demanding accountability and efficiency in state government. We have built important reserves in our state’s “Rainy Day Fund,” cut taxes on small businesses, and emphasized a stable and predictable regulatory climate in an effort to show that the Lone Star State is a great place to build a business and raise a family.

Over the last year, families across this state and nation have tightened their belts in response to the economic challenges. Government should be no exception. As we begin this next round in our strategic planning process, we must critically reexamine the role of state government by identifying the core programs and activities necessary for the long-term economic health of our state, while eliminating outdated and inefficient functions. We must set clear priorities that will help maintain our position as a national leader now and in the future by:

Ensuring the economic competitiveness of our state by adhering to principles of fiscal discipline, setting clear budget priorities, living within our means, and limiting the growth of government;

Investing in critical water, energy, and transportation infrastructure needs to meet the demands of our rapidly growing state;

Ensuring excellence and accountability in public schools and institutions of higher education as we invest in the future of this state and ensure Texans are prepared to compete in the global marketplace;

*Defending Texans by safeguarding our neighborhoods and protecting our international border;
and*

*Increasing transparency and efficiency at all levels of government to guard against waste, fraud,
and abuse, ensuring that Texas taxpayers keep more of their hard-earned money to keep our
economy and our families strong.*

I am confident we can address the priorities of our citizens with the limited government principles and responsible governance they demand. I know you share my commitment to ensuring that this state continues to shine as a bright star for opportunity and prosperity for all Texans. I appreciate your dedication to excellence in public service and look forward to working with all of you as we continue charting a strong course for our great state.

RICK PERRY
Governor of Texas

THE MISSION OF TEXAS STATE GOVERNMENT

TEXAS STATE GOVERNMENT MUST BE LIMITED, EFFICIENT, AND COMPLETELY ACCOUNTABLE. IT SHOULD FOSTER OPPORTUNITY AND ECONOMIC PROSPERITY, FOCUS ON CRITICAL PRIORITIES, AND SUPPORT THE CREATION OF STRONG FAMILY ENVIRONMENTS FOR OUR CHILDREN. THE STEWARDS OF THE PUBLIC TRUST MUST BE MEN AND WOMEN WHO ADMINISTER STATE GOVERNMENT IN A FAIR, JUST, AND RESPONSIBLE MANNER. TO HONOR THE PUBLIC TRUST, STATE OFFICIALS MUST SEEK NEW AND INNOVATIVE WAYS TO MEET STATE GOVERNMENT PRIORITIES IN A FISCALLY RESPONSIBLE MANNER.

“AIM HIGH... WE ARE NOT HERE TO ACHIEVE INCONSEQUENTIAL THINGS!”

THE PHILOSOPHY OF TEXAS STATE GOVERNMENT

The task before all state public servants is to govern in a manner worthy of this great state. We are a great enterprise, and as an enterprise, we will promote the following core principles:

- First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics, or individual recognition.
- Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.
- Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.
- Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. Just as competition inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.
- Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.
- State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse and providing efficient and honest government.

- Finally, state government should be humble, recognizing that all its power and authority is granted to it by the people of Texas, and those who make decisions wielding the power of the state should exercise their authority cautiously and fairly.

***“STRENGTHENING OUR PROSPERITY: THE STATEWIDE STRATEGIC
PLANNING ELEMENTS for TEXAS STATE GOVERNMENT”***



TIER II: “RELEVANT STATEWIDE GOALS AND BENCHMARKS”

- EDUCATION – PUBLIC SCHOOLS (Not Applicable to TSBPME Core Mission)
- EDUCATION – HIGHER EDUCATION (Not Applicable to TSBPME Core Mission)
- HEALTH AND HUMAN SERVICES (Not Applicable to TSBPME Core Mission)
- ECONOMIC DEVELOPMENT (Not Applicable to TSBPME Core Mission)
- PUBLIC SAFETY & CRIMINAL JUSTICE (Not Applicable to TSBPME Core Mission)
- NATURAL RESOURCES & AGRICULTURE (Not Applicable to TSBPME Core Mission)
- REGULATORY

Priority Goal: To ensure Texans are effectively and efficiently served by high-quality professionals and businesses by:

- Implementing clear standards;
- Ensuring compliance;
- Establishing market-based solutions;
- Reducing the regulatory burden on people and business.

Benchmarks:

- Percentage of state professional licensee population with no documented violations;
- Percentage of new professional licensees as compared to the existing population;
- Percentage of documented complaints to professional licensing agencies resolved within six months;
- Percentage of individuals given a test for professional licensure who received a passing score;
- Percentage of new and renewed professional licenses issued via Internet.

- **GENERAL GOVERNMENT**

Priority Goal: To provide citizens with greater access to government services while reducing service delivery costs and protecting the fiscal resources for current and future taxpayers by:

- Supporting effective, efficient, and accountable state government operations;
- Conservatively managing the state's debt.

Benchmarks:

- Total state taxes per capita;
- Total state spending per capita;
- Percentage change in state spending, adjusted for population and inflation;
- Number of state employees per 10,000 population;
- Number of state services accessible by Internet;
- Total savings realized in state spending by making reports/documents/processes available on the Internet and accepting information in electronic format.

***“STRENGTHENING OUR PROSPERITY: THE STATEWIDE STRATEGIC
PLANNING ELEMENTS for TEXAS STATE GOVERNMENT”***



TIER III: "AGENCY MISSION"

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

What is a Podiatrist's scope of practice in Texas?

A Podiatrist's scope of practice in Texas is defined, at least, in three parts:

First, Texas Occupations Code (Statute) §202.001(a)(4) "Definitions" provides that: "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.

***Second, Texas Administrative Code, Title 22, Part 18 (Rules) §375.1(2) provides:** "Foot"-- The foot is the tibia and fibula in their articulation with the talus, and all bones to the toes, inclusive of all soft tissues (muscles, nerves, vascular structures, tendons, ligaments and any other anatomical structures) that insert into the tibia and fibula in their articulation with the talus and all bones to the toes.

Third, in accordance with Texas Health & Safety Code Subchapter E relating to Medical Staff Membership & Privileges (§241.101 et al): Procedures to treat the foot/ankle by a Podiatrist at the hospital/surgical facility level are within the scope of practice for Podiatric Medicine in the State of Texas (by "any system or method") as long as the Podiatrist is qualified and credentialed to do so and has hospital/surgical privileges for the same, for performance of the procedure at the hospital/surgical level as cleared by medical staff. Texas Health & Safety Code

§241.101(g) "Hospital Authority Concerning Medical Staff" provides that a hospital's bylaw requirements for staff privileges may require a podiatrist to document the person's current clinical competency and professional training and experience in the medical procedures for which privileges are requested. A Podiatrist who is not trained in performance of the procedures being requested is not authorized to perform those procedures as unqualified practitioners are to refrain from attempting procedures that are not within the individual Podiatrist's capability. Texas Health & Safety Code §241.102(a) "Authorizations and Restrictions in Relation to Physicians and Podiatrists" provides that this chapter does not authorize a Podiatrist to perform podiatric acts that are beyond the scope of the respective license held. The TSBPME recommends to all credentialing committees that they review a Podiatrist's documented training prior to granting privileges. Whether or not privileges are granted is a matter for local control.

***NOTE:** As of 06/18/2010, final "Foot" (Rule) litigation (formerly pending since 2008) before the Texas Supreme Court [Current Litigation: Case No. 08-0485 Texas Supreme Court – Texas State Board of Podiatric Medical Examiners, Texas Podiatric Medical Association and Bruce A. Scudday, DPM v. Texas Orthopaedic Association, Texas Medical Association, and Andrew M. Kant, MD.] resulted in a decision of the Texas Supreme Court denying the Board's "Petition For Review" and upholding the March/May 2008 Texas 3rd Court of Appeals Opinions invalidating the Board's definition of "Foot." This scope of practice contest is spanning an approximate period of 10 ½ (ten and one-half) years. <http://www.supreme.courts.state.tx.us/opinions/casesearch.asp>

This matter is discussed in greater detail throughout this document.

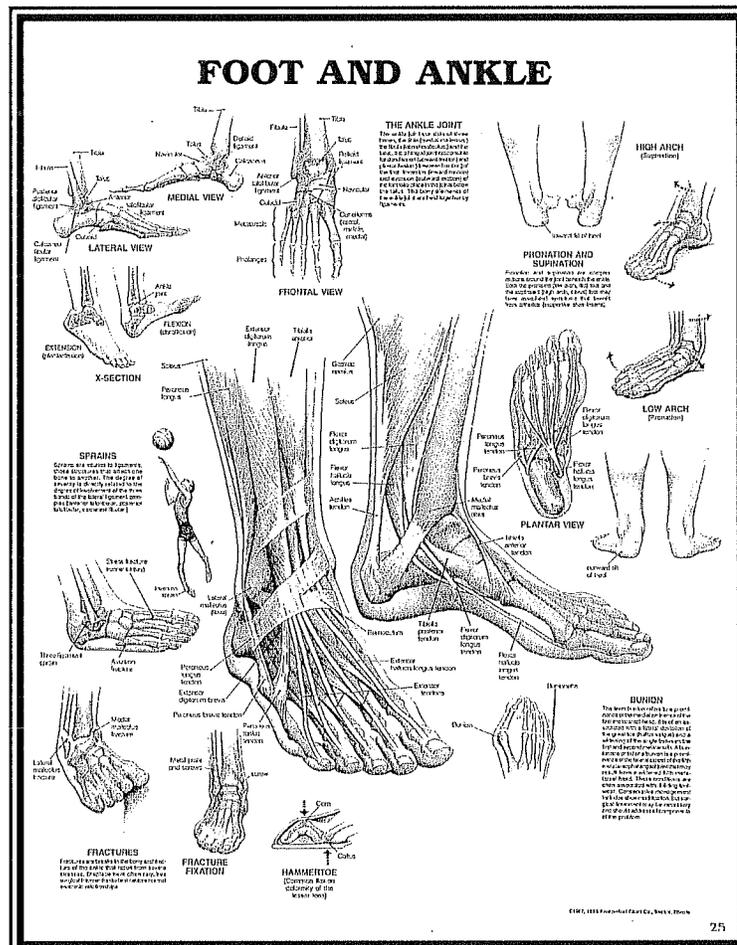


IMAGE SOURCE: ANATOMICAL CHART COMPANY; HAGERSTOWN, MD



TIER IV: "AGENCY PHILOSOPHY"

The Texas State Board of Podiatric Medical Examiners is the state agency entrusted with the responsibility of licensing Podiatric Physicians and regulating Podiatric Medicine in Texas. This goal is accomplished by means of a fair, aggressive and comprehensive testing, licensing and enforcement program that guarantees that only qualified professionals are granted licensure and can practice Podiatric Medicine in Texas. We are a small state agency, headed by an Executive Director, who reports to a nine-member Board. The Board is composed of six Podiatric Physicians (i.e. Podiatrists) and three Public Members. Each of the Board Members are appointed to the Board by the Governor of Texas and confirmed by the Texas Senate for a term of six-years.

We affirm that regulation is a public and private trust. We strive to regulate aggressively but fairly, minimally but effectively. Consumers, professionals and the public alike can be assured of a balanced and sensible approach to regulation; an approach that demands the highest standards of professional conduct and personal ethics, an approach that ensures equal opportunity for all employees and licensees, balances the rightful concern of society with the rights of individuals, and is open, honest, accountable, responsive and mindful of the efficient use of licensee fees.

We ensure that our licensees maintain the highest standards of professional conduct and expertise, so that consumers receive the best possible medical care at the best possible price, and so that Podiatric Physicians can be assured among themselves that they are members of a community of health care providers respected and trusted by the citizens of Texas. Our philosophy focuses on promulgating clear and comprehensive rules that can be understood and followed without ambiguity by our licensees, and on the vigorous enforcement of our Rules and Statute.

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



TIER V: "EXTERNAL / INTERNAL ASSESSMENTS"

I. OVERVIEW OF AGENCY SCOPE & FUNCTIONS

Historical Perspective

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

Official recognition of Podiatric Medicine as a profession in the United States began with the first regulation of its practice by the State of New York in 1895. At that time, there were only a few colleges teaching Podiatric Medicine. None of these colleges were located in Texas. On October 22, 1917, those who had set up practice in Texas had their earliest recorded meeting, in a room donated by the Dallas Chamber of Commerce. They called the group the Texas Chiropodist Society. The second annual meeting of the Texas Chiropodist Society was held at the Rice Hotel in Houston on October 7-8, 1918, when the prime concern of the members was to introduce a bill in the next legislative session to provide for a state law to regulate the practice of Chiropody.

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

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

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

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

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

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

Currently, there are 957 "Active" licensed Podiatrists in the State of Texas; the Board regulates and serves this population statewide with no geographical limitations.

Podiatrists perform full treatments of the human feet and ankles through such modalities including full prescriptive authority, performance of hyperbaric oxygen therapy and relative anesthesia in office, clinical, hospital and surgical settings. There are 8 nationally accredited Colleges of Podiatric Medicine in the United States who follow (federally) standardized models of education and training set forth by the American Podiatric Medical Association (APMA; <http://www.apma.org>), the state component of which is the Texas Podiatric Medical Association (TPMA; <http://www.txpma.org>), and the national Council on Podiatric Medical Education (CPME; accrediting body; <http://www.cpme.org>).

Functions

Operations of the Board are supported entirely by (annual) fees collected from each licensee. The function of the Board is to: **1)** Protect the citizens of Texas; **2)** License Podiatric Physicians; **3)** Perform an annual renewal of all Podiatric Physicians; **4)** Register non-certified Podiatric Radiological Technicians; **5)** Enforce the Podiatric Medical Practice Act of Texas (principal law: Texas Occupations Code Chapter 202); **6)** Enforce Board rules (Title 22, Part 18, Texas Administrative Code) and **7)** Enforce other applicable state statutes.

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

- Successfully graduated from a four (4) year college,
- Graduated from an approved College of Podiatric Medicine,
- Successfully completed Part I and Part II of the National Podiatric Medical Boards,

- Successfully completed the PMLexis (National Podiatric Medical Licensing Examination for States; National Boards Part III) Examination, and
- Successfully completed a CPME approved one (1) year podiatric residency program (Graduate Podiatric Medical Education).

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

In 2001, the 77th Legislature granted the Board one (1) additional full-time employee, an Administrative Technician II, to assist with the clerical aspects of our complaint investigations. The addition of this employee brought our agency to five (5) full-time employees. Unfortunately in 2003, due to a State mandated 19% budget cut, the Board was forced to execute a reduction in force from five (5) to four (4) full-time employees for cost savings. This forced reduction resulted in decreased service efficiencies with an inability to assist existing staff in addressing complaint investigation backlogs.

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

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

The year of 2004 brought about the statutorily required review of the Texas State Board of Podiatric Medical Examiners by the Sunset Advisory Commission. During the 79th Legislative Session in 2005, the TSBPME "passed" Sunset and was continued in existence for another 12 years to the year 2017. A new Sunset provision was that the Governor could now appoint the "Board President" and the Board would continue to elect a Vice President and Secretary. Effective March 23, 2007 (through present date of this document), Governor Perry appointed Ms. Doris A. Couch (Public Member) of Burleson, TX as President. Ms. Couch is the Board's first ever Public Member presiding officer.

There were Sunset updates to our rules on the "Consequences of Criminal Convictions" mandated primarily by Texas Occupations Code Chapter 53 ("law"). If an arrest or conviction is related to the practice of podiatry, the Board will initiate an investigation. The Board continues to conduct quarterly "DPS and FBI Criminal History Checks" (CCH) and further "Criminal Investigations" as warranted by those checks. Sunset mandates that a "Public Member" of the Board be involved at all of our informal hearings. In addition, Sunset gave the Board authority to order "Refunds" to patients or insurance companies for fraudulent billing. Ordering a "Refund" is limited to the actual monetary loss involved, not restitution for any other reason (i.e. pain and suffering; what judges & juries determine). The Board was also given authority to issue an "Emergency Temporary Suspension" of a license to practice podiatry for egregious violations posing an immediate threat to public safety.

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

In Executive Session, during the April 5, 2004 Board Meeting, administrative and management changes were made which resulted in the resignation of the Executive Director. The Board saw another transition in the Executive Director position in September 2005 after which the Board's Investigator V of six (6) years was hired to resume executive functions.

Beginning on April 14, 2008 the Board underwent a procurement audit through the Texas Comptroller of Public Accounts and received a favorable outcome. On March 5, 2009, during the 81st Legislative Session/2009, the State Auditor's Office conducted a full audit of the Board culminating with SAO Audit Report #09-038. The overall results of this audit were favorable but the SAO made several recommendations to correct agency errors in certain performance measure calculations/policies and cited additional recommendations to enhance IT physical security. On February 21, 2010, the Board underwent a personnel policies audit through the Texas Workforce Commission's Civil Rights Division; the Board was certified as being fully compliant.

The most notable event of FY 2010 was the FY 2010-2011 5% Budget Reduction mandated by the State of Texas via letters dated January 15-22, 2010. This mandate resulted in yet another loss of a position (i.e. Administrative Assistant II; Hiring Freeze) thereby reducing our staff to three (3) from four (4) full time employees. The FTE count for FY 2010 is "3.1" which is less than the "4.0" authorized due to the FY 2010-2011 5% Budget Reduction. The vacancy of the 4th FTE will continue through FY 2011 as part of the requisite agency reorganization that was implemented effective February 16, 2010 to meet the FY 2010-2011 5% Budget Reduction mandate. However, this does not mean that the Board has identified that its operations can continue with "3.0" FTE's. The agency needs to be fully staffed at "4.0" FTE's (authorized level). Therefore, for the FY 2012-2013 biennium (i.e. 82nd Legislative Session/2011) the Board will be requesting funding for the 4th FTE position (which may be either an Administrative Assistant II, Investigator III, Staff Services Officer II, License and Permit Specialist III or other appropriate staff). It's further noted that the State of Texas is seeking an additional 10% Budget Reduction for the FY 2012-2013 biennium (i.e. 82nd Legislative Session/2011) with all agencies already approaching the 82nd Legislative Session with a (reduced) 95% base budget. These budget cuts have not had a positive impact on the Board's operations/functions. This will be discussed further in this document.

Current Board Staff have an invaluable combined 35+ years of institutional knowledge of the Board's functions. It's noted that "PEOPLE" are any organizations' most valuable asset. The Executive Director and Board President continue to (re-)evaluate the agency and its historical business processes (via this Strategic Planning process and collaboration with the Office of the Governor) to seek future enhancements; efficiencies and economies are to be gained. This

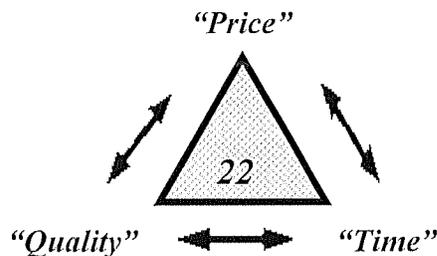
will be discussed again further in this document in relation to the Office of the Governor's "February 2008 Business Process Review" report of certain health regulatory agencies (reiterated).

From its inception eighty-seven years ago through the present, it has been and remains this Board's goal to succeed in its mission of assuring quality Podiatric Medicine for the people of Texas. It is this goal that guides both our day-to-day activity and long-range planning as we proudly do our part to make Texas into a beacon state. It's often said that: "As Texas goes, so goes the nation."

Due to the small size of the agency (3 FTE's; formerly 5 and then 4) and the small size of profession (957 "Active" licensed Podiatrists), we nonetheless remain weary of having to increase license fees every 2 years to fund the Board's functions in meeting legislative mandates. Podiatrists already pay some of the highest "Annual" license renewal fees at \$455.00. The Board strives to seek a fair balance amongst the complex challenges of rising fees, increased mandates, increased costs and reduced/limited resources. One could argue that state agencies increasingly face the notion of "regulatory poverty" whereby current funding levels/limitations are not sufficient to meet day-to-day mandates. Nevertheless, the Texas Legislature appropriates agency funds in accordance with performance and target expectations via the Legislative Appropriations Request (LAR) process every 2 years.

THE PODIATRY BOARD IS IN A "CATCH - 22"

In order to meet goals of "Quality" and "Time" → "Price" must be increased.



Without full or additional funding ("Price"), both "Quality" and "Time" will suffer.

We collect revenue at approximately 20% - 30% in excess of our appropriation authority and other costs (benefits & indirect costs; 6.E. Page 1 of 2 FY 2010-2011 LAR) per year to the State's General Revenue Fund; over and above what we spend. In other words, the Board generates revenue for the State of Texas; revenue of which is utilized by the State to fund other programs/agencies/functions/services.

II. ORGANIZATIONAL ASPECTS & TEXAS HEALTH PROFESSIONS COUNCIL

The Texas State Board of Podiatric Medical Examiners is composed of nine (9) Members appointed by the Governor, with the advice and consent of the Senate, for staggered six (6) year terms. The Board is comprised of six (6) Podiatric Physicians and three (3) Public Members. The Board employs an Executive Director who oversees and manages the agency. The agency has a current total of three (3) full-time employees (formerly 5 and then 4): **1**) the Executive Director (exempt), **2**) a Staff Services Officer V (classified) and **3**) a Staff Services Officer II (classified).

(Note: As part of the requisite agency reorganization in response to the FY 2010-2011 5% Budget Reduction mandated by the State of Texas, implemented on February 16, 2010, the Investigator III position was reclassified to a Staff Services Officer II and the Administrative Assistant II was placed on a "Hiring Freeze;" position of which will remain vacant for the entirety of FY 2010-2011.) The employee turnover rate for last year was 25%. The Board does not have a legal division; attorney services are provided through the Office of the Attorney General. The Assistant Attorney General (AAG) currently assigned to the Board has nearly 17 years of institutional knowledge of the Board's functions. While this AAG remains of high and dedicated value to the agency, the Board could benefit from in-house legal counsel services similar to those of larger agencies within the Texas Health Professions Council, of which the Board is the smallest member.

Pursuant to Texas Occupations Code Chapter 101, the Texas State Board of Podiatric Medical Examiners is a member of the Texas Health Professions Council (HPC). The HPC is composed of a variety of healthcare licensing boards; the council's mission of which is to coordinate regulatory efforts amongst the various boards represented on the HPC. To learn more about the functions of the Health Professions Council and its member board regulatory jurisdictions & professions, please visit their website at <http://www.hpc.state.tx.us>.

The Board has no field offices. Its headquarters are located in the William P. Hobby Jr. State Office Building, 333 Guadalupe Tower II, Suite 320, Austin, TX, 78701. The agency's main voice line is 512-305-7000. The facsimile lines are 512-305-7003 (main) and 512-305-7165 (secured/investigations). The Board, through HPC, also maintains a national toll free complaint hotline number, 1-800-821-3205. The Board's website is located at <http://www.foot.state.tx.us>. The public perceives the Board as "the" authority in addressing their complaints vs. Podiatrists, and rely on our expertise and resources in assuring they receive the best podiatric medical care possible. The public expects efficient and effective regulation in spite of resource limitations and encumbrances.

Again, currently there are 957 "Active" licensed Podiatrists in the State of Texas; the Board regulates and serves this population statewide with no geographical limitations.

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

KEY ORGANIZATIONAL EVENTS AND AREAS OF CHANGE & IMPACT ARE AS FOLLOWS:

► **Scope of Practice** - Regarding "Foot" (rule) scope of practice, on November 7, 2002, the Texas Orthopaedic Association (TOA), the Texas Medical Association (TMA) and Andrew Kant, MD filed a lawsuit against the Texas State Board of Podiatric Medical Examiners (TSBPME) in Travis County District Court. The Texas Podiatric Medical Association (TPMA) and Bruce A. Scudday, DPM subsequently intervened.

In 2005/2006, this matter eventually progressed in litigation before the Texas 3rd Court of Appeals in Austin, TX (Cause No. 03-05-00620-CV). In addition, the overall challenges and contests with the "Foot" rule (adopted March 23, 2001) are spanning an approximate period of 10 ½ (ten and one-half) years. As of June 18, 2010, final "Foot" (rule) litigation (formerly pending since 2008)

before the Texas Supreme Court [Current Litigation: Case No. 08-0485 Texas Supreme Court — Texas State Board of Podiatric Medical Examiners, Texas Podiatric Medical Association and Bruce A. Scudday, DPM v. Texas Orthopaedic Association, Texas Medical Association, and Andrew M. Kant, MD.] resulted in a decision of the Texas Supreme Court denying the Board's "Petition For Review" and upholding the March/May 2008 Texas 3rd Court of Appeals Opinions invalidating the Board's definition of "Foot." Although the Texas Supreme Court rendered an apparent "end" to the litigation matter answering certain/specific legal questions (i.e. whether or not the Board's definition of "Foot" was valid and within the Board's authority to adopt), the overall scope of practice battle between Doctors of Medicine (i.e. Medical Doctors – MD; Doctor's of Osteopathic Medicine – DO) and Doctors of Podiatric Medicine (i.e. DPM) is far from over. Both professions continue to battle one another in pursuit of the best possible healthcare for the people of Texas. Negotiations for an ultimate (and necessary/requisite) legislative/statutory remedy (82nd Legislative Session/2011) remain on-going amongst the trade associations (before the Board) with continued disagreements on what exactly constitutes a Podiatrist's scope of practice, with acceptable education/training for certain clinical/surgical privileges and just how far up the "leg" a Podiatrist can go to treat the human "Foot."

