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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1114 Session of  
1985

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INTRODUCED BY BELL, SEPTEMBER 25, 1985

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
SEPTEMBER 25, 1985

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AN ACT

1 Amending the act of March 2, 1956 (1955 P.L.1206, No.375),  
2 entitled, as reenacted and amended, "An act relating to and  
3 defining the practice of podiatry; conferring powers and  
4 imposing duties on the State Board of Podiatry Examiners and  
5 the Department of State; requiring licensure; providing for  
6 the granting, cancellation, suspension and revocation of  
7 licenses; preserving the rights of existing licenses;  
8 providing for the promulgation of rules and regulations;  
9 transfer of jurisdiction and records to the board; regulation  
10 of schools of chiropody and podiatry; reciprocity; and  
11 providing penalties, and remedies," reestablishing the State  
12 Board of Podiatry Examiners as the State Board of Podiatry;  
13 providing for its composition, powers and duties; changing  
14 provisions relating to the issuance of licenses and the  
15 suspension and revocation of licenses; providing for fees;  
16 providing for penalties; and making repeals.

17 The General Assembly of the Commonwealth of Pennsylvania  
18 hereby enacts as follows:

19 Section 1. Section 1 of the act of March 2, 1956 (1955  
20 P.L.1206, No.375), known as the Podiatry Act of 1956, reenacted  
21 and amended August 24, 1963 (P.L.1199, No.505), is amended to  
22 read:

23 Section 1. Short Title.--This act shall be known and may be  
24 cited as the "Podiatry Practice Act [of 1956]."

1 Section 2. Section 2 of the act, reenacted and amended  
2 August 24, 1963 (P.L.1199, No.505) and amended July 8, 1970  
3 (P.L.458, No.158), is amended to read:

4 Section 2. Definitions.--The following words or phrases,  
5 unless the context clearly indicates otherwise, shall have the  
6 meanings ascribed to them in this section:

7 (a) "[Podiatry] Podiatric Medicine" shall mean the diagnosis  
8 and treatment including mechanical and surgical treatment of  
9 ailments of the foot, and those anatomical structures of the leg  
10 governing the functions of the foot and the administration and  
11 prescription of drugs incidental thereto. It shall include  
12 treatment of local manifestations of systemic diseases as they  
13 appear on the foot but shall not include amputation of the leg  
14 or foot or treatment of systemic diseases of any other part of  
15 the body.

16 [(b) "Podiatrist" shall include "Chiropodist" and shall mean  
17 a practitioner of podiatry.

18 (c)] (b) "Board" shall mean the State Board of Podiatry  
19 [Examiners].

20 [(d)] (c) "Department" shall mean the Department of State.

21 Section 3. The act is amended by adding a section to read:

22 Section 2.1. State Board of Podiatry.--(a) The State Board  
23 of Podiatry shall consist of the Commissioner of Professional  
24 and Occupational Affairs, two members appointed by the Governor  
25 who shall be persons representing the public at large and six  
26 members appointed by the Governor, four of whom shall be  
27 podiatrists who possess the requisite qualifications to practice  
28 podiatric medicine under the laws of this Commonwealth and who  
29 have been practicing podiatry in this Commonwealth for five  
30 years immediately preceding their appointment, and two of whom

1 shall be physicians licensed to practice medicine and surgery in  
2 this Commonwealth. No member of the board shall be a member of  
3 the faculty of any school or college teaching podiatric  
4 medicine.

5 (b) The terms of each professional and public member of the  
6 board shall be four years, or until a successor has been  
7 appointed and qualified but not longer than six months beyond  
8 the four-year period. In the event that any of said members  
9 shall die or resign during his or her term, a successor shall be  
10 appointed in the same way and with the same qualifications and  
11 shall hold office for the unexpired term. No member shall be  
12 eligible to serve more than two consecutive terms.

13 (c) A majority of the board serving in accordance with law  
14 shall constitute a quorum for purposes of conducting the  
15 business of the board. A member may not be counted as part of a  
16 quorum or vote on any issue unless he or she is physically in  
17 attendance at the meeting.

18 (d) The board shall select annually a chairman from among  
19 its professional members.

20 (e) Each member of the board, except the Commissioner of  
21 Professional and Occupational Affairs, shall receive sixty  
22 dollars (\$60) per diem when actually attending to the work of  
23 the board. Members shall also receive the amount of reasonable  
24 traveling, hotel and other necessary expenses incurred in the  
25 performance of their duties in accordance with Commonwealth  
26 regulations.

27 (f) The board is subject to evaluation, review and  
28 termination within the time and in the manner provided in the  
29 act of December 22, 1981 (P.L.508, No.142), known as the "Sunset  
30 Act."

1     (g) A member of the board who fails to attend three  
2 consecutive meetings shall forfeit his or her seat unless the  
3 Commissioner of Professional and Occupational Affairs, upon  
4 written request from the member, finds that the member should be  
5 excused from a meeting because of illness or the death of a  
6 family member.

7     (h) A public member who fails to attend statutorily mandated  
8 seminars in accordance with section 21 of the act of November  
9 26, 1978 (P.L.1223, No.292), entitled "An act amending the act  
10 of April 9, 1929 (P.L.177, No.175), entitled 'An act providing  
11 for and reorganizing the conduct of the executive and  
12 administrative work of the Commonwealth by the Executive  
13 Department thereof and the administrative departments, boards,  
14 commissions, and officers thereof, including the boards of  
15 trustees of State Normal Schools, or Teachers Colleges;  
16 abolishing, creating, reorganizing or authorizing the  
17 reorganization of certain administrative departments, boards,  
18 and commissions; defining the powers and duties of the Governor  
19 and other executive and administrative officers, and of the  
20 several administrative departments, boards, commissions, and  
21 officers; fixing the salaries of the Governor, Lieutenant  
22 Governor, and certain other executive and administrative  
23 officers; providing for the appointment of certain  
24 administrative officers, and of all deputies and other  
25 assistants and employes in certain departments, boards, and  
26 commissions; and prescribing the manner in which the number and  
27 compensation of the deputies and all other assistants and  
28 employes of certain departments, boards and commissions shall be  
29 determined,' adding members of the public at large to certain  
30 licensing boards, changing the name of the State Board of

1 Osteopathic Examiners, adding a dental hygienist the State  
2 Dental Council and Examining Board, including the State Board of  
3 Psychologist Examiners, the State Board of Public Accountants  
4 and the State Board of Landscape Architects within the act,  
5 making editorial changes, further providing for the powers and  
6 duties of the Bureau of Professional and Occupational Affairs  
7 and the Bureau of Consumer Protection and making repeals," shall  
8 forfeit his or her seat unless the Commissioner of Professional  
9 and Occupational Affairs, upon written request from the public  
10 member, finds that the public member should be excused from a  
11 meeting because of illness or the death of a family member.

12 (i) The board shall meet at least once every two months, and  
13 at such additional times as may be necessary to conduct the  
14 business of the board.

15 Section 4. Section 3 of the act is repealed.

16 Section 5. Section 4 of the act, amended June 23, 1970  
17 (P.L.431, No.144), is amended to read:

18 Section 4. Application for Examination.--Except as  
19 hereinafter provided, any person not heretofore authorized to  
20 practice [podiatry or chiropody] podiatric medicine in this  
21 Commonwealth desiring to be entitled to so practice, shall file  
22 with the board a written application for examination accompanied  
23 by a fee [of twenty-five dollars (\$25)] determined by the board  
24 by regulation and two unmounted finished photographs, one of  
25 which shall be verified by the dean of the school of [chiropody]  
26 podiatric medicine and surgery which he attended, and by  
27 satisfactory proof that the applicant is twenty-one years of  
28 age, a citizen of the United States of America, or has legally  
29 declared an intention to become such a resident of this  
30 Commonwealth, of good moral character, is not addicted to the

1 intemperate use of alcohol or narcotic drugs [and has obtained  
2 an education of not less than four years of high school, or its  
3 equivalent, and actual pre-professional education of at least  
4 one year in a recognized college of liberal arts or of the  
5 sciences. The fact that the instruction has been received by the  
6 applicant shall be evidenced by a certificate obtained from such  
7 institution satisfactory to the board]. The applicant must be a  
8 graduate of a school of [podiatry or chiropody] podiatric  
9 medicine and surgery, approved by the board. [The board shall  
10 send to every applicant an admission card and one of his  
11 photographs marked with an assigned number for admission to  
12 examination.]

13 Section 6. Sections 5, 6, 7, 8, 9 and 9.1 of the act,  
14 reenacted and amended or amended August 24, 1963 (P.L.1199,  
15 No.505), are amended to read:

16 Section 5. Exclusive Jurisdiction of Board.--From and after  
17 the effective date of this act, the board shall exercise  
18 exclusive jurisdiction over all persons licensed, or to be  
19 licensed, and registered to practice [podiatry or chiropody]  
20 podiatric medicine in this Commonwealth.