As the Texas 3rd Court of Appeals duly noted ("Footnote 7") in their final May 23, 2008 Opinion: **"The statutory authority currently in place limits Podiatrists to the treatment of 'the foot.' While it may be difficult to define that term for purposes of treatment, whatever the term means, it is clear that 'the foot' does not include the full portion of the body included within the definition in the Rule. Compelling arguments might be made as to whether - from a medical standpoint - it is reasonable to allow a practitioner treating the foot to consider and treat other anatomical systems that interact with and affect the foot. This is a debate to be had at the legislature."**

This matter remains of primary importance as scope of practice sets the parameters in which the profession and the agency functions/exists. As long as scope of practice remains unclear, there remains ambiguity on the agency's potential for clear regulation (i.e. Licensure & Enforcement) and to seek legislative resources (i.e. additional staff and funding) to ensure the agency can proactively remain strong for the future. For example, should the Texas Legislature clearly deem that the "Ankle" is within podiatric scope of practice, the Board and the agency could then seek additional resources to clear its (standard of care) complaint investigation backlogs with direct focus on that endeavor. However, with pending uncertainty, agency staff face unexpected challenges every time an authoritative body returns an (conflicted) opinion/action due to the fact that the Board then finds itself in a position to immediately address the judicial process with legal counsel (Office of the Attorney General) in response to meeting strict deadlines. This address involves agency staff (reduced to 3 FTE's) needing to focus only on the scope of practice matter at hand by preparing for, coordinating and scheduling an "Open Meeting" (to include post-meeting follow-through and document preparation/filing with authoritative bodies) which diverts staff attention away from other agency day-to-day operations. Should the Texas Legislature clearly deem that the "Ankle" is not within podiatric scope of practice, the Board and the agency would then need to seek the resources/staff to enforce such a scope of practice limitation by restricting the current 957 "Active" Podiatric Physicians from their existing "Foot/Ankle" practices. This would require a dedicated compliance/enforcement program (of multiple Investigators, Inspectors, Attorneys) to review license files, hospital credentialing records and local practice business processes to ensure that Podiatric Physicians are then not practicing "Medicine" without a license (criminal penalties) which is the field of licensure for Medical Doctors and Doctors of Osteopathic

Medicine (MD/DO) regulated by the Texas Medical Board. The Board (i.e. TSBPME) would also need to enter into an interagency agreement (whether by executive MOU or through Rule or other lawful provision) with the Texas Medical Board to (criminally) co-investigate and (criminally) co-prosecute Podiatric Physicians practicing “Medicine” without a license by treating the “Ankle.” The possibility exists that the Texas Legislature would also need to clearly link the TSBPME’s and the Texas Medical Board’s investigations/enforcement programs by statute to clear certain “confidentiality” restrictions and to ensure dual agency jurisdiction in addition to the ability of sharing resources/funds.

The following are notable highlights related to the May 23, 2008 ruling issued by the Texas 3rd Court of Appeals (which on June 18, 2010 the Texas Supreme Court upheld upon denial of the Board’s “Petition For Review;” **we await a late July 2010 mandate enforcing that decision**):

On August 23, 2005, regarding “Texas Orthopedic Association, Texas Medical Association & Andrew M. Kant, Plaintiffs v. Texas State Board of Podiatric Medical Examiners, Defendant - Cause No. GN204022, Travis County 126th District Court,” the District Court issued a “Final Judgment” deeming Board Rule §375.1(2) (i.e. “Foot”) to be valid and not in excess of the Board’s authority. This judgment was appealed to the Texas 3rd Court of Appeals (Austin, TX) by the Plaintiffs (TMA/TOA).

On March 14, 2008 the Texas 3rd Court of Appeals issued an opinion deeming Board Rule §375.1(2) “Foot” to be invalid. On March 31, 2008, the Appellees (TSBPME/TPMA/Scudday) filed a “Motion For Rehearing.” On May 23, 2008, the Texas 3rd Court of Appeals responded with a subsequent opinion which deemed the rule to be invalid.

The Texas 3rd Court of Appeals has also affirmed the Appellants (TMA/TOA) standing in this matter (Footnote 1: “... We previously concluded that the Appellants had sufficiently demonstrated that they had standing to maintain this suit and that they complied with traditional standing and associational standing requirements, *see State Bd. of Podiatric Med. Examiners*, 2004 Tex. App. LEXIS 10031, and all the reasons articulated in our previous opinion again compel us to conclude that the appellants had standing to seek the declarations sought...”)

Nevertheless, individuals should refer to the May 23, 2008 Texas 3rd Court of Appeals opinion (copies available at the Board’s office) as primary source information; additional hi-lights are as follows:

1. The staff of the Board understands the Court’s reasoning of this matter. The Texas 3rd Court of Appeals had previously and currently explained that the traditional practice of podiatry includes treatment of the ankle.
2. The Court points out that the Board’s Rule was too broad: “... We disagree with the Board and the Association [TPMA]. All of their arguments are couched on the premise that the Rule merely authorizes podiatrists to treat the foot and the ankle and that the Rule is, therefore, consistent with the scope of podiatric medicine. However, there is no language in the Rule limiting the foot to that portion of the body that is **at or below the ankle**. On the contrary, the terms of the Rule authorize podiatrists to treat parts of the body that are well above the ankle...”

3. “Because there is no language limiting the permissible area of treatment for these soft tissues, the Rule authorizes podiatrists to treat these anatomical features wherever they may be located in the body and to treat ‘any disease, disorder, physical injury, deformity, or ailment’ of these features because they have been defined as being part of the foot. *See* Tex. Occ. Code Ann. § 202.001(a)(4). Moreover, because the occupations code allows podiatrists to treat the foot ‘by any system or method,’ the Rule effectively authorizes podiatrists to treat these body parts by utilizing procedures that are outside the scope of their training.⁴ *See id.* §202.001(a)(4); *see also id.* §202.254 (specifying that to obtain license to practice podiatry, applicant must pass examination covering ailments of the *foot*) (emphasis added). As a result, the Rule authorizes podiatrists to treat parts of the body outside the traditional scope of podiatry without satisfying the requirements of the Medical Practice Act. *See id.* §§ 155.001-.152 (detailing requirements for obtaining license to practice medicine). This authorization exceeds the limited exemption given to podiatrists and would constitute the unauthorized practice of medicine. *See id.* §§ 151.052(a)(5), 155.001.⁵”

While the staff of the Board understands the Court’s explanation on this point, it has always been the Board’s intent that the “Foot” definition did not include the tibia and fibula as permitted anatomy to be practiced on or as being within the scope of podiatric medical practice. The practice of podiatry is limited to treatment of the foot and ankle.

4. In Footnote 2, the Court declined to do what the Appellants had requested of the Court: “The appellants [the medical doctors] also ask us to issue a declaration that ‘the lawful practice of podiatry in Texas is confined to treatment of the foot.’ Given our resolution of this case, it is unnecessary and would be advisory for us to opine as to the entire scope of the practice of podiatry in Texas.”
5. In Footnote 3, the Court states: “We note that some medical definitions of the ‘foot’ exclude the ankle. *See, e.g., Black’s Medical Dictionary* 211 (39th ed. 1999) (defining foot as ‘that portion of the lower limb situated below the ankle joint’); *American Heritage Stedman’s Medical Dictionary* 312 (2002) (defining foot as ‘The lower extremity of the vertebrate leg that is in direct contact with the ground in standing or walking’).”
6. In Footnote 4, the Court states: “Although there was extensive testimony and evidence presented during trial showing that treating the ankle was within the scope of podiatry, no evidence was introduced showing that treating parts of the body found within the leg were within the scope of podiatry.”
7. In Footnote 5, the Court states: “It is worth noting that although on one hand the Rule impermissibly expands the practice of podiatry, the Rule also seems to truncate the scope as well. The Rule defines the foot as including certain bones and the soft tissues ‘that insert into the tibia and fibula in their articulation with the talus and all bones to the toes.’ 22 Tex. Admin. Code § 375.1(2) (2007). This definition seems to exclude soft tissues that are found exclusively within the foot and, consequently, that are not part of the articulation between the talus and the tibia and fibula.”
8. In Footnote 7, the Court states: “The statutory authority currently in place limits podiatrists to the treatment of ‘the foot.’ While it may be difficult to define that term for purposes of treatment, whatever the term means, it is clear that ‘the foot’ does not include the full

portion of the body included within the definition in the Rule. Compelling arguments might be made as to whether — from a medical standpoint — it is reasonable to allow a practitioner treating the foot to consider and treat other anatomical systems that interact with and affect the foot. **This is a debate to be had at the legislature.**”

The Texas 3rd Court of Appeals concluded its discussion by saying: “...As discussed previously, the Rule authorizes treatment of body parts that are above the ankle. For all of the reasons given, we conclude that the Board exceeded its authority when it promulgated the Rule and that the Rule is invalid.”

Again, the Texas 3rd Court of Appeals had previously and currently explained that the traditional practice of podiatry includes treatment of the ankle.

It should also be noted that at the medical facility level, in accordance with Texas Health & Safety Code Subchapter E relating to Medical Staff Membership & Privileges (§241.101 et al): Procedures (to treat the foot/ankle) by a Podiatrist at the facility level are within the scope of practice for Podiatric Medicine in the State of Texas (by “any system or method”) as long as the Podiatrist is qualified and credentialed to do so and has facility privileges for the same, for performance of the procedure at the facility level as cleared by medical staff.

Texas Health & Safety Code §241.101 "Hospital Authority Concerning Medical Staff" provides in part that: "(a) Except as otherwise provided by this section and Section 241.102, this chapter does not change the authority of the governing body of a hospital, as it considers necessary or advisable, to: (1) make rules, standards, or qualifications for medical staff membership; or (2) grant or refuse to grant membership on the medical staff. (b) This chapter does not prevent the governing body of a hospital from adopting reasonable rules and requirements in compliance with this chapter relating to: (1) qualifications for any category of medical staff appointments; (2) termination of appointments; or (3) the delineation or curtailment of clinical privileges of those who are appointed to the medical staff. (c) The process for considering applications for medical staff membership and privileges or the renewal, modification, or revocation of medical staff membership and privileges must afford each physician, podiatrist, and dentist procedural due process that meets the requirements of 42 U.S.C. Section 11101 et seq., as amended. (d) If a hospital's credentials committee has failed to take action on a completed application as required by Subsection (k), or a physician, podiatrist, or dentist is subject to a professional review action that may adversely affect his medical staff membership or privileges, and the physician, podiatrist, or dentist believes that mediation of the dispute is desirable, the physician, podiatrist, or dentist may require the hospital to participate in mediation as provided in Chapter 154, Civil Practice and Remedies Code. The mediation shall be conducted by a person meeting the qualifications required by Section 154.052, Civil Practice and Remedies Code, and within a reasonable period of time...."

Texas Health & Safety Code §241.102 "Authorizations and Restrictions in Relation to Physicians and Podiatrists" provides that: "(a) This chapter does not authorize a physician or podiatrist to perform medical or podiatric acts that are beyond the scope of the respective license held. (b) This chapter does not prevent the governing body of a hospital from providing that: (1) a podiatric patient be co-admitted to the hospital by a podiatrist and a physician; (2) a physician be responsible for the care of any medical problem or condition of a podiatric patient that may exist at the time of admission or that may arise during hospitalization and that is beyond the scope of the podiatrist's license; or (3) a physician determine the risk and effect of a proposed podiatric surgical procedure on the total health status of the patient. (c) An applicant for medical staff membership

may not be denied membership solely on the ground that the applicant is a podiatrist rather than a physician. (d) This chapter does not automatically entitle a physician or a podiatrist to membership or privileges on a medical staff. (e) The governing body of a hospital may not require a member of the medical staff to involuntarily: (1) co-admit patients with a podiatrist; (2) be responsible for the care of any medical problem or condition of a podiatric patient; or (3) determine the risk and effect of any proposed podiatric procedure on the total health status of the patient."

While credentialing remains a local issue amongst hospitals/facilities, medical staff and each individual provider (i.e. system of checks & balances), questions arise as to the office setting where there is no medical staff oversight. At the June 12, 2008 Special Called TSBPME Board Meeting, the Board began deliberations (to present; 2010), in part, to ensure proper (individual) practice limitations in response to unsafe practice concerns as referenced in the Texas 3rd Court of Appeals opinions.

Nevertheless, in recognition of proper practice for public safety, any Podiatric Physician shall provide adequate and appropriate services consistent with best practices and community standards. The Podiatric Physician shall maintain objectivity and shall respect each individual's dignity, and shall not engage in any action that may cause injury and shall always act with integrity in providing services.

The Podiatric Physician shall recognize the individual limitations of his/her ability and shall not offer services outside his/her scope of practice, qualifications/training or use techniques that exceed his/her individual professional competence. The Podiatric Physician shall not make any claim, directly or by implication, that he/she possesses professional qualifications or affiliations that he/she does not in fact possess.

Board Rule 375.3(a) "General" provides that: "The health and safety of patients shall be the first consideration of the Podiatric Physician. The principal objective to the podiatric profession is to render service to humanity. A Podiatric Physician shall continually strive to improve his medical knowledge and skill for the benefit of his patients and colleagues. The Podiatric Physician shall administer to patients in a professional manner and to the best of his ability. Secrets and personal information entrusted to him shall be held inviolate unless disclosure is necessary to protect the welfare of the individual or the community. A Podiatric Physician shall be temperate in all things in recognition that his knowledge and skill are essential to public health, welfare, and human life."

Once more, this matter is of primary importance as scope of practice sets the parameters in which the profession and the agency functions/exists. As long as scope of practice remains unclear, there remains ambiguity on the agency's potential for clear regulation (i.e. Licensure & Enforcement) and to seek legislative resources (i.e. additional staff and funding) to ensure the agency can proactively remain strong for the future.

► **Continued TSBPME Enforcement/Investigations Relationships (RP-36) & New "Peer Review" Process with the Texas Podiatric Medical Association (TPMA) & Texas Occupations Code Chapter 53 Issues** - In the course of executing investigations, the Board continues to interact with local/county/state/national podiatric medical associations, the Texas Legislature, the Texas Health Professions Council, local/state/national hospitals and clinics, medical licensing agencies, other medical professional associations and health care entities, various municipal/county/state/federal law enforcement agencies such as the Texas Department of

Public Safety, the Federal Bureau of Investigation, the United States Drug Enforcement Administration, the United States Postal Service – Office of Inspector General and the United States Department of Health and Human Services – Office of Inspector General.

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

The Board had previously restructured its complaint investigation process to minimize the involvement of Board Members in this process and expedite the review of medical and standard of care issues. We initially trained twenty-one (21) Podiatric Physicians as "Podiatric Medical Reviewers" (PMR's; consultants) since January 2002. PMR's act as medical experts and review the medical and standard of care issues in our complaint investigations. After reviewing all of the issues, the PMR generates a clinical report, documenting the decisions made that then becomes a part of our agency investigative complaint case folder. Based on the PMR's determination(s), the complaint case may be closed or moved on for further negotiation during Informal Consent Hearings, or moved on formally to the State Office of Administrative Hearings (SOAH) and the PMR acts as the agency's "expert witness." These reviewers are paid a frugal total of twenty dollars (\$20.00) for each medical review they complete, making this a most cost-effective way to facilitate the necessary medical review of our complaint cases. One PMR had consistently shown a strong interest and dedication to this process. Therefore, under the guidance of legal counsel at the Office of the Attorney General, we secured "Investigator" status for him and contracting on a per-case basis as an additional non-full-time employee (clinical) Investigator. It is our hope that this process alone will continue to facilitate the investigation and resolution of complaints given the aforementioned full-time employee reductions. This "Investigator" contract was executed in accordance with Texas Occupations Code §202.204.

TPMA Peer Review. Nevertheless, due to the FY 2010-2011 5% Budget Reduction mandated by the State of Texas, the Board witnessed the loss of its Administrative Assistant II position whose core role was to support enforcement/investigations. As a result of the requisite agency reorganization (implemented on February 16, 2010), the burden of enforcement/investigations has fallen in a greater role to the Executive Director. To therefore assist the Board with certain investigations in a time of reduced staff, the Board on May 26, 2010 enlisted Texas Occupations Code Chapter 202 – Subchapter J "Peer Review" assistance of the Texas Podiatric Medical Association (TPMA) in an effort previously begun in 2009.

Upon the July 6, 2009 Board Meeting, it was determined that the main hindrance in the Board forwarding complaints it receives to TPMA is "confidentiality." Once we are in receipt of a complaint, state law doesn't allow us to forward that document to anyone other than another government agency. After all the research on "confidentiality," we found it a challenge to bridge that lawful limitation. However, at the July 6, 2009 Board Meeting an alternative was discussed to where we could simply point patients to TPMA to direct file a complaint with TPMA without the Board getting involved at that initial stage; further rule changes are pending for the August 2, 2010 Board Meeting to clarify this process.

As a result, we have updated our "Complaints" webpage with the following (<http://www.foot.state.tx.us/complaint.filing.htm>): [► **"Podiatric Medical Society or Association - Peer Review."** Pursuant to Texas Occupations Code Chapter 202 - Subchapter J, a podiatric peer review committee means the podiatric peer review, judicial, or grievance committee of a podiatric medical society or association that is authorized to evaluate the quality of podiatry services or the competence of a podiatrist. A committee includes the members, employees, and agents of the committee. In Texas, the "Podiatric Medical Society or Association" is the Texas Podiatric Medical Association (TPMA). Patients may also contact the TPMA to file a complaint for "Peer Review" provided that the podiatric physician is a **member of TPMA. Contact Information:** Texas Podiatric Medical Association; 918 Congress Ave., Ste. #200; Austin, TX 78701; Voice: (512)-494-1123/800-TEX-FOOT; Fax: (512)-494-1129/800-633-9235; Web: <http://www.txpma.org>.]

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

We are presently witnessing an increase in complaints (possibly due to the economic downturn) and the majority of them reflect the aforementioned issues. Again, due to the January 2010 - March 2010 State of Texas mandated FY 2010-2011 5% Budget Cuts (with more to come during the 82nd Session/2011), our workforce has been reduced along with our budget/resources and we are witnessing growing backlogs. The State as a whole could benefit with better policing of podiatry with collaborative efforts to the extent the law allows, and pointing patients to TPMA for alternative remedies may assist with this endeavor.

As prescribed in Texas Occupations Code Chapter 202 - Subchapter J "Peer Review" and within the structure of TPMA's Grievance Committee processes/by-laws, once TPMA receives a complaint, it would then be up to TPMA to proceed with the matter as they deem necessary to include a referral to the Board for matters TPMA cannot resolve.

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

Texas Occupations Code Chapter 53 Issues. With regard to prescriptive authority and access to drugs/narcotics, along with Doctors of Medicine (MD/DO), Dentists (DDS), Veterinarians (DVM) and Pharmacists (PharmD), Podiatrists (DPM) have full prescriptive authority to write prescriptions from Schedules II-V to treat the foot/ankle (i.e. "by any system or method"). Along with this prescriptive authority comes the opportunity for substance abuse and drug diversion. To that end, in accordance with the provisions of Senate Bill 144 (effective January 1, 2004; 78th Texas Legislature), the State of Texas developed a program to assist providers with "Abuse/Misuse of Prescription/Pain Medications/Drug Diversion." That information can be found on our website at: <http://www.foot.state.tx.us/complaint.htm>. (The informational site is graciously

hosted through the efforts of the Texas State Board of Pharmacy.) Providers who are a candidate for rehabilitation are afforded an opportunity to seek “help” for drug abuse while allowing them to maintain a license. "Drug Diversion" is a nationwide problem effecting physicians, patients and the general public. Proper distribution and receipt of "Controlled Substances" cannot be achieved without proper regulation. The Board can assist anyone through open communication and reporting of those matters posing a risk to the public health, safety and welfare.

However, there are those incidents where the drug abuse is so sufficient/egregious/illicit and hazardous to the public (i.e. Texas Health & Safety Code violations) that the Board would need to pursue a “License Revocation” against those providers who are not a candidate for rehabilitation, and who are repeat violators. To that end, Texas Occupations Code §202.502 “Revocation and Suspension of License for Drug-Related Felony Conviction” provides that: “(a) The Board shall suspend a person's license after an administrative hearing conducted in accordance with Chapter 2001, Government Code, in which the Board determines that the license holder has been convicted of a felony under Chapter 481 or 483, Health and Safety Code, or Section 485.033, Health and Safety Code. (b) On the person's final conviction, the Board shall revoke the person's license. (c) The Board may not reinstate or reissue a license to a person whose license is suspended or revoked under this section except on an express determination based on substantial evidence contained in an investigative report indicating that the reinstatement or reissuance of the license is in the best interests of the public and of the person whose license has been suspended or revoked.” Furthermore, Texas Occupations Code §202.506 “Application to Certain Drug Offenses” provides that: “A person convicted of a felony under Chapter 481 or 483, Health and Safety Code, or Section 485.033, Health and Safety Code, is not eligible for: (1) probation of a license suspension or revocation under Section 202.503; or (2) reissuance of a license under Section 202.504.”

These Texas Occupations Code Chapter 202 powers set forth a clear mandate by the State that certain drug offenses would not be tolerated and the Board was given clear authority to discipline a licensee. However, during the 81st Legislative Session/2009, Texas Occupations Code Chapter 53 was modified in several areas thus mitigating the authority of the aforementioned Texas Occupations Code Chapter 202 provisions. These modifications have hampered the Board’s ability to take almost automatic action versus a drug impaired licensee posing a threat to the public.

First, Texas Occupations Code §53.002 “Applicability of Chapter” provides that: “This chapter does not apply to (4) a person who (A) is licensed by the Texas Medical Board, the Texas State Board of Pharmacy, the State Board of Dental Examiners or the State Board of Veterinary Medical Examiners; AND (B) has been convicted of a felony under Chapter 481 or 483 or Section 485.033, Health and Safety Code.” During the pendency of this bill for the 81st Legislative Session/2009, the Board on November 13, 2008 was asked to complete a “Fiscal Note,” which we did. One analysis of our “Fiscal Note” is that the TSBPME should be added to the list of exempted agencies due in part to the fact that Podiatrists have full prescriptive authority along with the cited professions, and due to the existing Texas Occupations Code §202.502 and §202.506 provisions. A TSBPME exemption would clear a conflict of the two chapters and subject Podiatrists to clear/principal (Texas Health & Safety Code) disciplinary action for “Drug-Related / Felony Offenses.” If the term “AND” was replaced with the term “OR,” then this would also have created an exemption for the TSBPME ... but, the term “AND” links the list of exempted agencies/professions with certain Texas Health & Safety Code provisions. We contacted the bill sponsor on January 5, 2009 to ensure the TSBPME exemption, but the final bill did not allow for a TSBPME exemption. The remainder of Texas Occupations Code Chapter 53 then makes for a great difficulty to revoke a license for a Podiatrist who “plead guilty” or received a “deferred

adjudication” in conflict of the Texas Occupations Code §202.502 and §202.506 provisions due to Texas Occupations Code Chapter 53 providing “...regardless of the statutory authorization...” These conflicts between Texas Occupations Code Chapter 53 and Texas Occupations Code Chapter 202 have essentially tied the Board’s hands in pursuing actions for drug offenses, whereas adding the Board to the list of exempted agencies/professions would have resolved this matter to keep us in line with those agencies/professions who have full prescriptive authority. Again, it is not understood why the TSBPME was not given the same level of standing as the Texas Medical Board, the Texas State Board of Pharmacy, the State Board of Dental Examiners or the State Board of Veterinary Medical Examiners as those agencies, like the TSBPME, regulate professions with full prescriptive authority.

► **Peace Officer / Law Enforcement Status** - Unfortunately, the TSBPME is not considered “Law Enforcement” so there continues to be delayed or no access to certain “criminal” information in fully complying with provisions of Texas Occupations Code §202.509(e) which requires the Board to cooperate with and assist law enforcement in criminal investigations. HB 2216-Bailey (which died in committee during 79th Legislature) would have authorized the Board to: “Commission as a Peace Officer, to enforce the laws governing the program, an employee who holds a Peace Officer license. The commissioned Peace Officer would have the powers, privileges, and immunities of a Peace Officer enforcing the law and rules governing the regulatory program.”

Previously, we identified that our agency desperately needed “Peace Officer / Law Enforcement” status (commission) to support the type and nature of criminal investigations being conducted on a routine basis, and to ensure that the public health, safety and welfare is not compromised. The Board was not interested in additional benefits of the “Peace Officer” retirement system nor would the Board have allowed a commissioned employee to work over-time jobs not responsive/related to the Board’s mission beyond normal working hours. “Peace Officer / Law Enforcement” status would; however, have allowed the Board to meet all its new Sunset mandates in a more efficient manner by the expedient access to confidential criminal information.

Nevertheless, all Board attempts to pursue legislation during the 78th, 79th and 80th Legislatures were unsuccessful in trying to suffice this “Law Enforcement” need. The Board ceased further pursuit during the 81st Legislature/2009. The Board does not intend to re-visit or pursue future “Peace Officer” legislative attempts due to the volume and effort such an endeavor requires. The Legislature had not taken any action over the past three (3) Sessions and we do not expect that they will in the future.

The Board has therefore turned its focus to Texas Occupations Code §202.509(e) whereby we continued to cooperate with and assist law enforcement in our present capacity with law enforcement agencies taking on the primary role of joint investigations as they deem necessary.

► **TSBPME Issues & Collects \$75,000.00 Fine & Assists the FBI with a \$2 Million Medicare Restitution & More Federal Case Success** – Previously, it was noted that on February 6, 2006, after a five-year investigation delayed by lack of statutory access to criminal evidence, the Board was successful in ordering and collecting a \$75,000.00 fine by a Texarkana, TX podiatrist and

assisting the FBI in securing a \$2 Million restitution to Medicare as part of the same investigation. If the Board had “Peace Officer/Law Enforcement” status, we would have been able to expedite the case resolution time and even been able to order a larger fine amount upon receipt of certain criminal evidence from the FBI. However, due to a lack of “Law Enforcement” status, the Board was not legally authorized to take custody of certain information/evidence obtained by the FBI.

Nevertheless, we continued to build on the success/experience of that case in addressing similar “Major” investigations. On November 6, 2009, the Board made a Podiatry “Healthcare Fraud” presentation to the Dallas FBI’s North Texas Healthcare Fraud Working Group identifying trends in Medicare/Medicaid/Insurance Fraud.

In a more recent case, on May 28, 2010 the Board was successful in a follow-up of a 2007 “Cease & Desist Order” vs. 2 Podiatrists in McAllen, TX with the FBI, the United States Department of Health and Human Services – Office of Inspector General and the Office of the Attorney General – Medicaid Fraud Control Unit whereby the 2 Podiatrists were sentenced to up to 3 years in federal prison and ordered to pay restitution to Medicare/Medicaid in the amount of the \$691,128.04 for conducting a major healthcare fraud scheme.