21 Section 6. Time and Place of Examinations; Subjects for  
22 Examination; Identification of Examination Papers.--The board  
23 shall hold written examinations [at a time and place as it shall  
24 specify. The subjects for examination shall be determined by the  
25 board and shall be on those subjects taught in a recognized  
26 school of [podiatry or chiropody] podiatric medicine and  
27 surgery. No candidate shall indicate his name or the school  
28 where he obtained his education on his examination papers, but  
29 shall identify his papers by the number assigned him on his  
30 photograph. No candidate shall be admitted for examination

1 without his marked photograph and admission card.] in accordance  
2 with the provisions of section 812.1 of the act of April 9, 1929  
3 (P.L.177, No.175), known as "The Administrative Code of 1929."

4 Section 7. Curriculum.--The curriculum taught shall be  
5 confined to subjects covered by the definition of [podiatry]  
6 podiatric medicine as contained in this act. The board shall [or  
7 shall not] approve schools of [podiatry or chiropody] podiatric  
8 medicine and surgery.

9 Section 8. Passing Average; Second Curriculum.--Every  
10 candidate for examination who obtains an average of not less  
11 than fifty-five per centum in any one subject and a general  
12 average of seventy-five per centum or more of a maximum of one  
13 hundred per centum in the examination shall be considered to  
14 have successfully passed the required examination. In case of  
15 failure at any examination, the candidate, within two years, may  
16 take a second examination without further application [or the],  
17 upon payment of an additional fee as determined by the board by  
18 regulation.

19 Section 9. Issuance of License; Biennial Registration;  
20 Registration; Fee.--The board shall issue a license to practice  
21 [podiatry or chiropody] podiatric medicine to those qualified  
22 under the provisions of this act. All original registration  
23 shall expire on the first day of January of the alternate year  
24 succeeding the issue thereof, and thereafter, each person so  
25 registered shall be required to reregister biennially before the  
26 first day of January of each alternate year. Registration may be  
27 effected at any time during the month of December by the filing  
28 of such application as shall be required by the board to enable  
29 it to carry into effect the purposes of this act, together with  
30 a biennial registration fee [of ten dollars (\$10), or as may be

fixed by the department] determined by the board by regulation,  
and satisfactory evidence that the applicant attended during the  
two preceding license years [sixteen] such hours of approved  
educational conferences as [hereinafter provided] determined by  
the board and approved by the Professional Licensure Committee  
of the House of Representatives and the Consumer Protection and  
Professional Licensure Committee of the Senate.

Section 9.1. Educational Conference Attendance; Notice of  
Statute; Subsequent Compliance.--No applicant for a renewal  
registration shall be granted a registration for the ensuing  
biennial licensing period unless the applicant shall furnish to  
the board satisfactory evidence that he has attended not less  
than [sixteen] the required number of hours of approved  
educational conferences during the two intervening license  
years. An "approved educational conference" shall be one  
approved or ratified by the board as meeting the educational and  
professional requirements of the profession. Any individual  
applying for an initial registration under this act shall be  
exempted from the requirement of attending an educational  
conference during the calendar year in which he makes  
application for his license, provided he has graduated from a  
school of [podiatry or chiropody] podiatric medicine and surgery  
approved by the board during that calendar year.

Immediately upon passage of this act, notice of its provision  
shall be given to every individual presently registered under  
this act by mailing a copy of this act to such individuals.  
Thereafter, a copy of this act shall be distributed to each  
registrant along with his license at the time of his initial  
registration or biennial reregistration. No licensee shall be  
registered for the ensuing biennial licensure if he fails to

1 comply with the provisions of this section relating to  
2 attendance at educational conferences: Provided, That the board  
3 may, at its discretion, register any licensee if he proves  
4 subsequent compliance with the provisions of this section.

5 Section 7. The act is amended by adding a section to read:

6 Section 9.2. Reporting of Multiple Licensure.--Any licensed  
7 podiatrist of this Commonwealth who is also licensed to practice  
8 podiatric medicine or surgery in any other state, territory or  
9 country shall report this information to the board on the  
10 biennial registration application. Any disciplinary action taken  
11 in other states must be reported to the board on the biennial  
12 registration application. Multiple licensure will be noted on  
13 the podiatrist's record and such state, territory or country  
14 will be notified of any disciplinary actions taken against said  
15 podiatrist in this Commonwealth.

16 Section 8. Sections 10, 11, 12, 13 and 14, reenacted and  
17 amended August 24, 1963 (P.L.1199, No.505), are amended to read:

18 Section 10. Exemption from Examination.--Any person may be  
19 exempt from examination if he holds a license or certificate to  
20 practice [podiatry or chiropody] podiatric medicine issued by  
21 any other state or territory of the United States, which has  
22 requirements for licensure, which are substantially equivalent  
23 to those of this Commonwealth, and which extends similar  
24 privileges to persons licensed under the laws of this  
25 Commonwealth. Application for license in these cases shall be  
26 made on forms supplied by the board and shall be under oath. The  
27 fee therefor shall be [one hundred dollars (\$100)] determined by  
28 the board by regulation.

29 Section 11. Residence Required of Out of State Licensees.--  
30 Any person who does not intend to become a resident of this

1 Commonwealth will not be entitled to obtain a license to  
2 practice [podiatry] podiatric medicine in this Commonwealth in  
3 accordance with section ten of this act, and any person who  
4 obtains a license to practice [podiatry] podiatric medicine in  
5 this Commonwealth in accordance with section ten of this act and  
6 does not become a resident of this Commonwealth immediately  
7 thereafter will not be entitled to retain said license.

8 Section 12. Practice by Unregistered Persons.--Any person  
9 who is not a licensed, and registered as a podiatrist shall not  
10 practice [podiatry] podiatric medicine nor in any written or  
11 printed circular or in any business card, letterhead or sign or  
12 otherwise assume the title "Chiropodist," "Podiatrist," "DSC,"  
13 "G cp," "M cp," "Ped G," "Foot Specialist," "Foot  
14 Correctionist," "Pedopractor" nor any other title, name or  
15 description implying or calculated to lead to the belief that he  
16 is qualified to practice [podiatry] podiatric medicine.

17 Section 13. Penalties.--(a) Any person violating any of the  
18 provisions of this act, or any rule or regulation of the board,  
19 shall be guilty of a misdemeanor, and, upon conviction thereof,  
20 shall be sentenced to pay a fine not [less than fifty dollars  
21 (\$50) nor more than two hundred dollars (\$200)] more than five  
22 hundred dollars (\$500), or undergo imprisonment for not [less  
23 than thirty days nor] more than six months for the first  
24 violation. On the second and each subsequent conviction, he  
25 shall be sentenced to pay a fine not [less than one hundred  
26 dollars (\$100) nor more than five hundred dollars (\$500)] more  
27 than one thousand dollars (\$1,000), or undergo imprisonment for  
28 not less than [sixty days nor more than] six months nor more  
29 than one year in jail, or both.

30 (b) In addition to any other civil remedy or criminal

1 penalty provided for in this act, the board, by a vote of the  
2 majority of the maximum number of the authorized membership of  
3 the board as provided by law, or by a vote of the majority of  
4 the duly qualified and confirmed membership or a minimum of four  
5 members, whichever is greater, may levy a civil penalty of up to  
6 one thousand dollars (\$1,000) on any current licensee who  
7 violates any provision of this act or on any person who  
8 practices podiatric medicine without being properly licensed to  
9 do so under this act. The board shall levy this penalty only  
10 after affording the accused party the opportunity for a hearing,  
11 as provided in Title 2 of the Pennsylvania Consolidated Statutes  
12 (relating to administrative law and procedure). The board shall,  
13 within six months after the effective date of this act, adopt  
14 guidelines setting forth the amounts and circumstances for which  
15 a fine may be imposed. No fines may be imposed in accordance  
16 with this subsection until the board has adopted the required  
17 guidelines.

18       Section 14. [Disposition of Fees.--All fees, fines and  
19 penalties specified and imposed under this act, or any rule or  
20 regulation pursuant thereto, shall be paid into the State  
21 Treasury.] Setting of Fees and Disposition of Fees, Fines and  
22 Civil Penalties.--(a) All fees required under this act shall be  
23 fixed by the board by regulation and shall be subject to the act  
24 of June 25, 1982 (P.L.633, No.181), known as the "Regulatory  
25 Review Act." If the revenues raised by fees, fines and civil  
26 penalties imposed under this act are not sufficient to meet  
27 expenditures over a two-year period, the board shall increase  
28 those fees by regulation so that the projected revenues will  
29 meet or exceed projected expenditures.