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

► **TSBPME License Examination Process / The University of Texas at Austin** – As aforementioned, beginning in March 2002, we moved our licensing examination from an oral/practical clinical format to a written jurisprudence examination which agency staff administer in Austin, TX. This new format has the benefit of allowing examination candidates to experience less “down time” while waiting to take the exam, which if passed, will qualify them more quickly for licensure. The Board’s jurisprudence examination is validated by the University of Texas at Austin. [Note: As a result of several lawsuits relating to oral/practical medical licensing examination issues in other similar states, it was the recommendation of our statutorily mandated Examination Testing Consultant and the Attorney General’s Office that we move our licensing examination from an oral/practical format to a written jurisprudence examination. The Board officially implemented the written jurisprudence examination effective as of March 2002. The first of the new written jurisprudence examinations was administered on July 19, 2002. This format is more dependable (eliminates the potential for “human error”) and is more legally defensible than the old oral format. It also allows us to offer our licensing examination three (3) times a year. This new format also has the benefit of allowing examination candidates to experience less “down time” while waiting to take the exam, which if passed, will qualify them more quickly for licensure to practice Podiatric Medicine in Texas.] We continue to self-administer this exam process and remain with the validation services provided by the University of Texas at Austin.

Agency staff have also published on the Board’s website a “Board Statute & Rule Regulatory Hi-Lites” document which allows candidates for examination access to study materials. This document is also geared to provide existing licensees with a “Resource/Tool” to focus on specific Board Laws/Rules to “prevent complaints” as the overall regulations are quite extensive. It remains our position that proper licensee education protects the public proactively as opposed to solely the reactive complaint investigation process. The Texas Podiatric Medical Association has utilized this document to develop an “Ethics/Risk Management” Continuing Medical Education

program for its members. This is a further collaborative effort with the TPMA to ensure the best possible practice of podiatric medicine.

► **TSBPME Victim Advocacy Recognition** - We note again that the TSBPME has been recognized by a Texas and National Victim Advocacy Group (“Advocate Web”) for exemplary efforts related to licensure and enforcement; for "Sexual Misconduct" investigations/rules. It's not often that a state board is recognized by an Advocacy Group as history yields opposing viewpoints/forces, but not in our case. We continue to build on this accomplishment to suffice future investigations of “boundary violations.”

► **Texas Population Forecast & Patient Health Access Needs + Human Resources** - The demand for podiatric medical expertise in Texas, as elsewhere in this country, remains on the rise as the “Baby-Boomer” population ages and moves further toward retirement age. These “Baby-Boomers” as well as the general public of all age groups are increasingly seeking out the expertise of the specialty of Podiatric Medicine to satisfy their pain management and medical needs. The population of Texas is projected to grow by ten (10) million people, from about 23 million in 2005 to 33 million by 2030, a 43.5% increase or roughly 1.7% per year. This will substantially increase the demand for quality Podiatric Medicine in Texas during the next three decades. Of course, proper regulation by the Board must follow, which includes a 100% minimum workforce of four (4) FTE’s and necessary resource increases over time without a requirement to raise license fees.

The Board’s most veteran employee, the Staff Services Officer V who has been with the agency since 09/20/1990, is eligible to retire in five (3) years. Her retirement will result in the loss of years and years of invaluable Administration, Licensure, Examination & Education experience (i.e. institutional knowledge). Efforts are underway to automate a percentage of her functions by addressing future database functions and to train existing staff to be her replacement. Staff retention is imperative.

► **Consolidation: Texas Health Professions Commission – 80th Session / HB 2939-Callegari / SB 1907-Ellis** – HB 2939-Callegari and SB 1907-Ellis (identical companions) related to “the administration of agencies responsible for the regulation of, and workforce planning and policy development for certain licensed health professions” under proposed Texas Occupations Code Chapter 113 that would have created the Texas Health Professions Commission (THPC). While these bills were left pending in committee, the (prior) TSBPME analysis detailed the (then) most recent health professions agency consolidation proposal. Board staff are not opposed to a “centralization” of common services model; the (prior) analysis cited relevant issues for a best practices model. It is our opinion that such a scenario may remain valid for future savings/efficiencies especially during a time of the mandatory FY 2010-2011 5% Budget Reductions.

To review the Board’s detailed analysis of this matter, please refer to our “FY 2009 – FY 2013 Strategic Plan” (pages 20-28).

► **February 2008 Office of the Governor “Business Process Review”** – To reiterate, in the wake of HB 2939-Callegari and SB 1907-Ellis (identical companions; 80th Session; left pending in committee), beginning in late Summer/Fall 2007 (i.e. FY 2008) the Board responded to a “Business Process Survey” (BPR) launched by the Office of the Governor’s “Budget, Planning and Policy” Division.

Staff from the Governor’s Office of Budget, Planning, and Policy (GOBPP), in cooperation with member agencies of the Health Professions Council (HPC), had undertaken a business process review of the health professions regulatory agencies to identify options for increasing administrative efficiencies through the sharing of additional services through the HPC.

HPC was established in 1993 as an alternative to consolidation of the health professions regulatory agencies. The primary purpose of the HPC is to coordinate the administrative and regulatory functions of the health professions regulatory agencies.

The “BPR” report provided information on the findings and overall conclusions drawn from the business process review in the areas of: 1) Finance, 2) Human Resources and 3) Information Technology.

“Finance” involved the review of the following common agency functions: Payroll Processing, Asset Management, Electronic Deposit Processing, In-House Cash Processing, Reconciliation of Fines, Purchasing, Purchase Voucher Processing, Travel Vouchers, Binding Encumbrances and Annual Financial Reporting.

“Human Resources” involved the review of the following common agency functions: Recruiting, Hiring, Performance Appraisal & Management Training, Employee Grievance Process and Risk Management.

“Information Technology” involved the review of the following common agency functions: IT Support Services, IT Preparation for Board Meetings and Changes to IT systems (e.g., databases).

One needs to refer to the “BPR” report for primary source information/results; the report can be found on the Office of the Governor’s website.

*****The business process review was performed by the staff of the Governor's Office of Budget, Planning and Policy. The findings and recommendations contained in the report do not reflect the views of the Health Care Policy Council.**

As a small state agency, TSBPME staff remain open to this “BPR” report and its findings in achieving the noted efficiencies to be gained as the Board proceeds towards the 82nd Legislative Session beginning in January 2011. It is staff’s position that the centralization of common agency “Finance/Human Resource/Information Technology” functions within the HPC would allow the TSBPME to focus on CORE “Licensure & Enforcement” functions DIRECTLY related to our Mission and expertise.

The Texas State Board of Podiatric Medical Examiners, as a small state agency with limited resources (i.e. mandatory State of Texas FY 2010-2011 5% Budget Reduction) facing the eventual retirement of a valued employee, can benefit from the “BPR” proposals and is in need of such “centralized service” assistance to meet increasing agency administrative/operational demands.

► **Mandatory State of Texas “FY 2010-2011 5% Budget Reduction”** – Fast forward to the present 2010 year, by letters dated January 15, 2010 and January 22, 2010 from the Legislative Budget Board (LBB), the Governor’s Office of Budget Planning & Policy (GOBPP), the Honorable Governor Rick Perry, the Honorable Lieutenant Governor David Dewhurst and the Honorable Speaker of the House Joe Strauss, the State of Texas mandated that all state agencies immediately reduce their budgets by 5% for the present FY 2010-2011 Biennium. The staff of the Texas State Board of Podiatric Medical Examiners submitted the agency’s formal response to the LBB’s budget/accounting (ABEST) system on February 16, 2010 which was the deadline for all state agencies to respond (the same has been published on the Board’s website at: <http://www.foot.state.tx.us/agencypublications.htm>).

It is noted that the January 15, 2010 LBB/GOBPP FY 2010-2011 5% Budget Reduction Letter provides, in part:

- "...Your plan should represent prudent, efficient reductions that minimize the impact on direct services...Reducing direct services should be your last option, but should be identified..."

It is noted that the January 22, 2010 LBB/GOBPP FY 2010-2011 5% Budget Reduction Letter provides, in part:

- "...Exclude appropriations from GR-Dedicated accounts that are not subject to Comptroller certification of the GAA..."
- "...The first item should be the budget item that if adopted, would have the least consequence or negative effect on agency programs and goals..."
- "...Subsequent reduction items should reflect those with greater consequences or negative effects to agency programs and services..."
- "...If agency size or function limits the available options, please consult your GOBPP or LBB analyst prior to submitting a proposal with one reduction option..."
- "...Examples of acceptable reductions include specific agency programs or services, savings from a hiring freeze, elimination of contracts for consultants and professional services, travel reductions, elimination of planned purchases of capital items, etc..."
- "...Explain in detail the impact of the reduction item to the agency operations and customers..."
- "...Potential impacts include, but are not limited to reductions in services or service levels, longer processing times..."
- "...In addition, for each reduction item, identify and explain the impacts to the following:
... FTE reductions; and, key performance measures..."

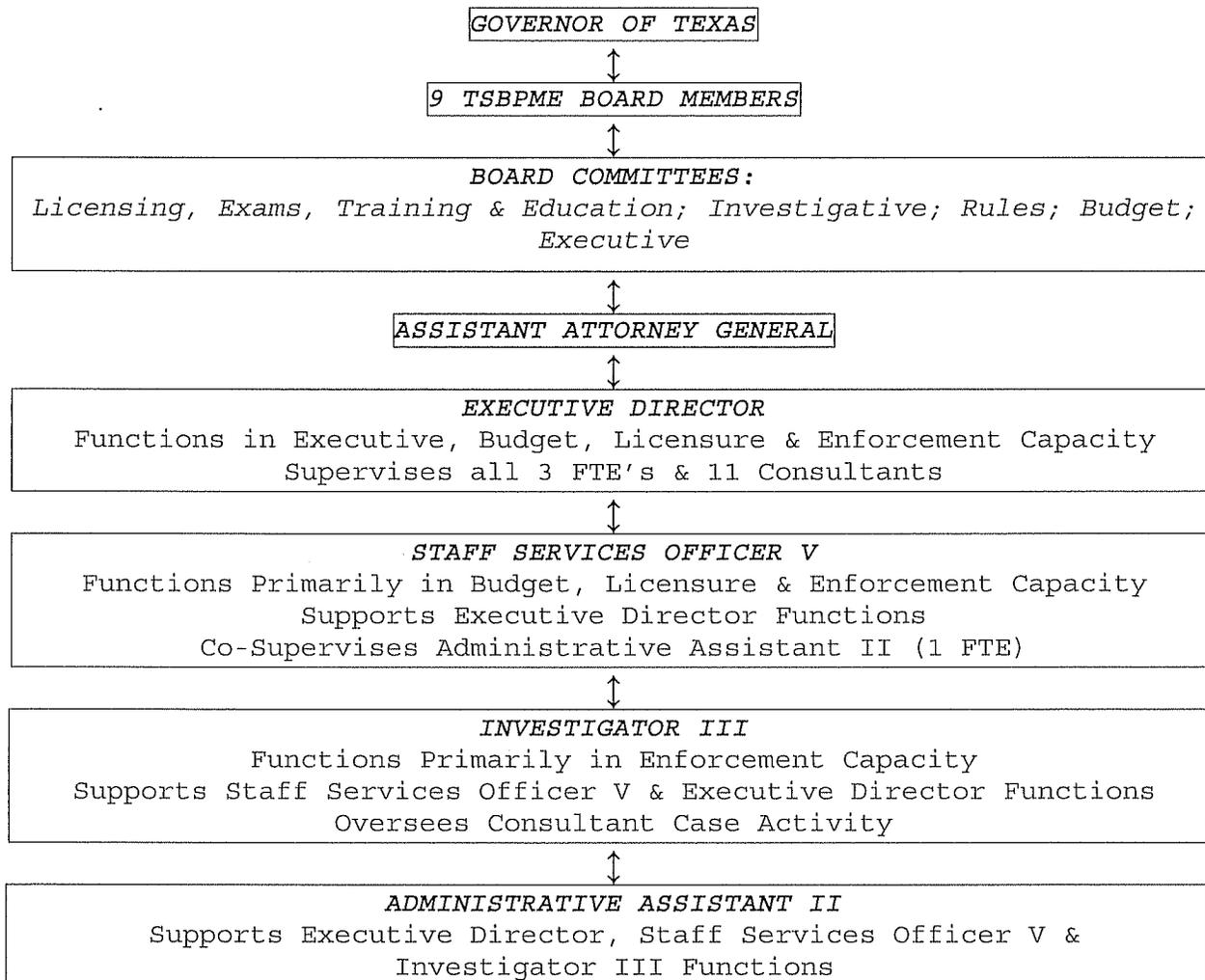
TSBPME PLAN/REORGANIZATION OVERVIEW TO LBB/GOBPP:

After immediate, exhaustive and time-consuming agency review in principal response to the FY 2010-2011 5% Budget Reduction, it was realized that this matter would also allow the agency to formulate advanced plans for the 82nd Legislative Session/2011 LAR & Strategic Planning (FY 2011-2015) process which would also be responsive to present/interim FY 2010-2011 Staff Retention/Workforce issues/proposals.

We had developed an initial strategy to respond to some 3-5 years of future agency operations towards the 82nd Legislative Session in 2011 (FY 2012-2013 95% Base Budget) where the agency will request (additional) funding/resources to recover from the FY 2010-2011 5% Budget Reduction.

1. The TSBPME is a (authorized) 4 FTE agency (formerly 5 FTE's but reduced to 4 FTE's during the 78th Legislative Session/2003 budget cuts; we had to "R.I.F." the Licensing Manager position to meet that 7+% reduction). The following "Agency Organization" Chart is an overview of staffing levels prior to February 16, 2010.

"AGENCY ORGANIZATION" CHART (Prior to 02/16/2010)



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CONTRACTED CLINICAL INVESTIGATORS/CONSULTANTS

Function solely in Enforcement Capacity

CURRENT BOARD STAFF HAVE AN INVALUABLE COMBINED 35+ YEARS OF INSTITUTIONAL KNOWLEDGE OF THE BOARD'S FUNCTIONS

2. Pursuant to a November 1, 2009 TSBPME letter to the Texas Comptroller of Public Accounts (CPA) and their December 22, 2009 response, the CPA had certified our (approved 81st Legislative Session/2009) FY 2010-2011 budget as follows:

For the FY 2010-2011 biennium, the General Appropriations Act (GAA; Rider 2; Art. VIII-59) stipulates:

"Contingent Revenue. Out of the amounts appropriated above to the Board of Podiatric Medical Examiners in Strategy A.1.1, Licensure and Enforcement, the amounts of \$5,612 in fiscal year 2010 and \$5,612 in fiscal year 2011, and in Strategy A.1.3, Indirect Administration, the amounts of \$803 in fiscal year 2010 and \$803 in fiscal year 2011 in General Revenue are contingent upon the Board of Podiatric Medical Examiners assessing or increasing fees sufficient to generate, during the 2010-11 biennium, \$17,875 in excess of \$862,000 (Object Code 3562), contained in the Comptroller of Public Accounts' Biennial Revenue Estimate for fiscal years 2010 and 2011. The Board of Podiatric Medical Examiners, upon completion of necessary actions to assess or increase such additional fees, shall furnish copies of the Board of Podiatric Medical Examiners' minutes and other information supporting the estimated revenues to be generated for the 2010-11 biennium under the revised fee structure to the Comptroller of Public Accounts. If the Comptroller finds the information sufficient to support the projection of increased revenues, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purposes."

Therefore, the Board was required to increase revenue sufficient to cover the costs of funding: 1) \$5,612.00 (Appn. 13001) and 2) \$803.00 (Appn. 13004) for:

- A) "4% Merit Salary Increase for General/Classified State Employees" (i.e. 81st Legislative Session/2009 LAR Exceptional Item Request #1):

▶ EXCEPTIONAL ITEM REQUEST #1 (4% Merit Salary Increases; FY10 \$4,415.32; FY11 \$4,415.32): Funding for employee merit raises are needed for the Staff Services Officer V (\$1,979.32/yr), the Investigator III (\$1,388.80/yr) and the Administrative Assistant II (\$1,047.20/yr). By not providing our staff with merit raises, we risk losing our staff to other agencies with higher levels of funding that can afford higher salary levels and merit raises. Loss of trained staff has the potential to slow down and negatively impact our provision of services and functions.

- B) "Board Member Travel Expense Reimbursements" (i.e. 81st Legislative Session/2009 LAR Exceptional Item Request #2):

► EXCEPTIONAL ITEM REQUEST #2 (Board Travel; FY10 \$2,000.00; FY11 \$2,000.00): We must continue to appropriate funds adequate to reimburse our Board members for their travel and incidental expenses related to quarterly Board meetings that we estimate to be about \$2,000.00 per year. The nine members give of their talents, their time and expertise and should never be put in a position to also be encumbered with costs to travel to Austin to direct the performance and progress of this agency. Additional funding would enable the continued reimbursement of a public Board member to attend settlement hearings. As part of the acts of the 79th Legislature and the Sunset Advisory Commission, TOC §202.057 now provides that: "(a) Each Board member is entitled to a per diem as set by legislative appropriation for each day the member engages in the business of the Board. (b) A member may receive reimbursement for travel expenses, including expenses for meals, lodging, and transportation, as prescribed by the General Appropriations Act." Adequate Board member travel will have a positive impact on our performance measures in the ability to more efficiently resolve cases at the committee level.

Texas Occupations Code §202.151 "GENERAL RULEMAKING AUTHORITY" provides that: "The Board shall adopt reasonable or necessary rules and bylaws consistent with the law regulating the practice of podiatry, the law of this state, and the law of the United States to govern: (1) its proceedings and activities; (2) the regulation of the practice of podiatry; and (3) the enforcement of the law regulating the practice of podiatry."

Texas Occupations Code §202.153 "FEES" provides that: "(a) The Board by rule shall establish fees in amounts reasonable and necessary to cover the cost of administering this chapter. The Board may not set a fee that existed on September 1, 1993, in an amount less than the amount of that fee on that date. (b) The Board may not maintain unnecessary fund balances, and fee amounts shall be established in accordance with this requirement."

Based on Performance Measure Targets for Fiscal Year 2010/2011, on July 6, 2009 (Board Meeting) the Board adopted emergency rule §371.3 which increased the following fees to fund the 81st Legislative Session/2009 Appropriation/Exceptional Items #1 - #2 above. The fee increases are as follows:

► "Podiatric Physician License Renewal Fees increased \$10.00 per year from \$445.00 to \$455.00. (Be advised, these amounts are inclusive of the \$5.00 Texas Online fee and the \$1.00 Office of Patient Protection fee)."

Based on the Board's actions of July 6, 2009 (copy of unapproved "Minutes" previously enclosed to the CPA; Agenda Items #13 & #14; the Board would not meet again until November 16, 2009 at which time the "Minutes" were subsequently approved), we estimated sufficient revenue collection to be \$8,900.00 for each year of the biennium.

As stated above, we based these figures on the FY 2010 Performance Measure Targets. The 2010 target for the Podiatric Physician Renewals is 890 licenses. (Prior Note: As of January 25, 2010, we had renewed 941 Podiatry licenses well in excess of that 890 target; so that is \$23,205.00 in GR revenue to the State in excess of our projections from 2008.)

Therefore, based on that information, and our finding sufficient increased revenues to be collected, we requested that the contingent appropriation be made available for those intended purposes, pursuant to a CPA finding of fact. Pursuant to the December 22, 2009 CPA letter, they agreed and the appropriations were approved/released.

Consequently, the Staff Services Officer V's, Investigator III's and the Administrative Assistant II's 4% Merit Salary Increase had been applied to those positions as built in the FY 2010-2011 budget. Board Travel had been applied as well.

3. Therefore, the 81st Legislative Session/2009 Approved FY 2010-2011 Budget/Bill Pattern was fully funded/certified and we could breakdown the FY 2010-2011 5% Budget Reduction from that ... which upon our review amounted to essentially a "One Reduction Option."
4. We understand that the FY 2010-2011 5% Budget Reduction is for the BIENNIUM as a whole, not 5% for each year of the biennium. We understand that agency's can decide how much of the 5% they want to apply from each year or for the biennium as a whole.
5. The other issue we have identified is "Staff Retention" (with a requisite Administrative Assistant II Hiring Freeze); this is responsive to the (itemized) factors delineated in the January 15-22, 2010 LBB/GOBPP letters. The Administrative Assistant II position had been vacant (25% staff reduction; hiring/search process initiated in September 2009; through February 2010) since September 4, 2009. In addition, the agency has been (& continues to be) encumbered from years and years of pressure/activity from the 10 ½ year TOA/TMA/TPMA "Foot" scope/rules/litigation matter up to the Texas Supreme Court level, in addition to meeting all other agency functions. The Administrative Assistant II position was vacant and history yields that was the 7th vacancy in 10 years for that position. It's a challenge to find qualified Administrative Assistant II's who are willing to stay and don't have an expectation that the job is a stepping-stone position. We have also gone through 2 Executive Directors over that 10+-year span and 3 Investigators as part of our (authorized) 4 FTE make-up.

Our (then) current Investigator III, who performed additional duties as assigned in excess of that title and supports the Executive Director & Staff Services Officer V (staff wears many hats by virtue of the size of the agency) with Licensing/Examination/Enforcement/Administration functions had been offered a job opportunity with another state agency (i.e. Texas Board of Professional Geoscientists) at a higher salary. The agency could not afford to lose that employee for the value of her as an employee/person and to the agency's functions. The agency could not afford a 50% staff reduction, and a costly search/hiring process for 2 positions (i.e. Administrative Assistant II and Investigator III) would have been an incredibly challenging and time consuming task away from all other agency operations/performance; especially with the "Foot" scope/rules matter still on-going as the Board's #1 priority.

After much consideration, for the viability of the agency and for staff retention purposes, it was prudent to reclassify the Investigator III to a Staff Services Officer II and to have her take on more responsibilities/programs which would also allow her to learn the Staff Services Officer V job duties as that employee is set to retire, at the earliest, on May 31, 2013 (part of our forthcoming 82nd Legislative Session/2011 LAR request for that

employee's retirement planning for FY 2012-2013). The Staff Services Officer V has over 20 years of institutional knowledge of the Board's functions; the Executive Director has over 10 years and the (now) Staff Services Officer II has 5 years of institutional knowledge of the Board's functions. The agency could not afford to have the Staff Services Officer II leave and lose all her institutional knowledge/value especially with the Staff Services Officer V set to retire in 2013. In the midst of the FY 2010-2011 5% Budget Reduction, hiring an Administrative Assistant II off the street in an entry level position would not have allowed us to have a seasoned person able to learn the Staff Services Officer V's complex job duties, but retaining the Staff Services Officer II (i.e. reclassified Investigator III) would remedy that issue.

The other matter is the Executive Director position and level of salary. The 81st Legislature/2009 increased his base annual salary from \$55,000.00 to \$70,000.00 but the Board was not given the authority to raise fees for that increase; the Executive Director's current annual salary remains at the \$55,000.00 base. The Board can only pay his salary increase with existing/available funds; this was verified with the LBB in June 2009. The Executive Director's level of pay is not commensurate with his duties/workload/hours and we risk losing him to another organization who can offer him greater pay for his value. After 10 years, he does not want to leave the Board/agency, but has to also consider his future/career plans/goals. With the present Administrative Assistant II vacancy, the prospect of the departure of two employees (i.e. Staff Services Officer II and Executive Director) during FY 2010-2011, the Board/agency would experience a 75% workforce reduction and loss of over 15+ years of valuable institutional knowledge of the Board's functions. With the Staff Services Officer V scheduled to retire on May 31, 2013 at the earliest, that is a departure of another 20+ years (or 24+ years in 2013) of valuable institutional knowledge of the Board's functions and almost then a 100% workforce reduction as there's no presumption on who the Board could find to fill their 3 positions and maintain the knowledgeable regulation of Podiatry.

In order to retain all 3 current staff for the next 3-5 years (Licensure/Enforcement/Administration/Etc.), in addition to responding to the FY 2010-2011 5% Budget Reduction, as we approach the 82nd Legislative Session in 2011 it was proposed by the Board President and Executive Director to the LBB/GOBPP that we keep the Administrative Assistant II position vacant (i.e. Hiring Freeze) for FY 2010-2011 and reallocate that Administrative Assistant II salary balance (\$26,000.00/year) to:

- 1) A Reclassification/Salary Increase for the Investigator III → Staff Services Officer II;
- 2) Salary Increase for the Staff Services Officer V and
- 3) Salary Increase for the Executive Director.

These three staff could manage the Board's/agency's current functions at that level/performance through FY 2010-2011 with a boost in much needed Salary/Morale; these three staff have typically performed increased duties with the said Administrative Assistant II vacancy revolving door. This proposal assures minimal continuity for the Board/agency with retention of key staff and then we can approach the 82nd Legislative Session in 2011 to re-fund/recover the Administrative Assistant II position (in keeping with 4 FTE's) and request an Investigator or Attorney (5th FTE) position to plan the Board's/agency's functions/re-organization for the next 10 years. We have already accounted for efficiencies to be gained in the Licensing/Examination/Education process with eventual migration to the Texas Health Professions Council (HPC) Shared Regulatory Database System (81st Legislative Session/2009 summary/approval; Licensing Database), of which the Staff Services

Officer II could immediately start working with HPC-Information Technology (HPC-IT) staff for enhanced Licensing/Examination/Education automated processes; to include possible outsourcing of the Examination to a State authorized private vendor (e.g. Sylvan Learning Centers; Thomson Prometric; Etc.) as several other medical licensing boards have.

As for Enforcement, the Staff Services Officer II and Staff Services Officer V will (continue to) assist the Executive Director (along with the aforementioned TPMA "Peer Review" process). The Executive Director also acts as the Director of Enforcement and continues to attend to all "Healthcare Fraud" cases which are complex criminal state/federal felony investigations, to include (millions of dollars) of Medicare/Medicaid "Healthcare Fraud" cases (because Podiatrists perform large amounts of nursing home work and it is noted that healthcare is facing numerous nationwide challenges/loss; see FBI White Collar Crimes Report to the Public on their website at: <http://www.fbi.gov/page2/march07/financial030707.htm>). Furthermore, our Physician Consultants/Investigators are paid a mediocre \$20.00 - \$100.00 FLAT RATE PER CASE no matter how many hours/days/weeks/months/years it takes to work such voluminous/complex criminal investigations. We cannot eliminate/abandon our affordable, unique and extremely valuable consultant contracts as that most definitely would have a major negative impact on not just our performance, but also our public safety programs/services and the well-being of Medicare/Medicaid. Along with this "Healthcare Fraud" enforcement program comes related principled travel to meet with law enforcement agencies to conduct criminal investigations and those travel expenses are minimal, and program driven (Texas Occupations Code §202.509(e)). To further assist with enforcement/investigations, the Board Members (along with the aforementioned TPMA "Peer Review" process) would be called upon for and have offered further assistance to attend to our routine/standard of care cases to support staff to remedy the 25% workforce reduction (i.e. Hiring Freeze) of the Administrative Assistant II position.