30       (b) If the Bureau of Professional and Occupational Affairs

determines that the fees established by the board under subsection (a) are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the board and subject to the "Regulatory Review Act," shall increase the fees by regulation in an amount that adequate revenues are raised to meet the required enforcement effort.

(c) All fees, fines and civil penalties imposed in accordance with this act and collected in accordance with section 907(c) of the act of October 15, 1975 (P.L.390, No.111), known as the "Health Care Services Malpractice Act," along with interest generated therefrom, shall be for the exclusive use by the State Board of Podiatry in carrying out the provisions of this act and shall be annually appropriated for that purpose.

Section 9. The act is amended by adding a section to read:

Section 14.1. Reports of the Board.--(a) The board shall submit annually to the Department of State an estimate of the financial requirements of the board for its administrative, investigative, legal and miscellaneous expenses.

(b) The board shall submit annually to the House and Senate Appropriations Committees, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department.

(c) The board shall submit annually a report to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board

1 resolution.

2 Section 10. Section 16 of the act, reenacted and amended  
3 August 24, 1963 (P.L.1199, No.505), is amended to read:

4 Section 16. Refusal to Grant, Suspension and Revocation.--

5 The board may refuse to grant and may suspend or revoke or  
6 cancel a license or a registration for the following reasons:

7 (1) The practice of fraud or deceit in obtaining or  
8 attempting to obtain a license or in obtaining admission to a  
9 school of podiatric medicine or surgery.

10 (2) Pleading guilty or nolo contendere to, or being found  
11 guilty [of, a crime], or receiving probation without verdict,  
12 disposition in lieu of trial, or an accelerated rehabilitative  
13 disposition in the disposition of felony charges or an offense  
14 in connection with the practice of podiatric medicine or  
15 involving moral turpitude by a court of competent jurisdiction,  
16 or a jury.

17 (3) Gross incompetency, gross immorality, negligence or  
18 misconduct in carrying on of such profession.

19 (4) Violation of any of the provisions of this act, or the  
20 rules and regulations of the board.

21 (5) Loaning, borrowing or using the registration or license  
22 to practice podiatry of another, or knowingly aiding or abetting  
23 in any way the granting of an improper license or registration.

24 (6) That said applicant or licensee is [an habitual drunkard  
25 or is addicted to the use of morphine, cocaine or other drugs  
26 having a similar effect] addicted to alcohol or drugs or has  
27 been convicted of a felonious act prohibited by the act of April  
28 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,  
29 Drug, Device and Cosmetic Act," or convicted of a felony  
30 relating to a controlled substance in a court of law of the

1 United States or any other state, territory or country, or if he  
2 or she is or shall become mentally incompetent. An applicant's  
3 statement on the application declaring the absence of a  
4 conviction shall be deemed satisfactory evidence of the absence  
5 of a conviction unless the board has some evidence to the  
6 contrary. In enforcing this paragraph, the board shall, upon  
7 probable cause, have authority to compel a podiatrist to submit  
8 to a mental or physical examination by physicians approved by  
9 the board. Failure of a podiatrist to submit to such examination  
10 when directed by the board, unless such failure is due to  
11 circumstances beyond his or her control, shall constitute an  
12 admission of the allegations against him or her, consequent upon  
13 which a default and final order may be entered without the  
14 taking of testimony or presentation of evidence. A podiatrist  
15 affected under this paragraph shall at reasonable intervals be  
16 afforded an opportunity to demonstrate that he or she can resume  
17 a competent practice of podiatry with reasonable skill and  
18 safety to patients.

19 (7) Knowingly making substantial misrepresentations.

20 (8) Unethical conduct or misleading, fraudulent or unethical  
21 advertising.

22 (9) Soliciting patronage other than by legitimate  
23 advertisement, or paying a commission or agreeing to pay a  
24 commission to any person or persons for soliciting or for  
25 business secured, or paying any gratuity to any person with  
26 intent to have such person aid in securing business, or like  
27 unprofessional conduct.

28 (10) Having a license to practice podiatric medicine  
29 suspended, revoked or refused or receiving other disciplinary  
30 action by the proper podiatry licensing authority of another

1 state, territory or country.

2 (11) Acting in such a manner as to present an immediate and  
3 clear danger to the public health or safety.