With the Staff Services Officer II taking on more of the Licensing/Examination/Education processes (with future HPC Licensing Database efficiencies to be gained), that will allow the Staff Services Officer V to work more on Human Resources/Accounting/Finance-Purchasing/Reporting/Policies functions. When funds/budget allow/provide, the agency could then consider hiring a "Temp." to assist the 3 remaining staff on a part-time basis at some point during FY 2010-2011; most likely FY 2011.

Furthermore, we recognize that additional efficiencies could be gained were HPC to take over certain Human Resources/Accounting-Finance functions per the GOBPP's 2008 HPC-Business Process Review (BPR) Report suggestions (pending before HPC; reported to the Board at the August 4, 2008 Meeting); TSBPME staff remain in support of the GOBPP's 2008 BPR Report. As for any health board consolidation, that is a dynamic matter out of the agency's control and the purview of the Texas Legislature and the Governor's Office, also with the input of affected agencies. Agency staff perform their job duties for the State of Texas to the best of their ability/experience with the resources/people that are provided. People are valuable; that must be made clear. We do understand that consolidation, generally argued, is expensive and doesn't necessarily save the State money especially approaching an estimated \$11-\$18 multi-billion dollar

deficit/revenue shortfall for the 82nd Legislative Session in 2011, but certain efficiencies could be gained in core/common Human Resource/Accounting-Finance functions with HPC centralization.

Staff have all been agreeable to this FY 2010-2011 5% Budget Reduction plan/proposal and this would boost their morale and retention. Staff will all have to put in increased extra hours during this time of budget reductions (which they have immediately begun in addition to their otherwise regular/extra working hours) while being compensated with their respective salary increases in keeping with their commitments to the Board/agency and the State of Texas. Staff has worked through prior tough times when it was just the Staff Services Officer V and Executive Director (50% workforce) for a while but by retaining the Staff Services Officer II (75% workforce), we now have an added variable in key institutional knowledge retention (assurance) to move forward as opposed to starting from the beginning and hiring/training 2-3 new employees.

Agency implementation/execution of this plan/proposal was due upon the February 16, 2010 LBB/GOBPP FY 2010-2011 5% Budget Reduction response deadline and upon subsequent approval (i.e. Executive Director's salary increase) at the Board Meeting regularly scheduled for April 5, 2010.

This Staff Retention/Workforce matter was otherwise generally described in the agency's October 20, 2008 letter to the Governor's Office, also in reference to a State Auditor's Office - Audit Report #08-708 (reported to the Board at the August 4, 2008 Meeting) of the Executive Director's position and our 81st Legislative Session/2009 LAR.

6. As for the "elimination of planned purchases and capital items," the only item responsive to this was a previously scheduled/routine/cyclical Human Resources audit for February 22, 2010 by the Texas Workforce Commission - Civil Rights Division. By statute (Texas Government Code), we entered into an interagency contract on October 12, 2009 to pay them an amount not to exceed \$4,000.00 (actual at \$1,978.00) for their audit. This could not be escaped by operation of law/contract.
7. In preparing the FY 2010-2011 5% Budget Reduction Response, we had an advanced start on the 82nd Legislative Session/2011 Strategic Planning & LAR process and have a "One Reduction Option" in response to the FY 2010-2011 5% Budget Reduction.
8. Agency staff are dedicated/knowledgeable/valuable/experienced/loyal people and want to remain as TSBPME employees, but we need the Board and State to continue to recognize this value. People are any agency's most valuable asset/resource. Agency staff will take on more duties with a commensurate salary increase for taking on the vacant Administrative Assistant II position (i.e. Hiring Freeze) which will allow the Board/agency to return/lapse balances to the State and maintain over 35+ years of valuable institutional knowledge. The Board/agency cannot function at a workforce level lower than 75% (i.e. < 3 FTE's). Again, people, and their knowledge, are the most valuable asset to any organization.

Staff Retention. With the plan/goal of retaining the Staff Services Officer II (with a reclassification from an Investigator III to a Staff Services Officer II) and her working

sooner on the migration to the HPC Shared Regulatory Database System (81st Legislative Session/2009 approval), this accomplishes:

A) The beginning of advanced compliance with certain Information Technology (IT) findings contained within SAO Audit Report #09-038 of the TSBPME (reported to the Board at the July 6, 2009 Meeting).

B) Since the Staff Services Officer II job duties have evolved, having flexibility with the Administrative Assistant II salary will satisfy a requisite re-classification, which will allow the agency to be compliant with SAO-Human Resource/Classification (Texas Government Code) requirements.

C) As for "Foot" scope/rules/contest, that matter continues to go on for 10 ½ years now. The case was taken to the Texas Supreme Court in 2008. Should the Texas Supreme Court have rendered a decision/opinion in favor of the Board or have executed some other decision ending this costly contest, or should the Texas Legislature remedy the matter by legislation in 2011 (82nd Legislative Session) ... then the end of the "Foot" scope/rules/contest matter would have gone a long way to easing pressure on the agency/staff with otherwise ever-increasing demands. However, even with the Texas Supreme Court's June 18, 2010 denial of the Board's "Petition For Review," we continue to await an ultimate remedy before the Texas Legislature; in the mean time, this major anomaly is out of staff's control and is still being deliberated amongst the trade associations before the Board. Staff has worked to sequester this "Foot" matter to remain an anomaly and not to be a part of the agency's culture, but it nevertheless is the most time/resource consuming matter before the Board/agency. Should it ever go away, then the agency could re-focus its energy/efforts to all-growing Licensure/Enforcement and Performance functions/demands.

TSBPME FEBRUARY 16, 2010 DEADLINE SUBMISSION TO LBB/GOBPP:

It was reiterated to the LBB and the Board that the Administrative Assistant II salary reallocation was a present 3-5 year investment to retain current staff and not lose 35+ years of valuable institutional knowledge and at the same time maintain the agency's performance/mission with re-invested staff or risk a 50% - 75% - 100% - 125% workforce reduction in the mean time should the Staff Services Officer II and Executive Director (and consultant Physician Investigator) leave; with the Staff Services Officer V's eventual retirement scheduled for the earliest on May 31, 2013.

Since the Staff Services Officer V and Staff Services Officer II are "Classified" employees under the U.S. Government's Fair Labor Standards Act (FLSA) with an immediate increase in their job duties, they were first in line for the Administrative Assistant II salary reallocation, as state/federal law requires a proper classification and pay level for their jobs. This also alludes into the cyclical (6-year) Texas Workforce Commission - Civil Rights Division's February 22, 2010 Human Resources audit of the TSBPME. The Executive Director had previously spoken with that TWC-CRD auditor to make sure that the agency has proper/fair salary, evaluation and promotion procedures in place for classified staff. The TWC-CRD subsequently certified on February 24, 2010 that the agency's personnel policies/procedures were compliant. (Board President/Executive Director - executive management level approval/execution).

As for the Executive Director, as an agency head, he is "Exempt" from "FLSA" and is not a "Classified" employee, so his position, for all intents/purposes, is "low" in the State system but LBB staff did clarify that if the Board has funds to pay his (regular) salary increase, then the Board could as available from our base budget, provided that his "agency head" salary increase is approved by the full Board at a Board Meeting (Board level approval/execution); with no fee increase to pay his salary increase. It is also noted that unlike "FLSA/Classified" staff, as an agency head, the Executive Director is not eligible to receive salary supplements (i.e. one-time/merit bonuses) pursuant to certain Texas Government Code §659.020 and §659.021 provisions/prohibitions.

Again, the Staff Services Officer V and Staff Services Officer II have already begun IMMEDIATE cross-training and the assumption of reorganized/increased roles for immediate requisite FY 2010-2011 5% Budget Reduction implementation. This will strengthen Licensing/Examinations/Education/Budget-Performance Measures-Operations/Reporting functions (front door) and their available time can then be spent assisting the Executive Director with Board Meetings & Enforcement (which would be less than 50% of time from their primary job duties; to assist investigations/enforcement as needed).

Additionally, the Staff Services Officer V's and Staff Services Officer II's new/increased job duties relate to, including but not limited to: 1) Processing all license-type applications/renewals to completeness, DPM, Temporary, Provisional, Emergency, Rad-Tech, HBO, Nitrous Oxide; Cease & Desist Letters/Orders, Physician Profiles; 2) Examinations, UT-Austin Validation and support; 3) Conducting CME audits and preparing related Board Orders; 4) Board Meeting & Minutes preparation/assistance; 5) Travel coordination/reimbursement; 6) Purchasing/Procurement/Accounting/Budget; 7) HPC Licensing Database liaison duties/transition; 8) Texas OnLine functions; 9) Office of the Attorney General-Child Support, Texas Guaranteed Student Loan, and Texas Department of Public Safety-Criminal History (& FBI) database transfers; 10) ABEST/CPA/SAO/Performance Measure/Annual reports and the like; 11) Payroll/Insurance/Benefits; and the like; 12) SPA/Property Management; 13) Assist with Investigations/Enforcement as needed; 14) Texas Register/Rules and 15) Other duties as assigned.

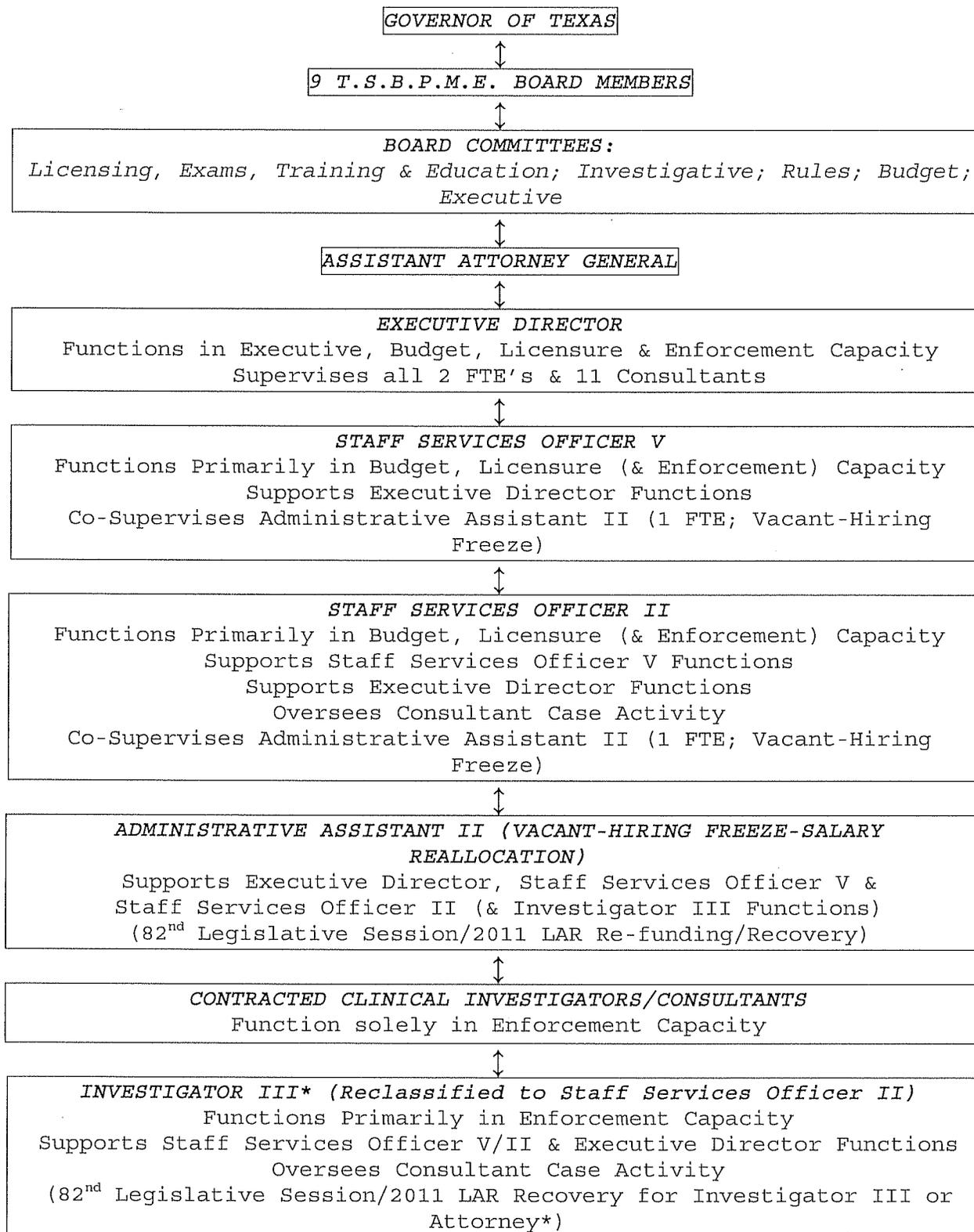
The Executive Director's increased job duties relate to, including but not limited to: 1) Supporting the Staff Services Officer V and Staff Services Officer II; 2) Capitol/Legislative/Executive/Judicial branch & Board Member/Meeting, Interagency affairs; 3) Investigations/Enforcement and related travel/on-site activities; 4) Personnel/Human Resources; 5) "Foot" Scope of Practice; 6) Open Records/Public requests for information; 7) Audits; 8) Website content/development/maintenance; 9) Information Technology coordination and 10) Other duties as assigned. All staff will also act as the agency's receptionist, will assist one another with answering the telephone and all other office/agency administration functions/duties.

We also do not want the State to cut/reduce our "Professional Contracts" (i.e. Certified Public Accountant, Physician Investigator-PMR's, University of Texas at Austin-Exam Validation, HPC-IT) as those are core to the agency's base operations.

For the remainder of FY 2010-2011, the TSBPME is now a 3 FTE agency. A) Formerly 5 FTE's but reduced to 4 FTE's during the 78th Legislative Session/2003 budget cuts; we had to "R.I.F." the Licensing Manager position to meet that 7+% reduction & B) Formerly 4 FTE's but reduced to 3 FTE's due to the FY 2010-2011 5% Budget Reduction mandate; i.e. Administrative Assistant II

Hiring Freeze. The following "Agency Organization" Chart is an overview of staffing levels on/subsequent to February 16, 2010.

"AGENCY ORGANIZATION" CHART (On/After 02/16/2010)



**CURRENT BOARD STAFF HAVE AN INVALUABLE COMBINED 35+ YEARS OF
INSTITUTIONAL KNOWLEDGE OF THE BOARD'S FUNCTIONS**

There was **NO** easy solution to meeting this FY 2010-2011 5% Budget Reduction mandated by the State of Texas. Other state agencies have proposed major layoffs and numerous hiring freezes (even for the new positions they received from the 81st Legislative Session/2009). The institutions of higher education (e.g. The University of Texas at Austin & Texas A&M University) are facing respective \$30 Million budget reductions and great challenges/layoffs/hiring freezes of their own. All state agencies are facing incredible challenges and have no choice but to make the best of what they have left after the FY 2010-2011 5% Budget Reduction.

<http://www.foot.state.tx.us/agencydocuments/16February2010-5%25ReductionFY10-11-ABEST-TSBPME.pdf>

We had and have to make very painful difficult decisions to meet this mandate with everyone sacrificing something; the proportional challenges confronting the Texas State Board of Podiatric Medical Examiners and its agency are as great as those before the larger state agencies.

► **Capital Assets** -- Section 11.02, Article IX of the 2010-2011 General Appropriations Act requires all state agencies and institutions of higher education to supply capital planning information relating to projects for the 2012-2013 biennium to the Texas Bond Review Board. On May 26, 2010, the Texas State Board of Podiatric Medical Examiners filed a "2012-2013 Capital Expenditure Plan Reporting Exemption" due to the fact that through Fiscal Years 2011-2015, our agency will not have a project requiring capital expenditures.

III. FISCAL ASPECTS

The Texas State Board of Podiatric Medical Examiners is self-supporting, being funded solely through fees assessed on its licensees and receiving no funds from General Revenue, no tax revenues from the people of Texas nor federal funds. The agency's Fiscal Year 2010 total budget was \$242,998.00. (The entire budget can be viewed at <http://www.lbb.state.tx.us>.) As per the current General Appropriations Act, this agency is required to transfer funds through interagency contract, in the amount of \$4,877.00 dollars to the Health Professions Council (HPC). This amount is our prorated share of HPC's operating budget.

This agency continues to contract with the State Office of Risk Management (SORM) for risk management services and workman's compensation insurance coverage for its employees, in compliance with Texas Labor Code Chapter 412 and Chapter 501. This fee is paid out of appropriated funds on an annual basis and is calculated on our annual payroll.

This agency also continues to participate in the Texas On-line project in accordance with §2054.252 of the Government Code. The fees for this service, which are \$4,780.00, are collected from renewing licensees and transferred to the contracted vendor.

The Office of Patient Protection Program (OPP), formed under House Bill 2985 (78th Legislative Session), mandated the compliance of all health licensing agencies. The fees for this project, estimated to be about \$1,000, are collected by the respective health licensing agencies and

transferred to the OPP. However, by acts of the 79th Legislature in 2005, the OPP was not funded to remain in existence. Nevertheless, the Board is still mandated to collect OPP fees that are transferred to the State's General Revenue Fund.

This agency generates its own funds exclusively through licensing fees assessed to its licensees. As a result of budget cuts, prior "Foot" lawsuit expenses and prior unemployment compensation expenses, the funds appropriated to us were not adequate to maintain self-sufficiency. Therefore, for the Fiscal Year 2003, an emergency loan of \$16,500 was granted. It was repaid in Fiscal Year 2004 with no further outside legal costs identified due to the Office of the Attorney General – General Litigation Division representation beginning in December 2004. Nevertheless, the Board continues to incur travel costs for Board meetings related to the on-going "Foot" scope of practice contest despite the Texas Supreme Court's June 18, 2010 denial of the Board's "Petition For Review." The medical (TMA/TOA) and podiatric (TPMA) trade associations continue to deliberate podiatry scope of practice before the Board; with hopeful ultimate/final legislative remedies during the 82nd Legislative Session/2011 as directed by the Texas 3rd Court of Appeals (i.e. "Footnote 7").

IV. SERVICE POPULATION DEMOGRAPHICS ("FY 2009-2013 AGENCY STRATEGIC PLAN" CONTINUANCE)

The Profession: The demand for Podiatric Medical expertise in Texas, as elsewhere in this country, remains on the rise as the "Baby-Boomer" population ages and moves further toward retirement age. These "Baby-Boomers" as well as the general public of all age groups are increasingly seeking out the expertise of the specialty of Podiatric Medicine to satisfy their pain management and medical needs. The population of Texas is projected to grow by ten (10) million people, from about 23 million in 2005 to 33 million by 2030, a 43.5% increase or roughly 1.7% per year. This will substantially increase the demand for quality Podiatric Medicine in Texas during the next three decades.

Podiatric Medicine has advanced dramatically in the last decade with many new, innovative modalities available for the treatment of sports and work related injuries, as well as diabetic wound care, vascular disease and medical case management. There continues to be a constant increase in Podiatric Medical activity in Texas hospitals, residency programs and surgery centers as more and more people experience the positive impact that today's Podiatric Medicine is having. One of the great success stories is in the treatment of diabetic wound care. Use of new Podiatric Medical skills in conjunction with hyperbaric oxygen therapy has allowed many diabetic patients to postpone or totally avoid what would otherwise have resulted in a limb amputation. Saving or extending the viability of a patient's foot or leg has an obvious impact of enormous proportion on the patient's quality of life.

Other advances in Podiatric Medical Care are in part due to many breakthroughs in such other modalities as micro and laparoscopic surgery.

Strengths: The agency is comprised of a dedicated, knowledgeable, experienced and efficient group of employees who possess the ability and skills to efficiently and effectively accomplish the tasks set before them; budget cuts notwithstanding. They also manage the ever increasing number of responsibilities assigned to them and complete numerous ever-evolving reports, comply with various mandates assigned or delegated to them by the Board, the Legislature and various local, state and federal entities.

The Board stands above all undue influence from the Podiatric community and guards carefully its autonomy from professional associations, which, at the same time, sensing the presence and responding to the needs of the community that it serves and regulates. Podiatric Physicians have traditionally been concerned that the Board vigorously prosecutes those practitioners who are found to be in violation of the Board's Statute and/or Rules. It therefore follows that Texas Podiatric Physicians (and the public at large) have the expectation and the right to expect that alleged transgressors of their Statute and Rules will be effectively, efficiently and fairly investigated and that those subsequently found in violation will be sternly disciplined.

Threats: The TSBPME continues to operate in a time of rising costs, increased mandates and ever-changing responsibilities while at the same time experiencing a limited operating budget. Our current operating budget is approximately \$73,200.00 for each year of the biennium. The agency has been successful in meeting the day-to-day expenses including paper, postage, local and long distance telephone service, facsimile lines, computer hardware and software, consultant contracts, training and agency travel. However, it has become difficult to absorb the increased costs without some budget increase which would also allow for employee retention.

To add further worry to this agency's operations, in advance of the 82nd Legislative Session in 2011, the State has mandated an additional 10% budget cut for FY 2012-2013 on top of the existing 5% budget cut required for FY 2010-2011. State agencies have faced an overly challenging budget reduction of nearly 30% in the past 5 years alone! The outcome of the 80th Legislative Session resulted in the restoration of the former 10% budget cut. However, as we approach the 82nd Legislative Session, state agencies will need to address a present request for a 10% budget cut on top of the FY 2010-2011 5% Budget Reduction (and 95% base budget entering the 82nd Legislative Session).

Listed below are the issues facing the TSBPME:

- On-going legal expenses incurred since November 2002 in an attempt to resolve the lawsuit filed by the Texas Orthopaedic Association & Andrew Kant vs. TSBPME, Cause No GN204022, Travis County District Court were resolved in December 2004 when the Office of the Attorney General – General Litigation Division began defense of the Board. A positive outcome of this case was essential to protect the citizens of Texas and the Podiatrists in their (clarified) scope of practice. With the June 18, 2010 Texas Supreme Court decision to deny the Board's "Petition For Review," thus invoking the Texas 3rd Court of Appeals Opinions issued on March 14, 2008 & May 23, 2008 as law, this matter has not been truly vacated as the trade associations continue to contest scope of practice. Therefore, we are awaiting an ultimate statutory/legislative remedy during the 82nd Legislative Session/2011.
- Previously, it was stated that our agency desperately needed "Peace Officer / Law Enforcement" status (commission), to support the type and nature of criminal investigations being conducted on a routine basis by the Texas State Board of Podiatric Medical Examiners, and to ensure that the public health, safety and welfare is not compromised. "Peace Officer / Law Enforcement" status would have allowed the Board to meet all its new Sunset mandates in a more efficient manner by the expedient access to confidential criminal information. Nevertheless, all Board attempts to pursue legislation during the 78th, 79th and 80th Legislatures were unsuccessful in trying to suffice this "Law Enforcement" need. The Board does not intend to re-visit or pursue future "Peace

Officer” legislative attempts due to the volume and effort such an endeavor requires. The Legislature had not taken any action over the past three (3) Sessions and we do not expect that they will in the future. We will nevertheless continue to cooperate with and assist law enforcement on joint investigations in accordance with Texas Occupations Code §202.509(e) and build on prior case successes.

- Recovering funding for the FY 2010-2011 5% Budget Reduction remains a necessity. In addition, the Executive Director is in need of a salary increase (for retention purposes) as reported on March 20, 2008 to the State Classification Office within the State Auditor’s Office who conducted a compensation study (#08-708) of exempt positions, specifically agency heads, in accordance with Article IX, Section 3.09, of the General Appropriations Act (80th Legislature).

The Opportunity: The opportunity exists to strengthen our agency’s operating budget by recovering and increasing our appropriation with requisite additional funds that are necessary to provide the level of regulation and service that we are committed to, that our licensees have a right to expect and that citizens of Texas demand. These funds already reside in revenue (licensing fees) that our agency collects as un-appropriated funds. We will request that this appropriation increase come from these unappropriated funds.

Podiatric Physicians strive to ensure that the work done in the name of their profession is of the highest level. They and the people of Texas look to this agency as the principal instrument for achieving and maintaining that goal through effective regulation, fair and firm enforcement and constant vigilance.

For the remainder of FY 2010 and the next five-year period, this agency plans to continue to take advantage of the (new) authority offered by the Sunset Advisory Commission during the 79th Legislature to enhance efforts to achieve our mission to suffice our goals, objectives and strategies.

We also look forward to continued efforts with the Office of the Governor’s staff in realizing “BPR” efficiencies to be gained. Centralized “common” agency “Finance, Human Resources and Information Technology” functions via the Texas Health Professions Council would benefit the Board so that we could focus on our core Mission of “Licensure” and “Enforcement” in meeting all performance measure objectives.

V. TECHNOLOGICAL DEVELOPMENTS

Goals, Objectives, Strategies, and Programs: Texas Occupations Code Chapter 101 provides that the TSBPME be a member of the Health Professions Council (HPC). HPC provides a means for the member regulatory agencies represented on the council to coordinate administrative and regulatory efforts. One major HPC administrative service is Information Technology Systems Support (ITSS), which includes: Network Administration, Desktop Administration, Hardware Support, Email Administration, Web Page Development, Texas Online Support, IT Purchase Consulting, Imaging System Administration, Database Administration and IT Project Management. Any TSBPME service needs for IT are submitted via the HPC-Help Desk. As part of the Board’s requisite statutory relationship with HPC we pay an annual fee of \$3,312.00 per year (as adjusted). This amount is calculated in part by HPC as a proportion of costs based on TSBPME-IT needs (Help Desk requests).

All automated information is maintained, secured and located in the Board office on a Local Area Network (LAN) server that utilizes an MS Windows 2007 Server for file sharing and database storage. We also have an MS Windows 2007 Server that serves as our web hosting station. The Board currently contracts IT support and resources via an interagency contract through the Health Professional Council and with the Department of Information Resources (DIR) that includes support of internet access through the Texas Building and Procurement Commission (CAPNET), including access to USPS, USAS and ABEST (Texas Comptroller of Public Accounts systems).