4 Section 11. The act is amended by adding sections to read:

5 Section 16.1. Temporary and Automatic Suspensions.--(a) A  
6 license issued under this act may be temporarily suspended under  
7 circumstances as determined by the board to be an immediate and  
8 clear danger to the public health and safety. The board shall  
9 issue an order to that effect without a hearing, but upon due  
10 notice, to the licensee concerned at his or her last known  
11 address, which shall include a written statement of all  
12 allegations against the licensee. The provisions of section 17  
13 shall not apply to temporary suspension. The board shall  
14 thereupon commence formal action to suspend, revoke or restrict  
15 the license of the person concerned as otherwise provided for in  
16 this act. All actions shall be taken promptly and without delay.  
17 Within thirty days following the issuance of an order  
18 temporarily suspending a license, the board shall conduct or  
19 cause to be conducted, a preliminary hearing to determine that  
20 there is a prima facie case supporting the suspension. The  
21 licensee whose license has been temporarily suspended may be  
22 present at the preliminary hearing and may be represented by  
23 counsel, cross-examine witnesses, inspect physical evidence,  
24 call witnesses, offer evidence and testimony and make a record  
25 of the proceedings. If it is determined that there is not a  
26 prima facie case, the suspended license shall be immediately  
27 restored. The temporary suspension shall remain in effect until  
28 vacated by the board, but in no event longer than one hundred  
29 eighty days.

30 (b) A license issued under this act shall automatically be

1 suspended upon the legal commitment to an institution of a  
2 licensee because of mental incompetency from any cause upon  
3 filing with the board a certified copy of such commitment,  
4 conviction of a felony under the act of April 14, 1972 (P.L.233,  
5 No.64), known as "The Controlled Substance, Drug, Device and  
6 Cosmetic Act," or conviction of an offense under the laws of  
7 another jurisdiction, which, if committed in Pennsylvania, would  
8 be a felony under "The Controlled Substance, Drug, Device and  
9 Cosmetic Act." As used in this section, the term "conviction"  
10 shall include a judgment, an admission of guilt or a plea of  
11 nolo contendere. Automatic suspension under this subsection  
12 shall not be stayed pending any appeal of a conviction.  
13 Restoration of such license shall be made as hereinafter  
14 provided in the case of revocation or suspension of such  
15 license.

16 Section 16.2. Reinstatement of License, Certificate or  
17 Registration.--Unless ordered to do so by Commonwealth Court or  
18 an appeal therefrom, the board shall not reinstate the license,  
19 certificate or registration of a person to practice podiatric  
20 medicine pursuant to this act which has been revoked. Any person  
21 whose license, certificate or registration has been revoked may  
22 apply for reinstatement after a period of at least five years,  
23 but must meet all of the licensing qualifications of this act  
24 for the license applied for, including the examination  
25 requirement, if he or she desires to practice at any time after  
26 such revocation.

27 Section 16.3. Surrender of Suspended or Revoked License.--  
28 The board shall require a person whose license or registration  
29 has been suspended or revoked, to return in such manner as the  
30 board directs, the license or registration. Failure to do so

1 shall be a misdemeanor of the third degree.

2 Section 12. Sections 17 and 18 of the act, reenacted and  
3 amended August 24, 1963 (P.L.1199, No.505), are amended to read:

4 Section 17. Procedure, Oaths and Subpoenas.--(a) All  
5 actions of the board shall be taken subject to the right of  
6 notice, hearing and adjudication, and the right of appeal  
7 therefrom, in accordance with the provisions [of the  
8 Administrative Agency Law, approved the fourth day of June, one  
9 thousand nine hundred forty-five (Pamphlet Laws 1388), or any  
10 amendment or reenactment thereof, relating to adjudication  
11 procedure.] in Title 2 of the Pennsylvania Consolidated Statutes  
12 (relating to administrative law and procedure).

13 (b) The board shall have the authority to issue subpoenas,  
14 upon application of an attorney responsible for representing the  
15 Commonwealth in disciplinary matters before the board, for the  
16 purpose of investigating alleged violations of the disciplinary  
17 provisions administered by the board. The board shall have the  
18 power to subpoena witnesses, to administer oaths, to examine  
19 witnesses, or to take such testimony or compel the production of  
20 such books, records, papers and documents as it may deem  
21 necessary or proper in, and pertinent to, any proceeding,  
22 investigation, or hearing, held or had by it. Medical records  
23 may not be subpoenaed without consent of the patient or without  
24 order of a court of competent jurisdiction on a showing that the  
25 records are reasonably necessary for the conduct of the  
26 investigation. The court may impose such limitations on the  
27 scope of the subpoena as are necessary to prevent unnecessary  
28 intrusion in patient confidential information. The board is  
29 authorized to apply to Commonwealth Court to enforce its  
30 subpoenas.