Texas Occupations Code §202.162 “USE OF TECHNOLOGY” provides that: “The Board shall implement a policy requiring the Board to use appropriate technological solutions to improve the Board's ability to perform its functions. The policy must ensure that the public is able to interact with the Board on the Internet.”

The agency’s website (<http://www.foot.state.tx.us>) is hosted by the Texas State Board of Podiatric Medical Examiners. All web publishing and maintenance of the website is done in house. Updates to the website are timely, in full content control and have included the use of web based applications that better serve our external customers. The website is in accordance with the Texas Open Records Act, and in the spirit of “open government”, publications include, but are not limited to, agency information, licensing examination dates, verification of podiatric physicians, disciplinary actions, information on continuing education, laws and statutes, downloadable forms and Board orders, as well as, links to other agencies related to the Board and its mission.

The Board strives to increase cross-government and interagency activities, along with public services while maintaining a return on investment with existing equipment and software that services the Board’s internal-external customers. Consumers and members of the profession, as well as other state agencies welcome the opportunity to access this information and communication through current technology.

Funding is a continuous challenge and it is our goal to maintain, at a bare minimum, IT services for file, database and web services, along with allowing for expansion and efficient management with existing equipment, and software to expand future services with the aid of new technology purchases.

Agency Databases and Applications: The agency maintains four major databases. The application software and data is owned by the agency.

I. Name: Complaint Database

Acronym: CDB

Description: CDB is the agency’s complaint database maintained on the LAN system. Claris FileMaker Pro 5.5 has been customized for functionality and division specific needs to comply with state mandated reporting of key measures, sharing of data within the agency, processing disks to facilitate crime records checks, student loan and child support defaulters, as well as customer specific open records requests. It contains all of the complaint investigation files for the agency since 1991.

Size: The current size of CDB is 25.6 MB. Even with growth within the next 5 years, it is anticipated that its storage capacity will not exceed 1.0 GB.

GIS: This database does not support or contain GIS spatial operations/data.

Sharing: The data is shared by all agency staff, but not outside the office.

Future: The agency does have plans for changes or upgrades to the system, we imagine in the next five years that we would try to make the Licensing, Rad-Tech and the Complaint Database relational. This may require outside FileMaker programming costs beyond current HPC-ITSS services. We also are working towards migration of the HPC Shared Regulatory Database System (funds/appropriations withstanding).

II. Name: Podiatric Physician Database

Acronym: PDB

Description: PDB is the agency's primary licensing and regulatory database maintained on the LAN system. Claris FileMaker Pro 5.5 has been customized for functionality and division specific needs to comply with state mandated reporting of key measures, sharing of data within the agency, processing disks to facilitate crime records checks, student loan and child support defaulters, online verification, as well as customer specific open records requests. We also perform downloads of this database to send to TexasOnline for online renewals. This database contains files for anyone who was ever licensed by this agency.

Size: The current size of PDB is 15.2 MB. Even with growth within the next 5 years, it is anticipated that its storage capacity will not exceed 1.0 GB.

GIS: This database does not support or contain GIS spatial operations/data.

Sharing: The data is shared by all agency staff, but not outside the office. Portions of the database are formatted and downloaded to a disk and made available to the Texas Department of Public Safety Crime Records Unit / Controlled Substances Registration Unit, Office of the Attorney General's Child Support Division, the Texas Higher Education Coordinating Board and the Texas Guaranteed Student Loan Corporation as required by various statutes. A download is also sent to TexasOnline for online renewals.

Future: The agency does have plans for changes or upgrades to the system, we imagine in the next five years that we would try to make the Licensing, Rad-Tech and the Complaint Database relational. This may require outside FileMaker programming costs beyond current HPC-ITSS services. We also are working towards migration of the HPC Shared Regulatory Database System (funds/appropriations withstanding). The agency has also been making the conversion from the PDB to the .dat file that is used by the online verification system to be automatically exported and formatted. This will include creating a program that will extract the data from the database that is needed for the verification, convert the data to the appropriate format, and save it as the appropriate file to be searched from.

III. Name: Continuing Medical Education Database

Acronym: CMEDB

Description: CMEDB is a database into which we no longer input data. We have changed our process for collecting this data from the licensees. We are now doing random audits and the licensees are required to maintain documentation on their own. We are using data on this database as a reference only. Eventually it will probably be purged when it is no longer needed.

Size: The current size of CMEDB is 3.49MB. We do not anticipate that it will change due to us no longer inputting data.

GIS: This database does not support or contain GIS spatial operations/data.

Sharing: The data is shared by all agency staff, but not outside the office.

Future: The agency no longer inputs data into this database. It is used as reference material only.

IV. Name: Radiologic Technician File

Acronym: RTDB

Description: RTDB is the agency's database for registering radiologic technicians and is maintained on the LAN system. Claris FileMaker Pro 5.5 has been customized for functionality and division specific needs to comply with state mandated reporting of key measures, sharing of data within the agency, as well as customer specific open records requests. This database contains files for currently registered radiologic technicians as well as some of the ones who no longer have a current registration. We began approximately in 2002 to keep the old ones on the database. Before that time, when they did not renew, they were deleted from the system.

Size: The current size of RTDB is 6.36 MB. Even with growth within the next 5 years, it is anticipated that its storage capacity will not exceed 1.0 GB.

GIS: This database does not support or contain GIS spatial operations/data.

Sharing: The data is shared by all agency staff, but not outside the office.

Future: The agency does have plans for changes or upgrades to the system, we imagine in the next five years that we would try to make the Licensing and the Complaint Database relational, along with the Radiologic Technician Database. This may require outside FileMaker programming costs beyond current HPC-ITSS services. We also are working towards migration of the HPC Shared Regulatory Database System (funds/appropriations withstanding).

Information Resources Management Organizations, Policies, and Practices Priorities: Our agency strictly adheres to state laws and regulations, operating within the mandates and guidelines set by the State and Legislature. Projects are prioritized based on funding and immediate or current needs.

Planning: Agency needs are reviewed periodically and future requirements assessed, taking into consideration consumer demands, industry trends, technology changes and state audits. Long term planning is generally done prior to the development of the Biennial Operating Plan. A project list is reviewed periodically.

Quality Assurance: Quality Assurance practices are adhered to as required in standard risk management practices. This agency has reviewed the guidelines set out by DIR and is continuously reviewing and implementing them. Successful completion of guidelines are on time and within budget to provide the outcomes as planned. This agency will continue to use widely adopted, non-proprietary standards and guides whenever possible.

Personal Computer Replacement Schedule: Due to limited funds, this agency replaces PC's only as necessary. If cost effective, parts are upgraded or replaced rather than a new PC purchased. We consolidate purchases to obtain volume discounts. It is this agency's goal to replace PC's every three years if possible or by the replacement schedules published by DIR. We also take into consideration not only the life-cycle of a product but also how long its technology can be supported and what is appropriate for the agency taking into consideration it's needs, constraints and end users. In FY 2008, pursuant to an interagency transfer by the Texas Board of Nursing as part of HPC-ITSS collaborative efforts, we were able to replace 5 monitors and 5 PC's. These machines remain in operation and remain viable for our functions.

Procurement: This agency uses DIR's guidelines on purchases (Planned Procurement Schedule) to assure its compliance with standard procedures. Purchases are made through state HUB or the DIR store. The purchases are made based on findings of continuous hardware and software audits. Software licenses are purchased to remain in compliance with governing laws and rules.

Disaster Recovery: Critical agency data is backed up daily throughout the year via External Flash/Jump Drives. The website is backed up weekly via Flash/Jump Drives. The agency also offers space in its fireproof safe for individual employees who perform their own backups of data via their computer's internal CD/USB drive. UPS for network and compliance with the agency's Disaster Recovery Plan and Business Continuity Plan is currently in consideration for replacement. The agency has also implemented via the Texas State Library and Archives Commission an offsite backup recovery plan for the agencies critical data.

Data Center Operations: Our internal network runs on a file server located within our agency. We access the internet and e-mail services via a HUB located in a secure room located within 100 feet of our agency's office. This methodology also is used for our free-standing web-server. Our agency does not possess any funds that would allow us to become involved with ADROC. Nevertheless, we have begun the process to move all file servers to the Hobby Building Server Room located in Tower III; Second Floor via HPC-ITSS services/staff.

Standards: Our agency has policies and procedures in place regarding the safeguarding and care of IT equipment that meet the standards set by the State. We are compliant with statewide IT standards such as (DIR Rules) Title 1, Part 10, Texas Administrative Code (State Network Standards for Web Design, Internet Domain Names for Government Entities, Sale & Transfer of Computer Hardware & Software, etc). Our Information Resource Manager (located at HPC-ITSS) periodically reviews our IT system to ensure its compliance with statewide standards.

Criminal History Record Information Policy: On May 24, 2006, in accordance with Texas Government Code §411.1405, the Texas State Board of Podiatric Medical Examiners, upon approval by the Office of the Attorney General – General Counsel Division, adopted policies and procedures required by state law in conducting certain "Information Technology Employee" criminal background checks. This policy is available for review upon request. We also note that pursuant to a March 2008 State Auditors Office report (#08-024), the TSBPME received favorable ratings with regard to these policies. The SAO report can be found at the following link:
<http://www.sao.state.tx.us/Reports/report.cfm/report/08-024/src/list>

Technological Developments Continued:

Impact of technology on current operations

The Board has been successful in staying current with technological changes. There has been continued success with the Texas On-line renewal process (now Texas.gov) as defined by Texas Government Code §2054.251-267 to provide information technology and web based application functionality to the consumer.

The agency on-line renewal process became available in September 2003. This first year introduced our consumers to the process and resulted in 293 on-line transactions. The number of on-line transactions has now increased to 80% We continue to send out postcards each year for renewal encouraging everyone to renew online. Therefore, we anticipate small increases for the next 5 years.

Hardware has been upgraded to support the environment and to increase efficiency and accessibility. The agency goal is to further automate reports produced by the licensing database needed for performance reporting requirement. All staff have e-mail capabilities and internet access. The Board's network, database and share files are located on a MS Windows 2007 server and secured behind a firewall.

For several years, the agency has had an interagency contract with the Health Professions Council for IT services (HPC-ITSS).

The agency website is located in-house on a stand alone MS Windows 2007 server and secured behind a firewall. The website became fully operation in FY 2000. Updates to the website are published weekly. The agency has full control of content and have included the use of web based applications that allows access of public information regarding a licensee to help better serve our external customers.

Impact of anticipated technology advances

Upgrading of hardware and software continues to stay technologically compatible with industry demands, while remaining consistent with other agencies and private consumer organizations, and with increasing state government electronic services. IT policies have been written and adopted for acceptable use of information resources, passwords, network security and e-mail. It is also the agency's goal to increase the usage of on-line services and access, as well as, cross-government and interagency activities to our consumers.

Degree of agency automation, telecommunication

Most of the agency's functions are fully automated. Some reporting functions of data taken from the agency's LAN are semi-automated and some require manual collection of data for reporting. As the budget allows, current applications may require future revisions to be fully automated.

Agency utilized telecommunication technology shared with the other Health Professions Council agencies allow for a toll free number for consumers to leave name and address for complaints. All staff members are equipped with telephones and voice mail functionality.

Anticipated need for automation

Private industry trends are influencing state government annually to lean more toward meeting the demands of consumers and providing them with an array of electronic services and e-commerce transactions. There will be a need for more automation in the future. As with all agencies, there will be a challenge to retain the necessary IT talent capable to build and maintain the growing electronic projects and trends. It is the goal of the agency to capitalize on the current return of their investment on information resource assets until IT budgets and funding can be increased to support these trends and remain technically competent among other state agencies, as well as, serving the general public.

Health Professions Council 2008 "Legacy" Database Project:

Beginning on March 4, 2008, TSBPME staff and representatives of the Health Professions Council undertook a project to research the value of a common database model.

Many of the agencies that make up the Health Professions Council are/were facing a critical situation regarding both hardware and software systems. Cooperating with the Texas Department

of Information Resources to determine a solution for system upgrades, the Texas State Board of Podiatric Medical Examiners along with HPC had researched a variety of options. Although all of the agencies perform regulatory functions, each agency has unique requirements that have in the past kept them from a collective solution. However, the current regulatory system and method of upgrade is not a feasible long term solution as the technology and hardware are aging. With advances in technology that culture has changed, a collective database system housed within the Health Professions Council is the recommended solution. Texas Department of Information Resources has recommended that the HPC work together to develop a solution that best suits the needs of the HPC members. To keep lines of communication open a Task Force was created and was chaired by HPC staff.

Prior to the 81st Legislative Session/2009, the HPC regulatory agencies did not have sufficient hardware, software, or technical staff to construct a new regulatory database system. Hardware as it was presently configured used a wide range of servers located in the DIR Data Center and throughout the William P. Hobby Jr. State Office Building. Software programming types ran from "Off the Shelf" (OTS) systems to systems programmed by a single programmer. The Health Professions Council Information Technology Support Staff currently support agencies at a Tier 1 level and are now trained in Database Administration. A new system, supported by a new Database Administrator, housed in a central location would provide a higher level of service both for the agencies and the public.

Database Software Programs vary from agency to agency. The programs along with internal manual procedures allow the agencies to carry out their mission. New software will allow for a more efficient and reliable platform to store and use data, and will keep agency software from becoming obsolete and provide flexibility for future needs, while at the same time implant best practices and uniform standards to help agencies achieve efficient and effective operations.

In order to provide a smooth transition to a new platform, additional HPC "Full Time Equivalents" (FTE) were needed to provide Data Base Administration. Having an onsite specialist prevents overburdening current HPC IT staff, who are now trained in Database Administration. These Full Time Equivalents are supervised by and work under the Information Technology Support Staff currently in place at the Health Professions Council.

Prior to the 81st Legislative Session/2009, it was this agency's recommendation that upon the release approved vendors from RFO DIR-SDD-TMP-110 a single software system be selected by all members for the purpose of this project. Upon selection of the software, a better understanding of hardware requirements would be available. It was further recommended that funding for additional HPC Full Time Equivalents be provided to hire Database Administrators. A timeline for implementation was developed by HPC and approval of a funding mechanism for this project was authorized by the 81st Texas Legislature/2009.

While the Board continues to work towards a common solution with HPC, we realize the impact that a new database can have on this agency's functions in addition to Governor's February 2008 BPR report "Information Technology" efficiencies to be gained. We also expect that a "new and improved" database could enhance and automate 25% of the Staff Services Officer V's "Licensure/Examination/Education" workload which at the same time will be responsive to assuring the continuity of those functions as she plans to retire in five (5) years. In addition, a "new and improved" database would also enhance and automate 25% of the Executive Director's and Staff Services Officer II's workload; much of which is done manually. To this end, with the six (6)

HPC vanguard agencies implementing the 81st Legislative Session/2009 approved Shared Regulatory Database System for an expected August 2010 launch, the TSBPME will be monitoring that progress for eventual migration during the 82nd Legislative Session/2011.

VI. ECONOMIC VARIABLES

While we have not identified specific economic variables affecting the podiatric profession, aside from rising managed healthcare costs and insurance reimbursement limitations (Medicare/Medicaid decreases) affecting the entire healthcare industry, the primary issue affecting Podiatrists is the aforementioned scope of practice "Foot" contest. Now that the Texas Supreme Court has issued its June 18, 2010 decision denying the Board's "Petition For Review," in the event the Texas Legislature deems that "Ankle" is not within the practice of Podiatric Medicine, we continue to hear Podiatrists saying that they will leave the State of Texas to practice in other states within the full capacity of their education/training. Out of state practitioners continue to state they will not come to Texas if they can not treat the "Ankle." Should a mass departure of Podiatrists occur and should the State not see any new licensees, then the Board would experience reduced revenue in fewer license fees to sustain its functions and could possibly then require General Revenue/Taxpayer funds to remain as an independent state agency; consolidation notwithstanding. A mass departure would also result in a public burden as Podiatrists perform foot/ankle medical procedures at lower rates than those of comparable Medical Doctors or Doctors of Osteopathic Medicine (MD/DO). This podiatry vacuum could also result in increased costs and reduced services for Medicare/Medicaid beneficiaries, with an ever-aging and economically challenged U.S./Texas population.

VII. IMPACT OF FEDERAL STATUTES/REGULATIONS

Pursuant to Texas Occupations Code §202.509(e), in the course of executing investigations, the Board will continue to interact with the Federal Bureau of Investigation, the United States Drug Enforcement Administration, the United States Postal Service – Office of Inspector General and the United States Department of Health and Human Services – Office of Inspector General in combating "Healthcare Fraud" and "Drug Diversion." The Board has a long-standing, healthy and successful relationship with these federal law enforcement agencies to protect the public from unsavory practitioners.

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

All TSBPME Board Actions are reportable to the (federal) National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank (NPDB-HIPDB) as required by Federal Law (in part, TITLE IV OF PUBLIC LAW 99-660; the Health Care Quality Improvement Act of 1986, as amended 42 USC Sec. 11101 01/26/98). What's reportable: NPDB. With regard to the NPDB, "adverse licensure actions" involving certain disciplinary actions related to "professional competence" or "professional conduct" must be reported for physicians (MD's/DO's) and dentists. HIPDB. With regard to the HIPDB, "adverse actions" that must be reported include licensure and

certification action. State licensing agencies must report final adverse licensure actions taken against healthcare practitioners. A reportable final adverse licensure action must be a formal or official action; it need not be specifically related to professional competence or conduct. Nevertheless, according to the HIPDB, "a settlement agreement which imposes the monitoring of a practitioner for a specified period of time, unless such monitoring constitutes a restriction on the licensee, or is considered to be a reprimand" should not be reported to the HIPDB.

Otherwise, all Board Actions, as a service to the citizens of Texas (Open Record), are published on our website pursuant to Board Rule §376.27(d) which provides: "Licensee's Record. All actions taken by the Board against a licensee shall be made a permanent part of the licensee's record at the Board office reportable on the Board's website and reportable to the NPDB-HIPDB (National Practitioner Databank - Healthcare Integrity Protection Databank)," and Texas Occupations Code §202.201 "PUBLIC INTEREST INFORMATION" which provides: "(a) The Board shall prepare information of public interest describing the functions of the Board and the Board's procedures by which complaints are filed with and resolved by the Board. (b) The Board shall make the information available to the public and appropriate state agencies." All T.S.B.P.M.E. investigations resulting in sustained violations of the Podiatric Medical Practice Act of Texas, the Board Rules and any other applicable law are adjudicated via a Board Order/Agreed Order. Those Orders are approved and executed at a Public Meeting, at which time they become a Public/Open Record; Permanent Record (operation of law/rule).

VIII. DISCUSSION OF CURRENT-YEAR ACTIVITIES & IMPROVEMENT

For the remainder of FY 2010 and the next five-year period, this agency will continue to take advantage of the authority offered by the Sunset Advisory Commission during the 79th Legislature to enhance efforts to achieve our mission to suffice our goals, objectives and strategies.

We also endeavor to find a *legislative* resolution to the 10 ½-year long "Foot" (Rule) scope of practice matter under new Board Member leadership pursuant to charges set forth at the June 12, 2008 TSBPME Special Called Board Meeting and April 5, 2010 Board Meeting. As previously stated, this litigation/contest is of primary importance as scope of practice sets the parameters in which the profession and the agency functions/exists. As long as scope of practice remains in dispute, there remains ambiguity on the agency's potential for clear regulation (i.e. Licensure & Enforcement) and to seek legislative resources (i.e. additional staff and funding) to ensure the agency can proactively remain strong for the future.

Once more, TSBPME staff remain open to the Office of the Governor's "BPR" report and its findings in achieving the noted efficiencies to be gained as the Board proceeds towards the 82nd Legislative Session beginning in January 2011. It is staff's position that the centralization of common agency "Finance/Human Resource/Information Technology" functions within the HPC would allow the Board to focus on CORE Licensure & Enforcement functions DIRECTLY related to our Mission and expertise.

We will continue to endeavor to recover funding for all former and present mandatory State of Texas Budget Reductions.

IX. BENCHMARKS FOR FISCAL YEAR 2009

The TSBPME had the following “Performance Measure Target” benchmarks for Fiscal Year 2009. It was the intent of the 80th Legislature that appropriations made by the General Appropriations Act (GAA) be utilized in the most efficient and effective manner possible to achieve the intended mission of the TSBPME. In order to achieve the objectives and service standards established by the (2007) GAA, the TSBPME shall have made every effort to attain the following designated key performance target levels associated with each item of appropriation.

	<u>Target</u>	<u>Actual</u>
A. Goal: Protect Texans		
Outcome (Results/Impact):		
• Percent of Licensees with No Recent Violations	98.5%	98%
• Percent of Documented Complaints Resolved within Six Months	77%	72%
• Percent of Licensees Who Renew Online*	80%	86%

*Beginning September 1, 2010 (i.e. FY 2011) the target for this measure is being decreased to 67% by the LBB in response to (2009) SAO Audit #09-038 which recommended the inclusion of “Rad-Techs” even though they are not eligible to renew their registration on-line (due to not meeting the population threshold for cost-effectiveness).

*Note: The agency has received an exemption from TexasOnline for “New individual Licenses” issued online due to not having enough new licensees for it to be beneficial.

A.1.1 Strategy: Licensure and Enforcement

Output (Volume)

• Number of New Licenses Issued to Individuals	50	47
• Complaints Resolved	130	50
Efficiencies:		
• Average Licensing Cost Per Individual License Issued	20.17	15.27
• Average Time for Complaint Resolution (Days)	200	175
Explanatory		
• Total Number of Individuals Licensed	1,055	1,236

Regarding Enforcement, the Board continues to seek the resolution of several “Major” complex/criminal cases which cause unintended investigation delays. In addition, staff’s focus on high priority pending “Foot” scope of practice litigation/legislation away from Enforcement has resulted in investigative delays.

Regarding Licensure, targets were generally met although pending “Foot” scope of practice litigation/legislation has made Podiatrists weary of licensing in Texas as they fear they may not be able to work within the full level of their education/training and thus face a reduced livelihood. The Board continues to encourage all Podiatrists to renew their licenses via “Texas Online.com” (now Texas.gov) which has been a noted success.



TIER VI: "AGENCY GOALS"

GOAL 1 (From the agency's formal Budget Structure)

SHORT NAME: PROTECT TEXANS

FULL NAME: Protect Citizens of Texas from Incompetent and Unethical Podiatrists

DESCRIPTION: To protect the citizens of Texas from incompetent and unethical Podiatrists with a quality program of examination and licensure and swift, fair, and effective enforcement of statutes and rules.

(RESULTANT HUB GOAL:)

Related to "Historically Underutilized Business Plan" responsive to Texas Government Code §2161.123; as executed with the use of agency funds appropriated to achieve "Goal 1." We will establish and implement policies governing purchasing and public works contracting that foster meaningful and substantive inclusion of Historically Underutilized Businesses (HUBs).

Objective:

To include historically underutilized businesses in at least 20 percent of the total value of contracts and subcontracts awarded annually by the agency in purchasing and public works contracting by Fiscal Year 2011.

Outcome Measures:

Percentage of total dollar value of purchasing and public works contracts and subcontracts awarded to HUBs

Strategy:

To award at least 20% of the dollar value of annual applicable agency contracts and purchases to Historically Underutilized Businesses, through purchasing contracts and subcontracts.

Output Measures:

1. Total number of HUB contractors and subcontractors contacted for bid proposals
2. Total number of HUB contracts and subcontracts awarded (from which agency made purchases).
3. Total dollar value of HUB contracts and subcontracts awarded

Note: For FY 2009, TSBPME professional services HUB expenditures were \$4,753.00; commodity purchases HUB expenditures were \$5,316.50.



TIER VII: "AGENCY OBJECTIVES AND OUTCOME MEASURES"

1. Objective:

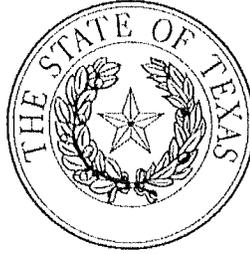
SHORT NAME: ENSURE COMPLIANCE

FULL NAME: Ensure 100 Percent Compliance Standards for Licensure and Practice

DESCRIPTION: Throughout each year of the Strategic Plan, ensure that 100 percent of licensees meet minimum compliance standards for licensure and practice, through 2013.

1. Outcome Measures (Sequence):

- 1) **SHORT NAME:** LICENSEES WITH NO VIOLATIONS
FULL NAME: Percent of Licensees with No Recent Violations
DESCRIPTION: Percent of Licensees with No Recent Violations
- 2) **SHORT NAME:** % COMPLAINTS RESULTING IN DISCIPLINE
FULL NAME: Percent of Complaints Resulting in Disciplinary Action
DESCRIPTION: Percent of Complaints Resulting in Disciplinary Action
- 3) **SHORT NAME:** RECIDIVISM RATE FOR DISCIPLINED
FULL NAME: Recidivism Rate for Those Receiving Disciplinary Action
DESCRIPTION: Recidivism Rate for Those Receiving Disciplinary Action
- 4) **SHORT NAME:** % COMPLAINTS RESOLVED WITHIN 6 MONTHS
FULL NAME: Percent of Documented Complaints Resolved within Six Months
DESCRIPTION: Percent of Documented Complaints Resolved within Six Months
- 5) **SHORT NAME:** % LICENSEES WHO RENEW ONLINE
FULL NAME: Percent of Licensees Who Renew Online
DESCRIPTION: Percent of Licensees Who Renew Online
- 6) **SHORT NAME:** % OF NEW INDIVIDUAL LICENSES ISSUED ONLINE
FULL NAME: Percent of New Individual Licenses Issued Online
DESCRIPTION: Percent of New Individual Licenses Issued Online



TIER VIII: "AGENCY STRATEGIES & OUTPUT; EFFICIENCY and EXPLANATORY MEASURES"

1. Strategy:

SHORT NAME: LICENSURE AND ENFORCEMENT

FULL NAME: Provide Exams and Continuing Education & Investigate Violations of Act

DESCRIPTION: Operate a system of: (1) Testing and examination of candidates for licensure; (2) Mandatory continuing medical education of licensees; and (3) Investigation and disciplinary hearings for alleged violations of the Texas Podiatric Medical Practice Act.

Efficiency Measures

- 1) **SHORT NAME:** AVG TIME/COMPLAINT RESOLUTION
FULL NAME: Average Time for Complaint Resolution
DESCRIPTION: Average Time for Complaint Resolution (Days)
- 2) **SHORT NAME:** % NEW INDIVIDUAL LICENSES W/IN 10 DAYS
FULL NAME: Percentage of New Indiv Licenses Within 10 days
DESCRIPTION: Percentage of New Individual Licenses Issued Within Ten days
- 3) **SHORT NAME:** % INDIVIDUAL LICENSES RENEWED IN 7 DAYS
FULL NAME: % Indiv License Renewals Within 7 Days
DESCRIPTION: Percentage of Individual License Renewals Issued within Seven Days

Explanatory/Input Measures

- 1) **SHORT NAME:** TOTAL NUMBER LICENSEES
FULL NAME: Total Number of Individuals Licensed
DESCRIPTION: Total Number of Individuals Licensed
- 2) **SHORT NAME:** PASS RATE
FULL NAME: Pass Rate
DESCRIPTION: Pass Rate
- 3) **SHORT NAME:** JURISDICTIONAL COMPLAINTS
FULL NAME: Jurisdictional Complaints Received
DESCRIPTION: Jurisdictional Complaints Received

Output Measures:

- 1) **SHORT NAME:** # NEW INDIVIDUAL LICENSES ISSUED
 FULL NAME: Number of New Licenses Issued to Individuals
 DESCRIPTION: Number of New Licenses Issued to Individuals

- 2) **SHORT NAME:** # RADIOLOGIC TECHNICIANS CERTIFIED
 FULL NAME: Number of Radiologic Technicians Certified
 DESCRIPTION: Number of Radiologic Technicians Certified

- 3) **SHORT NAME:** # LICENSE RENEWALS
 FULL NAME: Number of Licenses Renewed (individuals)
 DESCRIPTION: Number of Licenses Renewed (individuals)

- 4) **SHORT NAME:** INDIVIDUALS EXAMINED
 FULL NAME: Individuals Examined
 DESCRIPTION: Number of Individuals Examined

- 5) **SHORT NAME:** COMPLAINTS RESOLVED
 FULL NAME: Complaints Resolved
 DESCRIPTION: Complaints Resolved

2. Strategy:

SHORT NAME: TEXAS ONLINE

FULL NAME: TexasOnline. Estimated and Nontransferable.

DESCRIPTION: Provide for the processing of occupational license, registrations, or permit fees through TexasOnline. Estimated and nontransferable.

NOTE: There are NO “Efficiency, Explanatory/Input, or Output” Measures Identified for this Strategy

3. Strategy:

SHORT NAME: INDIRECT ADMINISTRATION

FULL NAME: Indirect Administration

DESCRIPTION: Indirect Administration

NOTE: There are NO “Efficiency, Explanatory/Input, or Output” Measures Identified for this Strategy



TIER IX: "AGENCY ACTION PLANS"

(Not Applicable to Core Strategic Plan Submission)

"Action Plans" are detailed methods specifying how a strategy is to be implemented. Task specification includes staff assignments, material resource allocation, and schedules for completion. Action plans separate strategies into manageable parts for coordinated implementation of goals and objectives. Action plans also specify detailed cost and expenditure information.

Action plans provide a detailed description of a strategy's implementation process by outlining the specific tasks, responsibility assignments, and time frames that will be followed. Often referred to as "operational plans" or "implementation plans," **action plans are maintained by the agency and are not submitted in the strategic plan.**

Whereas the strategic plan is an effective control mechanism for strategic management of an agency, action plans provide a basis for managing an agency's day-to-day operations. During the strategic planning process, there should be a clear distinction made between the different kinds of decisions (e.g., external vs. internal) and the different kinds of internal management decisions based on performance data.

Performance measures included in the strategic plan should provide data that are consistent with the original purpose of the system, that is, an accountability and external decision-making tool (e.g., for system/program evaluation and appropriations/budget analysis by the Governor and legislative agencies). Governing bodies and executive directors/commissioners/senior management may use this information to "manage" strategically, track progress in implementing agency strategic plans, and for budget development. These measures are typically "higher order" outcome, output, explanatory, and in some cases, efficiency measures.

Performance measures included in action plans should provide information that supports operational, day-to-day management purposes. This includes information usage that, while it may overlap strategic and external uses, is really more related to measures developed and used in internal decision-making and control activities (e.g., those associated with the action plan elements in the Texas Strategic Planning template). These measures are typically "lower level" (i.e., disaggregated outcome, output, and efficiency measures).

DEVELOPMENT GUIDES

The agency's action plans are input-oriented and include specific delineations of who does the required tasks for each strategy and when the tasks will be completed. They generally address a

shorter time frame (two years or less) for action than the strategic plan. Action plans include a description of each task, the resource and fiscal requirements of each task, and an identification of the agency division responsible for implementation. They may also include a description of re-engineering or other programmatic changes resulting from an agency's benchmarking activities. **Although this level of detail is not an element of the agency's strategic plan submitted to the Governor and the Legislature,** it should be available for evaluation of the strategies proposed by the agency.

Action plans should be developed by the agency; however, they do not require a specific format.

Be advised, Texas Occupations Code §202.101 "DIVISION OF RESPONSIBILITIES" provides that: "The Board shall develop and implement policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the Executive Director and the Staff of the Board." Therefore, to the extent materials are responsive to the requirement for "Action Plans," they are available for review upon request.



“TECHNOLOGY RESOURCE PLANNING”

► “PART 1: TECHNOLOGY ASSESSMENT SUMMARY”

Planning for technology resources is a key component of the strategic planning process. Statewide and agency planning provides a road map for the implementation of enterprise and agency-specific technology solutions that will result in more efficient expenditure of limited resources and more effective delivery of services to Texas citizens and agency constituents.

DEVELOPMENT GUIDES

Strategies that incorporate technology solutions should be responsive to current activities, trends, and challenges, as described in the agency’s external and internal assessment. This section provides guidance on articulating, organizing, and integrating technology strategies within the context of agency and statewide planning.

- **Provide a brief description of the planned technology solutions that respond to the key factors that will affect the agency. Consider how those solutions align with the state-wide technology goals reflected in the State Strategic Plan for Information Resources (Advancing Texas Technology).**
- **Provide agency descriptions related to each statewide technology goal listed below. The criteria for these descriptions appear after each goal and are labeled 1.a, 1.b, 2.a, and so forth.**

Statewide Technology Goal 1

Strengthen and Expand the Use of Enterprise Services and Infrastructure

1.1 Enhance Capabilities of the Shared Infrastructure

- **Data Center Infrastructure**
- **Communications Technology Infrastructure**
- **Statewide Portal Infrastructure**

1.2 Leverage Shared Applications

- **Enterprise Resource Planning (ERP)**
- **Email Messaging**

1.3 Leverage the State’s Purchasing Power

- **Product and Services Portfolio Expansion**

1.a Describe agency plans to strengthen and/or expand its capabilities through the initiatives described in Statewide Technology Goal 1.

1.b Describe agency plans to strengthen and/or expand its capabilities through other initiatives that leverage enterprise or multi-agency services and infrastructure, including managed services, shared applications, internal consolidation efforts, and procurement strategies.

Statewide Technology Goal 2

Secure and Safeguard Technology Assets and Information

2.1 Align the State's Approach to Enterprise Security with other State and National Strategies

- State Enterprise Security Plan
- Vulnerability to Cyber Attacks
- Response and Recovery Capabilities

2.2 Integrate Identity Management, Credentialing, and Access Privileges

- Identity Management Services

2.a Provide an update on the agency's progress in implementing strategies to align with the State Enterprise Security Plan.

2.b Describe the agency's identity management strategies in place or planned.

Statewide Technology Goal 3

Serve Citizens Anytime, Anywhere

3.1 Expand and Enhance Access to Agency Services

- Multi-Channel Access
- Rural Broadband Expansion

3.2 Facilitate Open and Transparent Government

- Best Practices for Information Assets

3.a Describe the agency's plans to expand or enhance access to its services and promote citizen engagement through online services and emerging technologies.

3.b Describe initiatives planned or in process that will facilitate access to agency information and public data.

Statewide Technology Goal 4

Pursue Excellence and Foster Innovation across the Enterprise

4.1 Link Technology Solutions to Workplace Innovations

- Workplace Productivity and Collaboration

4.2 Pursue Leading-Edge Strategies for Application Deployment

- Cloud Computing

- Specifications, Toolkits, and the Application Marketplace
- Legacy Systems Modernization

4.3 Optimize Information Asset Management

- Best Practices for Managing Digital Information

4.4 Promote the Use and Sharing of Information

- Health Information Exchange
- Statewide Communications Interoperability
- Justice Information System Integration
- Enterprise Geospatial Services

4.a Describe agency plans to implement or enhance workplace productivity and to leverage collaboration tools.

4.b Describe agency strategies to develop and deploy applications more efficiently (i.e., through Cloud Computing, Software as a Service, Application Toolkits, Legacy System Modernization).

4.c Describe agency strategies to enhance information asset management practices.

4.d Describe agency practices or plans to enhance the use and sharing of information with agency business partners.

Responsive to all these planning items, please refer to the exhaustive aforementioned “Tier V: External/Internal Assessments – V. Technological Developments” information beginning on “Page 41” of this document.

Formerly during the “FY 2009- FY 2013 Strategic Planning Process,” the 2007 State Strategic Plan for Information Resources Management (The Texas Transformation, previously available on the Web at <http://www1.dir.state.tx.us/transform/>), provided a roadmap for agencies that ultimately enabled them to plan and deploy innovative technologies that would deliver world-class services to Texans. The following planning elements comprise that roadmap and will facilitate the development of business strategies within the agency that in turn enhance the planning and management of the state’s technology investment with regard to these “Technology Resource Planning” items.

The TSBPME is a member of the Health Professions Council (HPC). HPC provides a means for the member regulatory agencies represented on the council to coordinate administrative and regulatory efforts. One major HPC administrative service is Information Technology Systems Supports (ITSS), which includes: Network Administration, Desktop Administration, Hardware Support, Email Administrations, Web Page Development, IT Purchase Consulting, Imaging System Administration, Database Administration and IT Project Management. Along with ITSS services, HPC also provides Human Resource services, which the agency is also currently using. In the future TSBPME may begin using the web hosting services that HPC offers.

The agency benefits from the Cooperative Contracts program with higher level of negotiating expertise, monetary savings, and reduced staff time and time to receive goods

and services. The IRM attends continuing education seminars in accordance with the mandatory rules and agency/consumer demand. The IRM also submits monthly incident reports to DIR, participates in DIR's controlled penetration tests, and continually reviews current policies. The agency's firewall has been setup to have the lowest security vulnerabilities possible. All of these items enable the agency to align with the State Enterprise Security Plan.

The agency currently follows their Privacy Policy and the Health Insurance Portability and Accountability Act (HIPPA). The agency does not post confidential data on their website.

The agency maintains our website with up to date information for their constituents and accepts feedback to continually improve the usability of its site. In the future the agency may be looking to the Health Professions Council to rebuild their website using a Content Management System that will incorporate website searchability.

The agency will continue to follow its data retention policy and remains in the process of developing an e-mail retention policy.

In addition to migration of the HPC Shared Regulatory Database System, the agency is evaluating the possibility of procuring a Commercial off the Shelf (COTS) Regulatory Licensing Application for the electronic management of Licensing, Enforcement, and some accounting systems. If purchased, this system will maintain high levels of interoperability with multiple agencies and vendors. These entities will include the Texas Comptroller of Public Accounts (cash management), the Texas Education Agency (delinquent education loans of licensees), Texas Online (licensee renewals), and possibly Texas Department of Public Safety (criminal background checks). Interoperability will also be achieved with the document imaging system.

In the future the agency may outsource their webhosting service reducing the number of servers by one.

The agency will also participate in an HPC shared effort to dispose of e-waste. Decommissioned hardware (including monitors, keyboards, PCs, laptops, networking cable, and other devices) will be appropriately recycled and/or recycled by a vendor certified to do so by the State of Texas. This will ensure that electronic waste will not unduly pollute the environment during its disposal. The agency has also replaced CRT monitors with LCD monitors and every future computer/equipment purchased will be energy efficient.

In February 2010, the agency tested an e-mail transition from Capnet/DIR to Google/G-Mail. After going live with Google/G-Mail for less than 24 hours, we returned all e-mail functions to Capnet/DIR as Google/G-Mail had data limitation & privacy issues. Nevertheless, HPC-ITSS staff established VPN connections for all staff to allow us to work remotely in a more secured manner. Capnet/DIR as a state service remains viable/prudent.

With regard to the 2009 SAO Audit #09-038, pertaining to IT/Physical Security findings, in furtherance of that matter's compliance, on 02/11/2010 we met with HPC-ITSS staff to discuss Disaster Recovery Planning/Threats and SAO #09-038 concerns/recommendations. To continue, on 03/22/2010, HPC-ITSS changed all server passwords. As of June 9, 2010

we met with HPC-ITSS to continue the safeguarding of our IT systems from initial efforts undertaken last Summer. Within the coming weeks/months, HPC-ITSS will be moving all our servers (the full Dell cage/rack in the copy room and web server) to the Hobby Building Server Room in Tower 3; 2nd Floor. Since that room is a true server room with all requisite built in environmental/cooling/circuits-power/security/disaster plan/back-up functions, this makes great sense and takes an enormous IT overhead load off of us. That room presently occupies machines/servers for TDI, Dental, Commission on Emergency Communications (9-11), Veterinary, HPC and some others. Other HPC agencies will also be moving their equipment there. Again, that room is a true server room and has proper environmental controls also built in. Moving our servers there will suffice many issues for us to include the certain (2009) SAO Audit #09-038 IT recommendations/requirements for physical security. Furthermore, HPC-ITSS staff will have a central location where they can maintain all equipment, hardware/software, updates, redesigns, back-ups, etc. Staff along with HPC-ITSS recently took a tour of that server room. It has one main entry door that one accesses via keypad/magnetic card. This access point logs who enters and when they left. We will have our own agency magnetic card(s) for emergency purposes should we need to access that room; that magnetic card will be maintained in the Executive Director's office in the key lock-box. HPC-ITSS will be working on centralizing all HPC agency servers to the Server Room in Hobby Building Tower 3; 2nd Floor. They will take care of all requisite Disaster Planning/Security/Access/Back-Up issues and related policies. We now don't have to be encumbered with that overhead in our office and worst case scenarios of a fire, sprinklers, cooling/heating, security breaches and even a remote chance of the balcony glass door blowing out through some storm event such as lightning, hurricane, tornado, wind, etc. We have back-up USP power sources, cage security and redundant data back-ups; we have proactively spent conservative amounts of money over the years with HPC-ITSS to get up to best practices. The one issue that will delay this move is our DIR/Capnet HUB connection. Currently, we are connected to the world through our DIR/Capnet HUB in the Hobby Building 4th floor closet of Tower II. HPC-ITSS is working with DIR/Capnet to run a fiber optic cable from the Server Room in Hobby Building Tower 3; 2nd Floor to the Tower II 4th floor closet for full connectivity which means running through Tower I. This will be a hefty task and at cost but also impacts the move for other HPC agencies. So either HPC will absorb related costs or we will share the costs with those agencies to run the appropriate cable/connection. HPC-ITSS will keep us informed of that progress/cost as they make this transition, but HPC-ITSS is taking full control of all these functions. This agency is encouraged that HPC-ITSS will be in full control as IT overhead is not something that should encumber us; especially with the mandatory FY 2010-2011 5% Budget Cuts & Workforce Reduction. We are not an IT agency; HPC-ITSS is; with valuable expertise/services to get us all to industry standards/maintenance. As for overall database issues, that remains pending with an eventual move, at cost, to the HPC Shared Regulatory Database System after the 82nd Session/2011 after the 6 vanguard agencies launch this Fall 2010.

► **"PART 2: TECHNOLOGY INITIATIVE ALIGNMENT"**

<i>Technology Initiative</i>	<i>Related Agency Objective</i>	<i>Related SSP Strategy / (ies)</i>	<i>Status</i>	<i>Anticipated Benefit(s)</i>	<i>Innovation, Best Practice, Benchmarking</i>
1. Implement an integrated Licensing & Investigation, database application	All objectives.	1-3 1-4 4-2 5-1	Planned	The system will provide common information to Licensing & Enforcement staff to provide necessary "alerts" of persons under investigation who should not be issued a license or whose pending license application should require further background investigation.	Best Practice: The Board will migrate its Filemaker database into one enterprise system built on a modern application platform. Please reference related "Tier V – External/Internal Assessments."
2. Develop an email notification system to facilitate communication to the licensee population & public	All objectives.	5-1	Planned	Increase real-time communication with licensees and for those public requestors who wish to be on the Board's "Disciplinary Actions" notifications list serve.	Please reference related "Tier V – External/Internal Assessments."
3. Implement software for online video conferencing and teleconferencing	All objectives.	5-1	Planned	Reduce travel costs for all Board Members and to facilitate better meeting coordination when travel for physician Board Members otherwise warrants the cancelling of surgeries.	Innovation: Online conferencing will reduce costs by using technology. Please reference related "Tier V – External/Internal Assessments."
4. Implement in-house technology for staff to work in an increasing paperless environment.	All objectives.	5-1	Planned	Provide agency staff full access to all features of the hosted imaging system. However, we recognize that we will need an additional FTE to perform nothing but imaging of the Board's documents for this to be a success; this is a potential "BPR" efficiency to be gained.	Best Practice: The agency will free office space and make paper documents searchable and accessible by fully adopting the imaging system. Please reference related "Tier V – External/Internal Assessments."



APPENDIX A: "AGENCY PLANNING PROCESS"

The Texas State Board of Podiatric Medical Examiners is involved in a continual internal planning process that strives to keep our agency up-to-date with the medical profession we regulate, the goals and philosophy of the State of Texas and the mandates placed on us by federal and state rules, laws and statutes. Our planning also revolves around our path-finding new and innovative ways to make the most of the funds we administrate and our providing superior service to the people of Texas and the individuals served by our agency.

To this end, we continually solicit suggestions for improvement, internally and externally, both verbally and in writing. As funds/resources allow, we will conduct a Customer Satisfaction Survey that is to be used as a tool to measure how well we are providing our services and in identifying potential areas for improvement. Nevertheless, as a (now) small 3 person state agency whose job duties are cross-referenced, all staff are in constant contact with one another and measure customer service on a literal day-to-day basis; issue-by-issue. The agency's Executive Director and Staff Services Officer V serve as the agency's Planning Committee. They review all suggestions and are responsible for planning to meet the agency's future needs. Meritorious administrative suggestions not requiring action by the Board are implemented when warranted and then monitored for positive results. Oversight of any implemented change(s) is done by the Planning Committee who make any adjustments necessary to ensure that the intended goal of the change is being met. Any changes requiring action by our Board are submitted to them by the Executive Director, for their approval and action at an open meeting.

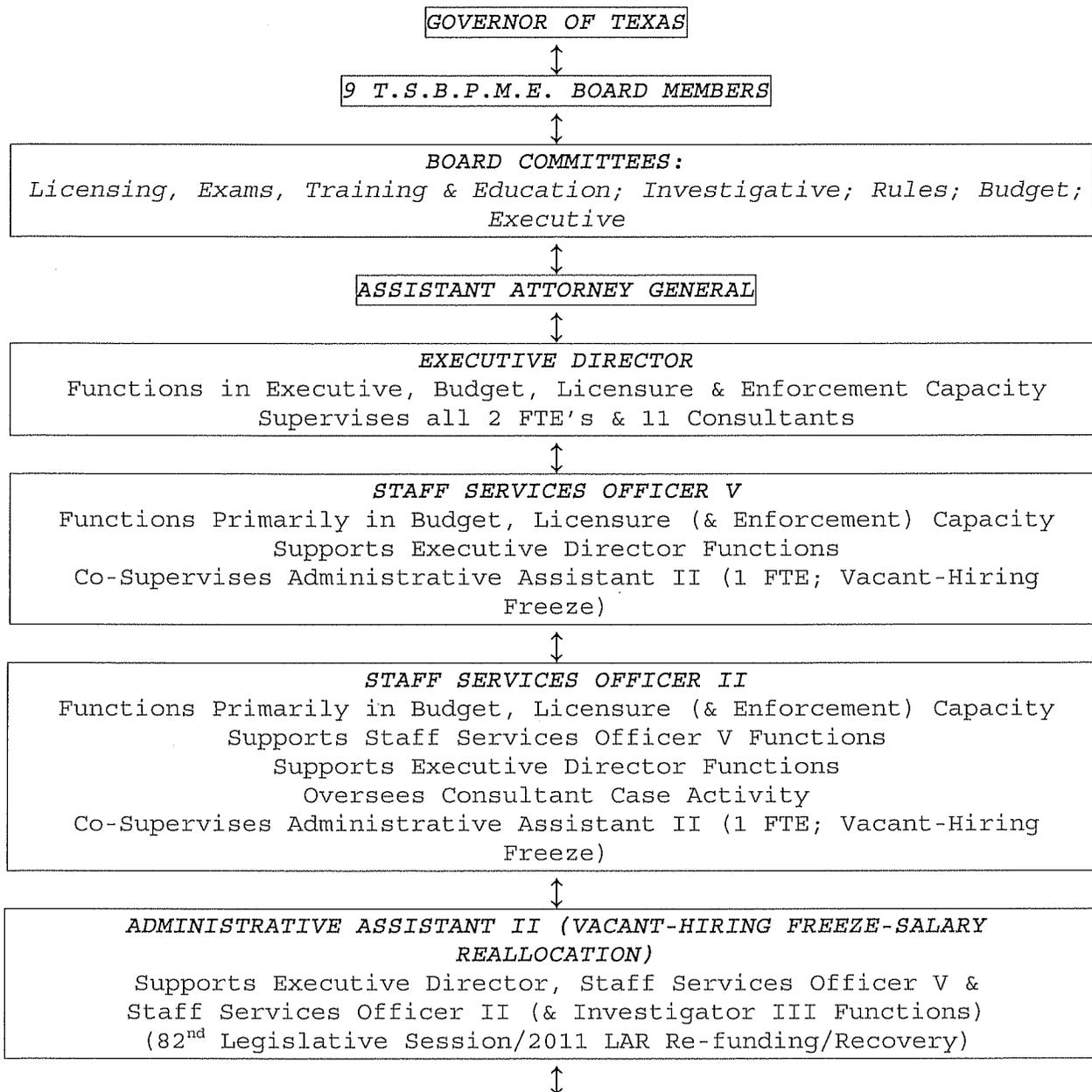
Planning for the agency's Strategic Plan is similarly accomplished. The Planning Committee, with input and assistance from our Board, considers performance benchmarking responses and projections of our agency needs over the next five years to determine the content of our Strategic Plan. This is augmented by the Committee's review of our agency's mission, goals, and legislative mandates, using the goals and philosophy of the State as a yardstick for the provision of quality service. We do note that as a small state agency, who are intimately involved with each other staff's job duties, it becomes a challenge during the "Strategic Planning" process whereby this 5-year planning document encumbers instruction changes every 2-years, thus not allowing for continuity of prior plans as set forth, understanding that any agency's Strategic Plan eventually faces changes from the immediate/following Legislative Session where an agency's entire operations and plans are dependent upon requisite/planned funding & impacted by mid-session budget reductions. Without those resources/funding, the Strategic Planning process is further encumbered/confounded as a small state agency such as the TSBPME has only but 1 year to implement "Strategic Plan" changes before the Strategic Planning process is changed again.

A copy of this Strategic Plan will be made available to the Board at its next regularly scheduled August 2, 2010 meeting. A copy of the Strategic Plan will also be made available to every agency staff member and stakeholders as published on our website at the following link: <http://www.foot.state.tx.us/links.htm>.



APPENDIX B: "AGENCY ORGANIZATION CHART"

"AGENCY ORGANIZATION" CHART (On/After 02/16/2010)



CONTRACTED CLINICAL INVESTIGATORS/CONSULTANTS

Function solely in Enforcement Capacity



INVESTIGATOR III (Reclassified to Staff Services Officer II)*

Functions Primarily in Enforcement Capacity

Supports Staff Services Officer V/II & Executive Director Functions

Oversees Consultant Case Activity

(82nd Legislative Session/2011 LAR Recovery for Investigator III or Attorney*)

**CURRENT BOARD STAFF HAVE AN INVALUABLE COMBINED 35+ YEARS OF
INSTITUTIONAL KNOWLEDGE OF THE BOARD'S FUNCTIONS**



APPENDIX C: "FIVE - YEAR PROJECTIONS FOR OUTCOMES"

TEXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS OUTCOMES 2011-2015

Outcome	2011	2012	2013	2014	2015
Percent of licensees with no recent violations	98.0%	98.0%	98.0%	98.0%	98.0%
Percent of complaints resulting in disciplinary action	6.0%	6.0%	6.0%	6.0%	6.0%
Recidivism rate for those receiving disciplinary action	7.0%	6.5%	6.0%	6.0%	6.0%
Percent of documented complaints resolved within six months	72.0%	72.0%	72.0%	72.0%	72.0%
Percent of Licensees who renewed online	67.0%	67.0%	67.0%	67.0%	67.0%
*** Percent of new individual licenses issued online	0.0%	0.0%	0.0%	0.0%	0.0%

*** **Note:** The agency has received an exemption from TexasOnline for "New individual Licenses" issued online due to not having enough new licensees for it to be beneficial.



APPENDIX D: "PERFORMANCE MEASURE DEFINITIONS"

PROVIDED FOR THE GOVERNOR'S OFFICE OF BUDGET, PLANNING AND POLICY, AND THE LEGISLATIVE BUDGET BOARD

MEASURE DEFINITIONS

("GOAL 1")

SHORT NAME: PROTECT TEXANS

FULL NAME: Protect Citizens of Texas from Incompetent and Unethical Podiatrists

DESCRIPTION: To protect the citizens of Texas from incompetent and unethical Podiatrists with a quality program of examination and licensure and swift, fair, and effective enforcement of statutes and rules.

OBJECTIVE: Throughout each year of the Strategic Plan, ensure that 100 percent of licensees meet minimum compliance standards for licensure and practice.

OUTCOME MEASURES

- (1) **Percent of Licensees with No Recent Violations**

Short Definition: The percent of the total number of licensed, registered, or certified individuals at the end of the reporting period who have not incurred a violation within the current and preceding two years (three years total).