1       Section 18.   Display of License and Certificate.--Every  
2 holder of a license or certificate of registration shall display  
3 the same in a conspicuous place wherein such person shall  
4 practice [podiatry] podiatric medicine.

5       Section 13.   Section 19 of the act, reenacted and amended  
6 August 24, 1963 (P.L.1199, No.505) and repealed in part June 3,  
7 1971 (P.L.118, No.6), is amended to read:

8       Section 19.   Injunction or Other Process.--[The board, upon  
9 the advice of the Attorney General, may maintain an action in  
10 the name of the Commonwealth for an injunction, or other  
11 process, against any person, to restrain or prevent his  
12 practicing the profession of podiatry in a public or private  
13 capacity. Any such action shall be instituted in the court of  
14 common pleas in any county where the alleged unauthorized  
15 practice was committed. The court may issue a temporary  
16 restraining order or injunction under this act, but shall  
17 determine any such action on its merits as soon as convenient,  
18 whether in term time or in vacation. No bond shall be required  
19 of and no costs shall be taxed against the board on account of  
20 any such action. No actions brought under the provisions of this  
21 act shall prevent the prosecution or institution of any civil or  
22 criminal action provided by this act for violation thereof, or  
23 of any rule or regulation of the board promulgated thereunder.]  
24 It shall be unlawful for any person to practice or attempt to  
25 offer to practice podiatric medicine, as defined in this act,  
26 without having at the time of so doing a valid, unexpired,  
27 unrevoked and unsuspended license issued under this act. The  
28 unlawful practice of podiatric medicine as defined in this act  
29 may be enjoined by the courts on petition of the board or by the  
30 Commissioner of Professional and Occupational Affairs. In any

1 such proceeding, it shall not be necessary to show that any  
2 person is individually injured by the actions complained of. If  
3 the respondent is found guilty of the unlawful practice of  
4 podiatric medicine, the court shall enjoin him or her from so  
5 practicing unless and until he or she has been duly licensed.  
6 Procedure in such cases shall be the same as in any other  
7 injunction suit. The remedy by injunction hereby given is in  
8 addition to any other civil or criminal prosecution and  
9 punishment.

10 Section 14. Section 20 of the act is repealed.

11 Section 15. Section 21 of the act, reenacted and amended  
12 August 24, 1963 (P.L.1199, No.505), is amended to read:

13 Section 21. Licensed Physicians not Affected; Sale or  
14 Fitting of Shoes or Appliances.--Nothing in this act contained  
15 shall be construed to interfere with, or affect, regularly  
16 licensed physicians in the discharge of their professional  
17 duties, and nothing herein contained shall be construed to  
18 prohibit or restrict the sale or fitting of shoes or commercial  
19 foot appliances. No retail merchant shall be permitted to  
20 practice [podiatry] podiatric medicine as provided for in this  
21 act, unless duly licensed to practice [podiatry] podiatric  
22 medicine.

23 Section 16. The act is amended by adding a section to read:

24 Section 21.1. Impaired Professional.--(a) The board, with  
25 the approval of the Commissioner of Professional and  
26 Occupational Affairs, shall appoint and fix the compensation of  
27 a professional consultant who is a licensee of the board, or  
28 such other professional as the board may determine, with  
29 education and experience in the identification, treatment and  
30 rehabilitation of persons with physical or mental impairments.

1 Such consultant shall be accountable to the board and shall act  
2 as a liaison between the board and treatment programs, such as  
3 Alcoholics Anonymous, Narcotics Anonymous, psychological  
4 counseling and impaired professional support groups, which are  
5 approved by the board and which provide services to licensees  
6 under this act.

7 (b) The board may defer and ultimately dismiss any of the  
8 types of corrective action set forth in this act for an impaired  
9 professional so long as the professional is progressing  
10 satisfactorily in an approved treatment program, provided that  
11 the provisions of this subsection shall not apply to a  
12 professional convicted of a felonious act prohibited by the act  
13 of April 14, 1972 (P.L.233, No.64), known as "The Controlled  
14 Substance, Drug, Device and Cosmetic Act," or convicted of a  
15 felony relating to a controlled substance in a court of law of  
16 the United States or any other state, territory or country. An  
17 approved program provider shall, upon request, disclose to the  
18 consultant all information in its possession regarding an  
19 impaired professional in treatment.