Purpose/Importance: Licensing, registering, or certifying individuals helps ensure that practitioners meet the legal standards for professional education and practice; a primary agency goal. This measure is important because it indicates how effectively the agency's activities deter violations of professional standards established by statute and rule.

Source/Collection of Data: Data is collected by the Staff Services Officer from source documents, including computer-generated forms of the total licensing base. Also, the

Executive Director or Investigator maintains records of disciplinary data, Board Orders, for calculation of percentages.

Method of Calculation: The total number of individuals currently licensed, registered, or certified by the agency who have not incurred a violation within the current and preceding two years divided by the total number of individuals currently licensed, registered, or certified by the agency. The numerator for this measure is calculated by subtracting the total number of licensees with violations during the three-year period from the total number of licensees at the end of the reporting period. The denominator is the total number of licensees at the end of the reporting period. The result is multiplied by 100 to achieve a percentage.

Data Limitations: None

Calculation type: Non-cumulative

New Measure: No

Desired Performance: Higher than Target

- **(2) Percent of Complaints Resulting in Disciplinary Action**

Short Definition: Percent of complaints which were resolved during the reporting period that resulted in disciplinary action.

Purpose/Importance: This measure is intended to show the extent to which the agency exercises its disciplinary authority in proportion to the number of complaints received. It is important that both the public and licensees have an expectation that the agency will work to ensure fair and effective enforcement of the act and this measure seeks to indicate agency responsiveness to this expectation.

Source/Collection of Data: Complaints received are numbered consecutively within the fiscal year and maintained on a computer tracking system. Complaints resolved are also maintained on a computer tracking system. Disciplinary actions are maintained in hardcopy format, i.e., Board Orders, as well as placed on a computer system. Data is maintained by the Investigator and itemized listings are presented to the Staff Services Officer for performance measure recording.

Method of Calculation: The number of complaints resolved during the reporting period that resulted in disciplinary action (numerator) is divided by the total number of complaints resolved during the reporting period (denominator). The result should be multiplied by 100 to achieve a percentage. Disciplinary action includes Agreed Orders, Reprimands, Warnings, Suspensions, Probations, Revocation, Restitution and/or Fines on which the Board/Commission has acted.

Data Limitations: Most complaint investigations result in a finding of not having violated the Board's Rules or Statute and thus, our percentages are low.

Calculation Type: Non-cumulative.

New Measure: No

Desired Performance: Higher than Target

- **(3) Recidivism Rate for Those Receiving Disciplinary Action**

Short Definition: The number of repeat offenders at the end of the reporting period as a percentage of all offenders during the most recent three-year period.

Purposes/Importance: The measure is intended to show how effectively the agency enforces its regulatory requirements and prohibitions. It is important that the agency enforce its act and rules strictly enough to ensure that consumers are protected from unsafe, incompetent and unethical practice by the registered or licensed professional.

Source/Collection of Data: Disciplinary actions are maintained in list form and in the computer database. Repeat offenders are noted on list form by the Investigator and presented to the Staff Services Officer who enters the data for performance measures reporting.

Method of Calculation: The number of individuals against whom two or more disciplinary actions were taken by the Board of Commission within the current and preceding two fiscal years (numerator) is divided by the total number of individuals receiving disciplinary actions within the current and preceding two fiscal years (denominator). The result should be multiplied by 100 to achieve a percentage.

Data Limitations: None

Calculation Type: Non-cumulative.

New Measure: No

Desired Performance: Lower than Target

- **(4) Percent of Documented Complaints Resolved Within Six Months**

Short Definition: The percent of complaints resolved during the reporting period, that were resolved within a six month period from the time they were initially received by the agency.

Purpose/Importance: The measure is intended to show the percentage of complaints which are resolved within a reasonable period of time. It is important to ensure the swift enforcement of the Podiatry Practice Act, which is an agency goal.

Source/Collection of Data: Complaints that are received are assigned a complaint number for tracking purposes and are logged in as of the date they are received in the Board Office. As complaints are resolved they are closed and the closure date is recorded in the database. The number of complaints resolved within six months is calculated from the information

taken from the printed report and given to the Staff Services Officer for performance measure reporting.

Method of Calculation: The number of complaints resolved within a period of six months or less from the date of receipt (numerator) is divided by the total number of complaints resolved during the reporting period (denominator). The result should be multiplied by 100 to achieve a percentage.

Data Limitations: The length of time required to resolve a complaint may vary substantially due to how complex the issue is, the aggressiveness of licensees to defend their license and “due Process” timeframe.

Calculation Type: Non-cumulative.

New Measure: No

Desired Performance: Higher than Target

- **(5) Percent of Licensees Who Renew Online**

Short Definition: Percent of the total number of licensed, registered, or certified individuals that renewed their license, registration, or certification online during the reporting period. New licensees and Rad-Techs are included in this calculation.

Purpose/Importance: To track use of online license renewal technology by the licensee population.

Source/Collection of Data: Reports are downloaded from NICUSA and the Comptroller. After the information is verified, the Staff Services Officer updates the information in the database and also into an Excel spreadsheet designed to collect all of the pertinent information in one place. The spreadsheet contains the date the licensee renews online, their license number, name, amount and trace number. Then when the information from the Comptroller matches the initial information, the date is entered on the spreadsheet. When the Comptroller notifies the agency that the payment has cleared, the date and F doc number is entered on the spreadsheet. At that time, a certificate number is issued to the licensee and the database is updated.

Method of Calculation: Total number of individual licenses, registrations, or certifications renewed online (numerator) divided by the total number of individual licenses, registrations, or certifications processed during the reporting period (denominator). New licensees and Rad-Techs are included in this calculation. The result should be multiplied by 100 to achieve a percentage.

Data Limitation: At the present time, only podiatrists may renew online.

Calculation Type: Non-cumulative.

New Measure: No

Desired Performance: Higher than Target

- **(6) Percent of New Individual Licensees Issued Online**

Short Definition: The percent of all new license, registrations, or certifications issued online to individuals during the reporting period.

Purpose/Importance: To track use of online license issuance technology by the licensee population.

Source/Collection of Data: The agency has received an exemption from TexasOnline for this measure at this time due to not having enough new licensees for it to be beneficial.

Method of Calculation: Total number of new licenses, registrations, or certifications issued to individuals online (numerator) divided by the total number of new licenses, registrations, or certifications issued to individuals (denominator) during the reporting period. The result should be multiplied by 100 to achieve a percentage.

Data Limitations: N/A

Calculation Type: Non-cumulative.

New Measure: No

Desired Performance: Higher than Target

EFFICIENCY MEASURES

- **(1) Average Time for Complaint Resolution**

Short Definition: The average length of time to resolve a complaint, for all complaints resolved during the reporting period.

Purpose/Importance: The measure shows the agency's efficiency in resolving complaints.

Source/Collection of Data: The complaint tracking database is maintained by the Investigator. The system contains the date the complaint is received and the date when closed and calculates the number of calendar days. The information is then given in list form to the Staff Services Officer for performance measure reporting.

Method of Calculation: The total number of calendar days per complaint resolved, summed for all complaints resolved during the reporting period, that elapsed from receipt of a request for agency intervention to the date upon which final action on the complaint was taken by the board of commission (numerator) is divided by the number of complaints resolved during the reporting period (denominator). The calculation excludes complaints determined to be non-jurisdictional of the agency's statutory responsibilities.

Data Limitations: While most complaints can be resolved in the targeted time for resolution, some may require approval and action from the Board, which meets twice a year resulting in a delay for resolution.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Lower than Target

- **(2) Percentage of New Individual Licenses Issued within 10 Days**

Short Definition: The percentage of initial individual license applications that were processed during the reporting period within ten days measured from the time in days elapsed from receipt of the initial completed application until the date the license is mailed.

Purpose/Importance: This measures the ability of the agency to process new applications in a timely manner and its responsiveness to a primary constituent group.

Source/Collection of Data: The Staff Services Officer processes applications, fees, and scores required for licensure and enters information into an examination applicant database. After an applicant has satisfied all application requirements, score requirements and has forwarded the fee for an initial license, a license number is entered into the database system and on a list form noting the date of receipt of the initial license fee. As each license is prepared for mailing, the date of mailing is entered on the list form. At the end of each fiscal quarter, the Staff Services Officer prints a report which shows for each individual license issued during the quarter, the number of calendar days which elapsed between the initial receipt of the license fee and the mailing of the license.

Method of Calculation: The number of initial individual licenses mailed in 10 calendar days or less from the date of initial license fee receipt is divided by the total number of individual licenses mailed during the quarter. The resulting number is multiplied by 100 to convert to a percentage.

Data Limitations: The agency has no control over when a successful applicant submits the license fee.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Lower than Target

- **(3) Percentage of Individual License Renewals Issued within 7 Days**

Short Definition: The percentage of individual license renewal applications that were processed during the reporting period within 7 days of receipt, measured in calendar days

which have elapsed from receipt of the renewal application until the date the renewal license is mailed.

Purpose/Importance: This measures the ability of the agency to process renewal applications in a timely manner and its responsiveness to a primary constituent group.

Source/Collection of Data: The Administrative Assistant opens and sorts the renewal applications, and after the continuing education requirements have been attested, the renewal form and fee are accepted and date stamped, then forwarded to the Staff Services Officer for processing and deposit. After the information is entered into the database the license renewal certificates are printed. The renewal form is then date-stamped indicating the date mailed. The respective dates are listed in hardcopy on a printout generated from the computer database of all renewal certificates mailed.

Method of Calculation: This measure is calculated by using all licensees within the database who must renew their license annually. The total number of calendar days per license renewal application that elapsed from the receipt of a completed renewal application until the date the renewal license certificate is mailed is determined as described above in Source/Collection of Data. The total number of renewed licenses that meet this criteria is then divided by the total number of renewals mailed during the quarter. This number is then multiplied by 100 and expressed as a percentage.

Data Limitations: While the renewal application and license certificates are computerized, the back-up documentation for entering this data to be calculated for this measure must be done manually. While it does not delay the issuance of a renewal certificate, it does affect the efficiency for purposes of performance measure recording.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Higher than Target

EXPLANATORY MEASURES

- **(1) Total Number of Individuals Licensed**

Short Definition: Total number of individuals licensed at the end of the reporting period. This figure includes Active, Inactive, Temporary and Provisional.

Purpose/Importance: The measure shows the total number of individual licenses currently issued which indicates the size of one of the agency's primary constituencies.

Source/Collection of Data: The Staff Services Officer maintains the licensing database known as Podiatric Physician Database. A list that indicates the total number of new licenses issued to individuals during and following the renewal cycle and a list indicating the total number of individuals renewed during the reporting period is prepared. The totals of these

two lists are added to get the total of individuals licensed. The lists are maintained in the office of the Staff Services Officer for purposes of performance measure reporting.

Method of Calculation: This measure is calculated by taking the total unduplicated number of individuals licensed, certified or registered in the podiatric physician database at the end of the reporting period. An individual who holds more than one license, certification or registration is counted only once. Individuals who are on inactive status are included in the total. This measure may not reflect the total number of licenses, certifications or registrations issued by the agency.

Data Limitations: The Board has no control over how many physicians will choose to renew their license each year.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Higher than Target.

- (2) Pass Rate

Short Definition: The percent of individuals to whom a whole examination, or segments of a multi-part examination were administered during the reporting period who received a passing score.

Purpose/Importance: The measure shows the rate at which those examined passed. This is an important step in the licensing process and a low pass rate may represent unnecessarily restrictive licensure requirements or inadequate preparation by licensure applicants.

Source/Collection of Data: The Staff Services Officer maintains the information in report form for purposes of performance measure reporting.

Method of Calculation: The total number of individuals who passed the examination (numerator) is divided by the total number of individuals examined (denominator). The result should be multiplied by 100 to achieve a percentage. If two exams were given in the same reporting period, the total number of individuals passing the exam during the reporting period is divided by the total number of persons taking the exam during the reporting period. Persons taking the exam multiple times are counted each time they take the exam.

Data Limitations: None

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Higher than Target.

- **(3) Jurisdictional Complaints Received**

Short Definition: The total number of complaints received during the reporting period which are within the agency's jurisdiction of statutory responsibility.

Purpose/Importance: The measure shows the number of jurisdictional complaints which helps determine agency workload.

Source/Collection of Data: The Investigator receives and numbers all complaints received in the complaint database. The number of complaints received during the reporting period is maintained on the system and in hardcopy and given to the Staff Services Officer for purposes of performance measure reporting.

Method of Calculation: The agency sums the total number of complaints received only relative to their jurisdiction. It also keeps track of total number of complaints that are not in their jurisdiction but does not use that figure in its calculation.

Data Limitations: The Board has no control over the number of complaints received.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Lower than Target.

OUTPUT MEASURES

- **(1) Number of New Licenses Issued to Individuals**

Short Definition: The number of licenses issued to previously unlicensed individuals during the reporting period.

Purpose/Importance: A successful licensing structure must ensure that legal standards for professional education and practice are met prior to licensure. This measure is a primary workload indicator which is intended to show the number of unlicensed persons who were documented to have successfully met all licensure criteria established by statute and rule as verified by the agency during the reporting period.

Source/Collection of Data: As new licenses are issued to successful candidates, the Staff Services Officer adds their names to the licensing database. A paper list form is maintained listing the names of individuals newly licensed during the previous three months and the list is printed at the end of each fiscal quarter. The total number of names shown on the list is counted and the Staff Services Officer verifies the information for purposes of performance measure records.

Method of Calculation: This measure counts the total number of licenses issued to previously unlicensed individuals during the reporting period, regardless of when the application was originally received. Those individuals who had a license in the previous reporting period are not counted. Only new licenses are counted.

Data Limitation: The Board has no control over the number of examination applicants and subsequent license holders.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than Target

- **(2) Number of Radiologic Technicians Certified**

Short Definition: The number of radiologic technicians who previously registered and new ones that registered during the current reporting period.

Purpose/Importance: A successful certification structure must ensure that legal standards for professional education and practice are met prior to certification. This measure is a primary workload indicator intended to show the number of unregistered persons who were documented to have successfully met all education criteria established by statute and rule as verified by the agency during the reporting period.

Source/Collection of Data: The registration information comes from the agency licensing database, which is known as Rad-tech database that keeps a log of those individuals registering to take x-rays in the state. A report is generated that lists the names of all individuals whose certification was renewed during the previous 3 months. The list is printed by the Staff Services Officer and used for calculation of the performance measure.

Method of Calculation: The measure is calculated by tracking the total number of registrations issued to previously registered and new individuals during the reporting period.

Data Limitations: The Board has no way to influence the number of rad-techs who register with us. This number can vary due to numerous outside factors beyond our control.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than Target

- **(3) Number of Licenses Renewed (Individuals)**

Short Definition: The number of licensed individuals who held licenses previously and renewed their license during the current reporting period.

Purpose/Importance: Licensure renewal is intended to ensure that persons who want to continue to practice in their respective profession satisfy current legal standards established by statute and rule for professional education and practice. This measure is intended to show the number of licenses that were issued during the reporting period to individuals who currently held a valid license.

Source/Collection of Data: The licensee information comes from the agency licensing database that keeps a log of those individuals renewing their license to practice in the state. A report is generated that lists the names of all individuals whose license was renewed during the previous 3 months. The list is printed by the Staff Services Officer and used for calculation of the performance measure.

Method of Calculation: The measure is calculated by querying the agency licensing database to produce the total number of licenses issued to previously licensed individuals during the reporting period.

Data Limitations: The Board has no control over the number of individuals choosing to renew a license.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than Target

- **(4) Individuals Examined**

Short Definition: The number of individuals to whom examinations were administered in whole or in part during the reporting period.

Purpose/Importance: The measure shows the number of individuals examined which is a primary step in licensing the individual and represents a major cost element for the agency. Examination purchase, grading, validating and notification costs are directly related to this measure.

Source/Collection of Data: The Staff Services Officer maintains in list form and on an applicant database the number of individuals to whom an examination was administered. The list is printed by the Staff Services Officer for purpose of performance measure reporting.

Method of Calculation: For an exam administered in one session, even if comprised of periods with breaks or on more than one day, the individuals attending the session are counted only once. An individual who attends two sessions for two exams or parts of exams should be counted twice.

Data Limitations: The Board has no control over the number of individuals who want to take the Board Examination.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than Target

- **(5) Number of Complaints Resolved**

Short Description: The total number of complaints resolved during the reporting period.

Purpose/Importance: The measure shows the workload associated with resolving complaints.

Source/Collection of Data: Resolved or closed complaints are maintained on the complaint database. Using the closed complaint data, the Investigator records the number on paper form and gives to the Staff Services Officer for purposes of performance measure reporting.

Method of Calculation: The total number of complaints during the reporting period upon which final action was taken by the Board or for which a determination was made that a violation did not occur. A complaint that, after preliminary investigation is determined to be non-jurisdictional is not a resolved complaint.

Data Limitations: The complexity of some complaints may require further investigation and action by the Board, which meets twice a year. Such infrequent meetings will affect the number of complaints resolved within the target resolution date.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than Target



APPENDIX E: "WORKFORCE PLAN"

OVERVIEW:

(In accordance with Texas Government Code §2056.002 and the State Auditor's Office Workforce Planning website at: <http://sao.hr.state.tx.us/Workforce/>.)

The mission of the Texas State Board of Podiatric Medical Examiners is to assure quality Podiatric Medical Care for the citizens of Texas. The Board fulfills its mission through the regulation of the practice of Podiatric Medicine. This mission supersedes the interest of any individual, the podiatric medical profession or any special interest group.

The Texas State Board of Podiatric Medical Examiners has two Strategic Goals:

1. To protect the citizens of Texas from incompetent and unethical podiatric physicians with a quality program of examination and licensure, and swift, fair and effective enforcement of statutes and rules.
2. To establish and carry out policies governing purchasing and contracting in accordance with state law that foster meaningful and substantive inclusion of Historically Underutilized Businesses.

Our agency's business functions all evolve and flow from our Strategic Goals. We annually license the Podiatric Physicians who provide medical care to the people in Texas, to ensure the competency of these medical professionals and to ensure that the people of Texas receive the best Podiatric Medical Care possible. We have an effective and efficient licensing and examination process and a revised investigative process to address complaints made against our licensees. We interact in written format, via the Internet and in person with numerous outside federal, state and local agencies, the public, law enforcement agencies, trade associations, medical entities, etc. on a daily basis to effectively accomplish these goals. Similar to a business in the private sector, we use the most efficient and effective methodology available to us at the time of contact to meet our goals and conduct the day-to-day business of the agency. For example, we conduct our agency business by use of the USPS, interagency mail, private sector courier service (UPS) and telephone service, dependant on what will provide us with the most cost-effective methodology, while still meeting our time related needs. More and more, we are providing service to our customers and are conducting our agency's business electronically, via the Internet. Examples of this are our agency's website, which provides our customers with licensing and Podiatric Physician profile information, licensee disciplinary information and detailed agency information via the Internet, in a cost-effective and efficient manner, and by our agency's heavy use of e-mail. Beginning in FY 2004, we joined "Texas On-Line," (now "Texas.gov") which allows us to provide instant license

renewal access for our licensees, twenty-four hours a day, seven days a week. We are constantly searching for ways to make our provision of service more efficient and cost-effective.

We do not presently anticipate any significant changes to our mission, strategies or goals over the next five years. We believe that our mission and goals while being very specific, remain broad enough to allow them the flexibility to embrace any significant changes that might occur.

ADDITIONAL CONSIDERATIONS:

The key economic issues facing our agency relate to our being able to continue providing a high level of quality service to our customers within a very tight/reduced budget. The need to fund all of our services within our small operating budget can be very challenging and has the potential to negatively impact our ability to provide our employees with the merit raises so vital to staff retention. By not providing our staff with merit raises, we risk losing our staff to other agencies with higher levels of funding that can afford higher salary levels and merit raises. Loss of trained staff has the potential to slow down and negatively impact our provision of services and functions.

Our challenge has been and will continue to be to path-find new ways to remain and become even more efficient and effective in our use of our appropriated funds, thus allowing us to continue to meet our goals and mission.

We have found that our current customer demands generally remain constant, with the exception of our licensee's demand for quicker response times in the provision of statute and rule information and in responding to a broad range of questions. We expect to keep up with this increased demand by the use of technology (our enhanced website, telecommunications, etc.).

We are an authorized four (4) person agency (reduced to 3 due to the mandatory FY 2010-2011 5% Budget Reduction), divided up into several component "divisions". One employee (Executive Director) is responsible for the day-to-day administration and running of the agency + investigations, one employee (Staff Services Officer II) is responsible for complaint and CME compliance investigations, one employee (Staff Services Officer V) handles all agency fiscal matters and licensing (new and renewals) and licensing examinations, and one employee (Administrative Assistant II; present "Hiring Freeze") who provides administrative support for our complaint investigations as well as serving as the agency's receptionist. All three of our present employees are multi-tasked with many "additional duties" as is the case in any small agency such as ours. The Administrative Assistant II (present "Hiring Freeze") is supervised by our Staff Services Officer V. The Staff Services Officer V and Staff Services Officer II are both supervised by the Executive Director, who in turn, reports to our nine (9) member Board, accountable to the Governor of Texas.

Due to the mandatory FY 2010-2011 5% Budget Reduction, we project that our agency's structure will not remain essentially consistent within its current form for the next five years. There could be major shifts in staff duties and/or responsibilities, as the needs of our customers evolve and as new legislative mandates and rule changes made by the Board impact our agency; in addition to addressing all budget cuts.

CURRENT WORKFORCE PROFILE:

Our agency's current workforce faces challenges in meeting the mission and goals of our agency but possesses the capacity to be sufficiently flexible, innovative and creative so as to adapt to any future critical business issues and needs. Our agency's IT functions are shared by the staff and the Health Professions Council Systems Analysts. Our Staff Services Officers have received training to enhance their knowledge and skill in the fiscal area (ABEST, SPA, USAS, USPS, etc.). Our Staff Services Officers V/II receive day-to-day training from the Board's Executive Director to enhance investigative capabilities. Additional training as our funds allow, and IT and HR support from the staff of other Health Profession Council agencies (at no cost to us) that are specialists in these areas, should allow us to remain current with the skills necessary to address future critical business issues.

The following is a demographic chart that shows the age, gender, race and tenure of our current employees:

Position	Age	Gender	Race	Tenure w Texas
Executive Director	37	Male	Asian/Pacific Islander	15+ years
Staff Services Officer V	48	Female	White	25+ years
Staff Services Officer II	48	Female	Hispanic	20+ years

Our agency presently has one agency staff (i.e. Staff Services Officer V) who would be eligible to retire from state service within the next five years.

Our agency has experienced an employee turnover rate of 25% for the last year. At face value, this seems like a high figure, except when it is applied to a small agency like ours, where the loss of only one employee in the course of a year represents a 25% staff turnover rate for the agency.

To project our potential employee attrition rate for the next five years, we need to look at this issue from two separate and distinct positions. First, at our present workforce level, the potential for attrition from staff's eligibility to retire from state service is 33% for our agency for the next five years. The second method of looking at staff attrition is from the standpoint of one or more employees voluntarily leaving their employment with us to work for another state agency or in the private sector. It is difficult to project an accurate figure for this kind of potential loss of staff, due to the wide range of variables that could impact an employee's decision to remain or not with a specific state entity. A reasonable projection would be that over the next five years, we could have at least one employee leave the agency. This equates to the potential for a minimum 33% attrition rate in any one of the next five years.

There are varied "workforce skills" that are critical to the mission and goals of our agency. The Executive Director must possess an exceptionally broad range of skills and talents to enable him to oversee the daily operations of the agency, to be a reliable resource of information and guidance for the agency's staff and Board, and to effectively perform the many, varied functions of his job. Our fiscal staff person (Staff Services Officer V) must be familiar with the agency's rules, statutory mandates and requirements for licensure and Continuing Medical Education credit, as

well as possess an intimate knowledge of “past practice” issues, to be effective in the consistent oversight of licensing as well as all federal and state fiscal requirements, in order to keep the agency compliant with federal and state mandates, such as the state’s mandate for three-day deposits of funds received. Our Staff Services Officer II must possess a strong knowledge of the agency’s rules and statute, possess the highest level of confidentiality, and have excellent investigative skills identical to those of a law enforcement criminal investigator (rules of evidence, due process, etc.). Our Administrative Assistant II (present “Hiring Freeze”) must act as the point person for Property Management and Reception functions. They must also possess excellent people and communication skills, and a broad knowledge of our rules and statutes to appropriately respond to customer questions. They must also have a working knowledge of our investigative process and demonstrate a high level of confidentiality, as they administratively assists the investigations division and has access to confidential complaint, patient and licensee information.

It is believed that the skill and experience level of the agency’s workforce could substantially change within the next five years with the possibility of the retirement of the Staff Services Officer V. Based on past trends, all staff will need to stay current with IT technology as it continues to evolve. Doing so will allow our agency to use information technology to offset the inevitability of increasing workloads and more readily allow for the most cost-effective and efficient provision of services to our customers.

The greatest challenge facing our agency as it affects our ability to recruit and retain mission critical staff is our lack of sufficient appropriated funds to allow us to reward our employees who meet specific requirements with well-deserved merit increases. In a small agency such as ours, the loss of any one staff position can have a critical impact on our ability to meet our goals and legislative mandates. Because each staff member wears many hats, the loss of any one position has a negative “spin-off” effect on one, some, and sometimes all other positions being able to complete their work in a timely manner. This has the potential to negatively impact the entire agency. It is crucial that our agency has the level of funding necessary to remain competitive with other larger state agencies (and the private sector) to avoid losing any of our staff to an agency or entity that can pay a higher salary and give out merit increases.

FUTURE WORKFORCE PROFILE (DEMAND ANALYSIS):

At present, notwithstanding the Office of the Governor’s February 2008 “BPR” report, we have experienced an immediate workforce staffing change effective February 16, 2010 due to the mandatory FY 2010-2011 5% Budget Reduction (discussed exhaustively in our “FY 2011 – FY 2015 Strategic Plan”). With all present/future budget cuts, we do not believe that our workforce will remain consistent within our current structure. Adding or removing responsibilities from one staff position to another can address things such as increased or decreased workloads. There is some potential that this could change, if, for example, the Legislature were to add any new unfunded mandates on our agency next 82nd Session/2011 and not restore our funding. With our present heavy workload, any new mandates would require an additional (5th) FTE to keep us compliant with our goals and mandates. We believe that future workforce skills will more and more revolve around our staff having a good working knowledge of new computer hardware technology and software programs. It is through the best use of future computer technology advances that we could keep the workplace time efficient and cost effective. We feel that the increase in new Information Technology over the next five years could help to offset any potential increase in the time needed to meet our goals and mission. All of our current staff positions are

critical to performing our licensing, testing and enforcement functions necessary to support our agency's mission, goals and legislative mandates. Again, due to the FY 2010-2011 5% Budget Reduction effective February 16, 2010, we have experienced an immediate decrease in the existing staffing levels necessary to do our job as a state medical licensing and regulatory agency. We are planning to ask for additional FTE's this coming 82nd Session/2011 to recover our funding and workforce.

GAP ANALYSIS:

We have not identified any gaps or surpluses in our staffing levels based on the current information available to us. There is, however, an anticipated gap in the computer hardware and software and management skills that will be needed by our staff to remain ahead of increasing workloads. The key to the resolution of this training gap is to address the gap in the level of funding available for critical staff training, most importantly, in the IT area. We believe that continued training will be critical to keep our current level of staff prepared to meet the potentially increased pressure on staff from heavier future workload levels, by fostering effective agency leadership and management and by utilizing new methodologies and technologies (hardware and software) to level the playing field.

STRATEGY DEVELOPMENT:

At this time, our agency will eventually be impacted by the potential loss of staff due to the "aging workforce" issue. One of our four full time employees (i.e. Staff Services Officer V) is eligible to retire within the next five years by May 31, 2013. It is difficult to nearly impossible to prevent the potential loss of an employee who decides to leave this agency for other employment or retirement. Over the last seven years, we have had several employees leave our agency for a variety of reasons. One (Investigator III) left state employment to become a law enforcement officer (Captain in charge of the Investigations Division, with the Leander, Texas Police Department). The second (Administrative Technician III) left state employment (twice) to pursue her life-long dream of becoming a licensed beautician. The third (Administrative Technician II) left state employment to follow through on personal interests in Midland, Texas. The fourth (Administrative Technician IV) was lost due to a Reduction in Force (RIF) pursuant to mandated budget reductions. The fifth (Administrative Technician II) was terminated due to violations of personnel policies. The sixth Administrative Assistant II left the agency in September 2009 but that position is presently facing a "Hiring Freeze" due to the FY 2010-2011 5% Budget Reduction. Two Executive Directors resigned in 2004/2005 over concerns brought forth by the Board. The agency's Investigator V of the past 6 years then became the new Executive Director in September 2005 (and remains in this position). In addition, the Administrative Assistant II from September 2004 – December 2005 became the new Systems Analyst with the Health Professions Council due to exemplary service with the Board and the Investigator III from January – May 2006 resigned due to personnel deficiencies. Most recently, the Investigator III (effective February 16, 2010) was reclassified to a Staff Services Officer II as part of a total agency reorganization in response to the FY 2010-2011 5% Budget Reduction.

Notwithstanding the above, our agency has utilized several strategies to make our workplace a good place to work, within our limited fiscal resources. We have actively included all employees in many of the major decisions relating to the running of our agency and the policies by which we run, to make staff feel like the valued individuals they are. The Executive Director has fostered

leadership development by allowing the agency's Staff Services Officer V to act as a supervisor, developing her leadership skills under his guidance. Training to enhance our staff's development within their own areas of specialization has been encouraged, within the limited resources of the agency.

We have and will continue to cross-train our staff, and have entered into an agreement with other Health Professions Council agencies to provide mutual support in a staffing emergency, in the event that any agency staff possessing unique and critical skills should be absent from the agency due to illness, extended vacation, etc. This ensures that our agency will minimally continue to run and that all functions and responsibilities of the agency will continue uninterrupted.

ADDITIONAL CONSIDERATIONS:

At the present, there is no need to recruit competent staff to fill open positions as we have no vacancies due to the "Hiring Freeze" of the Administrative Assistant II position in regards to the FY 2010-2011 5% Budget Reduction. Historically, when positions have opened, we have been successful in attracting a diverse and qualified pool of applicants, and have successfully hired positions, from "posting of the job" to "first day on the job" within a month. We are confident that we would be able to quickly replace any of our staff positions that should open, quickly, with minimal impact to the agency provided that we are appropriately funded. In the absence of being able to fill a position, we have contracted with outside providers (i.e. the aforementioned PMR's) to supplement the duties performed by the Executive Director/Investigator; along with the new TPMA "Peer Review" process.

We do anticipate having skill or staffing imbalances due to retirements within the next five years. Any imbalances due to changing programs could be absorbed by our staff, as our positions already overlap in their responsibilities and training. One of our agency strengths is that because we are small, we are better able to adapt quickly to change. Duties and responsibilities can quickly be assigned, removed or adapted to meet any change or challenge.

We consider all of our staff as being in potential leadership positions. We use every opportunity to allow our staff to enhance their interpersonal and leadership skills. The acquisition of additional training funds will facilitate allowing our staff to attend training that we presently cannot afford to pay for.

We have made a conscious effort to be very liberal in allowing our staff to flex their work schedule so that they can attend training programs to enhance their level of personal knowledge and better prepare them for future leadership rolls.

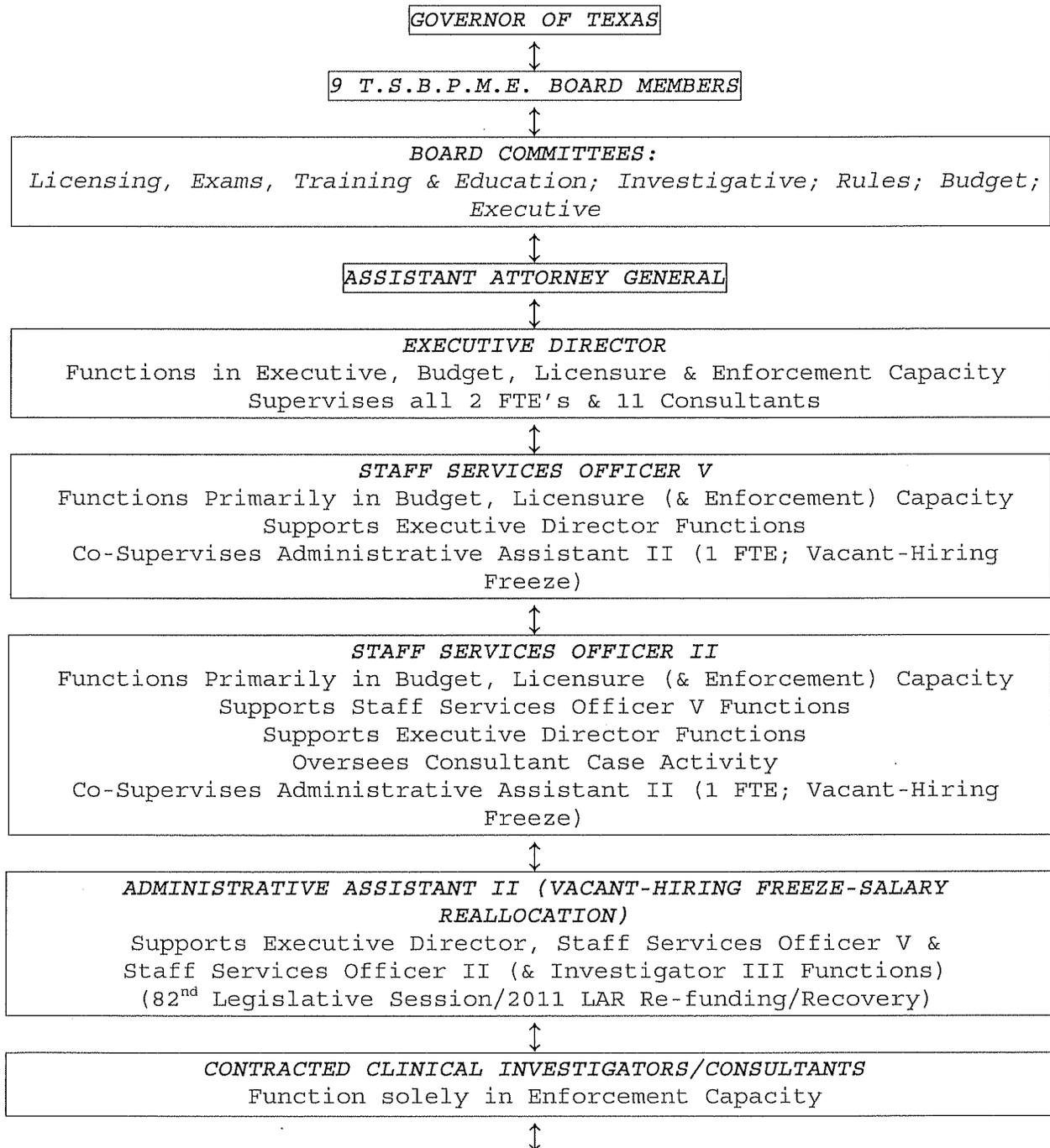
All the aforementioned allows for a sense of staff "Ownership;" a philosophy of success in the private sector whereby employees feel they "belong" to a successful team.

Again, TSBPME staff remain open to the Office of the Governor's "BPR" report and its findings in achieving the noted efficiencies to be gained as the Board proceeds towards the 82nd Legislative Session beginning in January 2011. It is staff's position that the centralization of common agency "Finance/Human Resource/Information Technology" functions within the HPC would allow the Board to focus on CORE Licensure & Enforcement functions DIRECTLY related to our Mission and expertise especially during the time of the FY 2010-2011 5% Budget Reduction.

The Board's Workforce Summary (as of 2008) prepared by the State Auditor's Office Classification Team can be found on their website at:

<http://sao.hr.state.tx.us/Publications/WFSummaries/WorkforceAnalysis/2008/512-2008.pdf>

"AGENCY ORGANIZATION" CHART (On/After 02/16/2010)



INVESTIGATOR III (Reclassified to Staff Services Officer II)*
Functions Primarily in Enforcement Capacity
Supports Staff Services Officer V/II & Executive Director Functions
Oversees Consultant Case Activity
(82nd Legislative Session/2011 LAR Recovery for Investigator III or
Attorney*)

**CURRENT BOARD STAFF HAVE AN INVALUABLE COMBINED 35+ YEARS OF
INSTITUTIONAL KNOWLEDGE OF THE BOARD'S FUNCTIONS**



APPENDIX F: "SURVEY OF ORGANIZATIONAL EXCELLENCE & SURVEY OF EMPLOYEE ENGAGEMENT"

Formerly for the "FY 2009 – FY 2013 Strategic Planning" process, in Fall 2007 (FY 2008), the Texas State Board of Podiatric Medical Examiners contracted with the Organizational Excellence Group at the University of Texas for an online customer satisfaction survey (<http://www.orgexcel.net/survey/index.php?&sc=51201>). All 904 "Actively" licensed podiatric physicians from December 10, 2007 – December 30, 2007 were surveyed upon e-mail notification. The Annual License Renewal period culminated with a November 1, 2007 deadline with the expectation to have all licenses renewed by the end of December 2007. This time period was the best opportunity to capture a licensee's input because licensees would have completed at least one year (annually; 11/1) of interacting with Board staff. There were a total of 84 respondents.

ANALYSIS OF FINDINGS

Overall, respondents appeared to be satisfied with the Board's services. Of interest, 32.14% of respondents have been licensed "0-5" years and 40.48% of respondents have been licensed "20+" years. The survey captured a range of new and veteran licensed podiatric physicians (72.62%) which represented a modern-day and historical view of the practice of podiatric medicine which has evolved over the years.

In addition to the numeric data, substantive interest was also given to respondent "Comments" as follows:

Respondent Comment 1: "The online renewal process would be easier if the previous year's information would be already in the answer boxes, only to be changed if there are changes. Also, the payment with credit card hasn't worked for the past two years when I tried it. I ended up having to call in the payment. Thanks and sorry if this survey is too late to be helpful." **Staff Response:** We recognized that the pre-population of previous years' renewal data would have saved licensees the time and effort of redundant actions. While the Board has no control over that "TexasOnline.com" function, we have made this issue known to the vendor (i.e. Bearing Point; then) and to the Texas Department of Information Resources via quarterly working group meetings. As for payment card issues, we have not seen mass-scale "TexasOnline.com" payment failures and therefore could only conclude that there may have been user errors or intermittent transmission failures. Nevertheless, the respondent was able to complete his/her transaction by calling the listed telephone assistance number.

Respondent Comment 2: “I do not practice in the state.” **Staff Response:** None.

Respondent Comment 3: “I recently had a question about a copy of a certificate, and the nice woman emailed me back AND called me within a few minutes. She was very courteous and helpful.” **Staff Response:** We appreciated this comment and strive on a daily basis to be as responsive as possible to customer needs.

Respondent Comment 4: “Decrease cost, licensing fees are excessive!” **Staff Response:** This is a common complaint regarding license fees. The fees set by the Board and collected by the Board must be sufficient to meet the expenses of administering the Podiatric Medical Practice Act, subsequent amendments, and the applicable rules and regulations as directed by the Texas Legislature (License Renewals – Permanent = \$455.00; present). Pursuant to acts of the 80th Legislature, the FY 2008/2009 renewal fee had been increased \$5.00. This increase was necessary to ensure the Board's mandates were fully funded. Pursuant to acts of the 81st Legislature, the FY 2010/2011 renewal fee had been increased \$10.00. This increase was necessary to ensure the Board’s mandates continue to be fully funded.

Respondent Comment 5: “Everyone is always very professional, friendly, and helpful.” **Staff Response:** We appreciate this comment and strive on a daily basis to be as responsive as possible to customer needs.

Respondent Comment 6: “I appreciated the concern for my personal welfare. If we did not have to spend as much time on billing issues, I believe we could provide better care. Any suggestions?” **Staff Response:** This “billing” issue is in reference to both private and governmental health insurance which have become more restrictive over the years due in part to increased health care costs and loss related to “healthcare fraud.” The variety of medical professional associations are addressing these issues at the local, state and federal levels. The Board does not set billing/claim submission restrictions other than to ensure that claims filed are for services within the standard of care, scope of practice and supported by patient medical records.

Respondent Comment 7: “Most recently myself and others in our profession have had trouble with insurance company(s) requesting refunds without identifying in some cases the reason and not being professional enough to listen to honest responses of explanations and will not accept the responsibility that they made the mistake and find a way to force it upon us. Do we not have a committee that can oversee these type of problems that can find some means of support and can intervene legally or are we going to continue to be the under dogs?” **Staff Response:** This too appears to be a common complaint, but not an issue under the Board’s jurisdiction. Again, the various medical professional associations are responding to these issues with the insurance industry. In several incidents where podiatric physicians have filed “insurance company” complaints with the Board, we have forwarded and referred those complaints to the Texas Department of Insurance who has jurisdiction over those matters.

Respondent Comment 8: “The online registration was voted poor secondary to prior year information is not carried over to be changed or modified. For instance all insurances that are accepted have to be retyped to update the information and then again when completing the application.” **Staff Response:** This is similar to “Respondent Comment 1” and we have brought this to the attention of “TexasOnline.com” via quarterly working group meetings.

Respondent Comment 9: “I do not see the need to make it mandatory to force the podiatrists to pay an added 500 dollars for the scope of practice preservation just to maintain current APMA and TPMA dues. It should be voluntary. If I wanted to send money that way then it should be my option after regular dues. I don't believe 500 dollars from all of us is needed to preserve something other states (like Louisiana - much less podiatry friendly) don't need, to not only preserve but gain, in their fight for scope of practice. I know some voted for this but, I didn't (I wasn't even here in the state) and that money could preserve me staying on top of expenses in my own practice much less a scope which probably was never in as much jeopardy as others made it. I know there is the option to give you all my personal information to declare a waiver of payment, but we're not in public school asking for free lunch - and I bet the hoops to jump through aren't even worth the trouble. Thanks for your attention. I am glad to be back in Texas - just ranting on the never-ending fees a bit.” **Staff Response:** The respondent's “added \$500.00...APMA and TPMA dues” complaint is in reference to fees charged by the Texas Podiatric Medical Association (i.e. the professional association). This is not a fee charged by the Texas State Board of Podiatric Medical Examiners (i.e. the state agency). We often find that licensees are confused between the TPMA and the TSBPME. As for the scope of practice reference, this was with regard to the then continuing/pending litigation (“05/23/2008 Texas 3rd Court of Appeals Ruling - No. 03-05-00620-CV / Texas Orthopaedic Association, Texas Medical Association and Andrew M. Kant, M.D., Appellants v. Texas State Board of Podiatric Medical Examiners, Texas Podiatric Medical Association and Bruce A. Scudday, D.P.M., Appellees) on Board Rule §375.1(2) “Foot.” The matter remained before the Texas 3rd Court of Appeals in Austin, TX for which the Board continued to discuss litigation status at all subsequent/future Board Meetings. On 06/18/2010 it is noted that the Texas Supreme Court issued a decision denying the Board's “Petition For Review.”

Respondent Comment 10: “The staff at the TBPME have been nothing short of excellent from my needs pre-residency to post-graduation. They are a credit to the citizens of Texas, Podiatric Medicine, the great State of Texas, and should be commended for their hard work.” **Staff Response:** We appreciate this comment and strive on a daily basis to be as responsive as possible to customer needs.

Respondent Comment 11: “I feel that the board is not near strong enough in limiting those who are really not trained. In regulating the quality of patient care those without proper training should be restricted in what they do. Our board should set more stringent rules on those that should be doing complicate/new procedures. An example of this is common peroneal nerve release. I understand it is within our scope but unless a doctor is credentialed by their hospital to do ankle related surgery they should not be allowed to do this procedure. This has been a major source of concern at several of the hospitals I am on staff at from the credentialing committees.” **Staff Response:** As for the scope of practice reference, this was with regard to the then continuing/pending litigation (“05/23/2008 Texas 3rd Court of Appeals Ruling - No. 03-05-00620-CV / Texas Orthopaedic Association, Texas Medical Association and Andrew M. Kant, M.D., Appellants v. Texas State Board of Podiatric Medical Examiners, Texas Podiatric Medical Association and Bruce A. Scudday, D.P.M., Appellees) on Board Rule §375.1(2) “Foot.” The matter remained before the Texas 3rd Court of Appeals in Austin, TX for which the Board continued to discuss litigation status at all subsequent/future Board Meetings. On 06/18/2010 it is noted that the Texas Supreme Court issued a decision denying the Board's “Petition For Review.”

Respondent Comment 12: “I have been practicing in Texas for 30 years. I could not answer most of the questions because I really had no contact with the board or the staff. My only real complaint

would be the fee for the license-I believe it is extremely excessive, especially compared to what is used to be. I would also like to say that I am upset about the number of newer practitioners who call their offices "clinics"-it used to be that you were required to have 3 separate podiatrists each with his own podiatric specialty to be a clinic. Now, everyone opens their solo office has a clinic. This should change. However, I realize that I am a dinosaur and things do change. Have a merry christmas.” **Staff Response:** This is a common complaint regarding license fees. The fees set by the Board and collected by the Board must be sufficient to meet the expenses of administering the Podiatric Medical Practice Act, subsequent amendments, and the applicable rules and regulations as directed by the Texas Legislature (License Renewals – Permanent = \$455.00). Pursuant to acts of the 80th Legislature, the FY 2008/2009 renewal fee had been increased \$5.00. This increase was necessary to ensure the Board's mandates were fully funded. Pursuant to acts of the 81st Legislature, the FY 2010/2011 renewal fee had been increased \$10.00. This increase was necessary to ensure the Board’s mandates continue to be fully funded. As for the use of the term “Clinic,” business/practitioner identifications are approved in accordance with Board Rule Chapter 373. Any deceptive or misleading acts are investigated on a case-by-case basis through the Board’s complaint process. The Board does take action on “Advertising” violations within case priority.

Respondent Comment 13: “I have asked the board in the past why it is necessary to resubmit new fingerprints every year and I was told it is because it is necessary to resubmit anything that might have changed. I find it hard to believe that fingerprints change. I have had to pay for and submit 4 sets of fingerprints thus far. I find this rather costly and unnecessary.” **Staff Response:** This issue was in reference to the annual renewal of “Temporary” licenses which are given to “Residents.” This complaint was a common one amongst “Residents” and “Residency Programs” beginning in early calendar year 2007. In response to these issues, the Board amended Board Rule §371.25 “Residency Program Responsibilities and Temporary Licensure” effective March 4, 2008 to do away with this legitimate issue. As a result, the Board has streamlined the renewal process for “Residents.”

Respondent Comment 14: “I have practiced medicine for 30+ years but only been licensed in Texas for 1 year, obtaining a license in Texas was difficult to say the least for me, but I am very impressed by the caliber and concern of those who are in the leadership. I am proud to now practice in Texas with this group.” **Staff Response:** We appreciate this comment and strive on a daily basis to be as responsive as possible to customer needs. All license applications undergo a thorough background check and verification of credentials which, at times, cause certain processing delays.

TSBPME Plans To Improve Customer Service: The Board continually strives to improve its services to the public and licensees on a day-to-day basis given the small size of the agency and within limited resources. We appreciate all respondent comments to allow us to see ourselves from an “outside” perspective. The most important issue affecting the regulation and practice of podiatric medicine is continuing/pending scope of practice contest (“05/23/2008 Texas 3rd Court of Appeals Ruling - No. 03-05-00620-CV / Texas Orthopaedic Association, Texas Medical Association and Andrew M. Kant, M.D., Appellants v. Texas State Board of Podiatric Medical Examiners, Texas Podiatric Medical Association and Bruce A. Scudday, D.P.M., Appellees”). The Board will continue to utilize the services of the Organizational Excellence Group at the University of Texas at Austin to include future surveys of a variety of customers served beyond licensed podiatric physicians. For example, given the present scope of practice litigation and its affect on Texas hospitals, seeking input from those healthcare facilities could allow the Board to assess the impact its rulemaking authority has on the healthcare industry. A running survey on the

Board's website for hospitals to access would capture professional issues they face during their internal medical staff privileging cycles.

It was stated that the Board will continue to address the scope of practice issue through the Courts and during subsequent/future Legislative Sessions to seek clarification.

To view the entire former survey reported on June 4, 2008 to the Office of the Governor and the Legislative Budget Board, please visit our website at: <http://www.foot.state.tx.us/links.htm>

For the present "FY 2011 – FY 2015 Strategic Planning" process, the Board did not participate in the Survey of Organizational Excellence nor the Survey of Employee Engagement. All workforce, customer service and operational/administration issues have been discussed exhaustively throughout this present document. Due to the Board's focus from January 15, 2010 to March 15, 2010 (to present; on-going) in implementing the mandatory State of Texas 5% Budget Reduction and agency reorganization with a workforce reduction, we did not have the opportunity to complete these requisite surveys for the present period.

Nevertheless, in an endeavor more principal to the on-going "Foot" scope of practice contest (involving the Texas Medical Association, the Texas Orthopaedic Association and the Texas Podiatric Medical Association) which has had and is having the most (negative) impact on the agency's operations, in an effort to seek an end to this 10 ½ year contest draining the agency's resources/time, the Board (via its Secretary; J. Michael Lunsford, DPM) subsequent to the April 5, 2010 Board Meeting conducted a survey of the licensed Texas Podiatrist population to ascertain certain credentialing information for purposes of an eventual legislative remedy for the 82nd Texas Legislature/2011.

Survey summary is as follows:

"In continued study of podiatry scope of practice and licensee education/training attainments ... subsequent to the Board's 04/05/2010 Meeting and TPMA's 04/28/2010 "Scope of Practice Update" e-mail (which you may or may not have received dependent upon whether or not you are a TPMA member), please assist the Board in responding to the attached questions. The purpose of this survey is to further ascertain podiatry credentialing/privileging as the Texas State Board of Podiatric Medical Examiners moves forward with efforts in clarifying podiatry scope of practice amongst the Texas Medical Association, Texas Orthopaedic Association and the Texas Podiatric Medical Association as it relates to the 10-year definition of "Foot" litigation. – J. Michael Lunsford, DPM-Board Secretary (<http://www.foot.state.tx.us/info.members.htm>)"

Survey copy is as follows (next page):

IMMEDIATE RESPONSE REQUESTED

Texas State Board of Podiatric Medical Examiners

J. Michael Lunsford, DPM

Physician Name: _____

County: _____

Please answer the following questions to the best of your ability:

- 1) Are you board certified by ABPS? Yes / No
- 2) If No, are you board certified by another board? Yes / No
- 3) Are you ABPS Foot certified only? Yes / No
- 4) Are you ABPS Foot and Ankle certified? Yes / No
- 5) Are you ABPS Foot and RRA certified? Yes / No
- 6) Did you have ankle privileges in place before 2001? Yes / No
- 7) If so can you document that? Yes / No

Please fax the completed form to: 281-463-1035 by May 6th, 2010.

Thank you for your time.

Sincerely,

J. Michael Lunsford, DPM-Secretary

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MAY 03 2010
TEXAS PODIATRIC
MEDICAL EXAMINERS

Due to the volume and substance of responses, as of the date of submission of this “FY 2011 – 2015 Strategic Plan,” the survey results are not available but are expected to be available when the Board meets next in Austin, TX on August 2, 2010 (regularly scheduled Board Meeting). It was determined that submission of this survey for “Foot” scope of practice purposes (Board’s #1 priority; “Mission” driven), as a follow-up of responses contained within the “FY 2009 – FY 2013 Strategic Planning” process Survey of Organizational Excellence was a more prudent use of the Board’s/agency’s time/resources as that endeavor seeks to end a very costly/resource-draining 10 ½ year scope of practice battle directly related to the Board’s “Mission.”

Nevertheless, for future Customer Service Surveys, in consideration of the negative impact the mandatory State of Texas FY 2010-2011 5% Budget Reduction is having on the agency’s operations, on May 22, 2010 agency staff submitted a “Help Desk” request to HPC-ITSS to develop a survey tool on our website that would allow us the function and ability to conduct surveys on a more immediate, issue-driven basis. We understand that this survey function will also collect/house/tabulate survey data in a file as a web based tool. We will continue pursuit of this agency-based survey process for the next Strategic Planning cycle subsequent to the 82nd Legislative Session/2011.



END OF TSBPME "FY 2011-2015 STRATEGIC PLAN" SUBMISSION