20 (c) An impaired professional who enrolls in an approved  
21 treatment program shall request a voluntary suspension of his or  
22 her license or certificate or agree to a limitation of his or  
23 her ability to practice. Failure to do so disqualifies the  
24 professional from the impaired professional program and shall  
25 activate an immediate investigation and disciplinary proceeding  
26 by the board.

27 (d) If, in the opinion of the consultant after consultation  
28 with the provider, an impaired professional who is enrolled in  
29 an approved treatment has not progressed satisfactorily, the  
30 consultant shall disclose to the board all information in its

1 possession regarding said professional; and such disclosure  
2 shall constitute the basis for instituting proceedings to  
3 suspend or revoke the license of said professional.

4 (e) An approved program provider who makes a disclosure  
5 pursuant to this subsection shall not be subject to civil  
6 liability for such disclosure or its consequences.

7 (f) Any hospital or health care facility, licensee,  
8 certificate holder, peer or colleague who knows or has evidence  
9 that a professional has an addictive disease, is diverting a  
10 controlled substance or is mentally or physically incompetent to  
11 carry out the duties of his or her license shall make or cause  
12 to be made a report to the board. Any person or facility who  
13 reports pursuant to this section in good faith and without  
14 malice shall be immune from any civil or criminal liability  
15 arising from such report. Failure to provide such report within  
16 a reasonable time from receipt of knowledge of impairment shall  
17 subject the person or facility to a fine not to exceed one  
18 thousand dollars (\$1,000). The board shall levy this penalty  
19 only after affording the accused party the opportunity for a  
20 hearing, as provided in Title 2 of the Pennsylvania Consolidated  
21 Statutes (relating to administrative law and procedure).

22 Section 17. Section 5 of the act of August 24, 1963  
23 (P.L.1199, No.505), entitled "An act reenacting and amending the  
24 act of March 2, 1956 (P.L.1206), entitled 'An act relating to  
25 and defining the practice of chiropody; conferring powers and  
26 imposing duties on the State Board of Chiropody Examiners and  
27 the Department of Public Instruction; requiring licensure;  
28 providing for the granting, cancellation, suspension and  
29 revocation of licenses; preserving the rights of existing  
30 licenses; providing for the promulgation of rules and

1 regulations; transfer of jurisdiction and records to the board;  
2 regulation of schools of chiropody; reciprocity; and providing  
3 penalties, and remedies,' providing for the State Board of  
4 Podiatry Examiners, providing that podiatry shall include  
5 chiropody and changing provisions of the act so that chiropody  
6 and matters relating thereto shall be deemed podiatry, changing  
7 requirements relating to attendance at educational conferences,  
8 and making changes to conform to existing law," is repealed.

9 Section 18. This act, with respect to the State Board of  
10 Podiatry Examiners, shall constitute the legislation required to  
11 reestablish an agency pursuant to the act of December 22, 1981  
12 (P.L.508, No.142), known as the Sunset Act.

13 Section 19. (a) Section 464 of the act of April 9, 1929  
14 (P.L.177, No.175), known as The Administrative Code of 1929, is  
15 repealed.

16 (b) All other acts and parts of acts are repealed insofar as  
17 they are inconsistent with this act.

18 Section 20. The presently confirmed members of the State  
19 Board Podiatry Examiners constituted under section 464 of the  
20 act of April 9, 1929 (P.L.177, No.175), known as The  
21 Administrative Code of 1929, as of December 31, 1985, shall  
22 continue to serve as board members until their present terms of  
23 office expire.

24 Section 21. Each rule and regulation of the board in effect  
25 on December 31, 1985, not inconsistent with this act, shall  
26 remain in effect after such date until repealed or amended by  
27 the board.

28 Section 22. Any person who holds a valid license issued by  
29 the State Board of Podiatry Examiners under the act of March 2,  
30 1956 (1955 P.L.1206, No.375), known as the Podiatry Act of 1956,

1 relating to the practice of podiatry, prior to the effective  
2 date of this amendatory act shall, on and after the effective  
3 date hereof, be deemed to be licensed by the State Board of  
4 Podiatry as provided for in this amendatory act.

5 Section 23. This act shall take effect January 1, 1986.