

No. 1985-107

AN ACT

SB 1114

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

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

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

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

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

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

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

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

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

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

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

Section 2.1. State Board of Podiatry.—(a) The State Board of Podiatry shall consist of the Commissioner of Professional and Occupational Affairs, two members appointed by the Governor, with the advice and consent of a majority of the members elected to the Senate, who shall be persons representing the public at large, and six members appointed by the

Governor, with the advice and consent of a majority of the members elected to the Senate, four of whom shall be podiatrists who possess the requisite qualifications to practice podiatric medicine under the laws of this Commonwealth and who have been practicing podiatry in this Commonwealth for five years immediately preceding their appointment, and two of whom shall be physicians licensed to practice medicine and surgery in this Commonwealth.

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

(c) A majority of the members of the board serving in accordance with law shall constitute a quorum for purposes of conducting the business of the board. Except for temporary and automatic suspensions under section 16.1, a member may not be counted as part of a quorum or vote on any issue, unless he or she is physically in attendance at the meeting.

(d) The board shall select annually a chairman from among its members and shall elect a secretary who, with the approval of the Commissioner of Professional and Occupational Affairs, need not be a member of the board.

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

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

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

(h) A public member who fails to attend two consecutive statutorily mandated seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," shall forfeit his or her seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.

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

Section 4. Section 3 of the act is repealed.

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

Section 4. *Application for Examination.*—Except as hereinafter provided, any person not heretofore authorized to practice **[podiatry or chiropody] podiatric medicine** in this Commonwealth desiring to be entitled to so practice, shall file with the board a written application for examination accompanied by a fee **[of twenty-five dollars (\$25)] determined by the board by regulation** and two unmounted finished photographs, one of which shall be verified by the dean of the school of **[chiropody] podiatric medicine and surgery** which he attended, and by satisfactory proof that the applicant is twenty-one years of age, a citizen of the United States of America, or has legally declared an intention to become such a resident of this Commonwealth, of good moral character, is not addicted to the intemperate use of alcohol or narcotic drugs **[and has obtained an education of not less than four years of high school, or its equivalent, and actual pre-professional education of at least one year in a recognized college of liberal arts or of the sciences. The fact that the instruction has been received by the applicant shall be evidenced by a certificate obtained from such institution satisfactory to the board]**. The applicant must be a graduate of **[a] an accredited school of [podiatry or chiropody] podiatric medicine and surgery.** **[, approved by the board. The board shall send to every applicant an admission card and one of his photographs marked with an assigned number for admission to examination.]**

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

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

Section 6. *Time and Place of Examinations; Subjects for Examination; Identification of Examination Papers.*—The board shall hold *written* examinations **[at a time and place as it shall specify. The subjects for examination shall be determined by the board and shall be on those subjects taught in a recognized school of podiatry or chiropody. No candidate shall indicate his name or the school where he obtained his education on his examination papers, but shall identify his papers by the number assigned him on his photograph. No candidate shall be admitted for examination without his marked photograph and admission card.] in accordance with the provisions of section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."**

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

Section 8. *Passing Average; Second Examination.*—Every candidate for examination who obtains an average of not less than fifty-five per centum in

any one subject and a general average of seventy-five per centum or more of a maximum of one hundred per centum in the examination shall be considered to have successfully passed the required examination. In case of failure at any examination, the candidate, within two years, may take a second examination without further application **[or the]**, upon payment of an additional fee *as determined by the board by regulation*.

Section 9. Issuance of License; Biennial Registration; Registration; Fee.—The board shall issue a license to practice **[podiatry or chiropody]** *podiatric medicine* to those qualified under the provisions of this act. All original registration shall expire on the first day of January of the alternate year succeeding the issue thereof, and thereafter, each person so registered shall be required to reregister biennially before the first day of January of each alternate year. Registration may be effected at any time during the month of December by the filing of such application as shall be required by the board to enable it to carry into effect the purposes of this act, together with 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 by regulation*.

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. *No credit shall be given for any course in office management or practice building.* 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]** *an accredited 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 comply with the provisions of this section relating to attendance at educational conferences: Provided, That the board may, at its discretion, register any licensee if he proves subsequent compliance with the provisions of this section.

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

Section 9.2. Reporting of Multiple Licensure.—*Any licensed podiatrist of this Commonwealth who is also licensed to practice podiatric medicine or*

surgery in any other state, territory or country shall report this information to the board on the biennial registration application. Any disciplinary action taken in other states shall be reported to the board on the biennial registration application or within ninety days of final disposition, whichever is sooner. Multiple licensure shall be noted by the board on the podiatrist's record, and such state, territory or country shall be notified by the board of any disciplinary actions taken against said podiatrist in this Commonwealth.

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

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

Section 11. *Residence Required of Out of State Licensees.*—Any person who does not intend to become a resident of this Commonwealth will not be entitled to obtain a license to practice **[podiatry] podiatric medicine** in this Commonwealth in accordance with section ten of this act, and any person who obtains a license to practice **[podiatry] podiatric medicine** in this Commonwealth in accordance with section ten of this act and does not become a resident of this Commonwealth immediately thereafter will not be entitled to retain said license.

Section 12. *Practice by Unregistered Persons.*—Any person who is not a licensed, and registered as a podiatrist shall not practice **[podiatry] podiatric medicine** nor in any written or printed circular or in any business card, letterhead or sign or otherwise assume the title “Chiropodist,” “Podiatrist,” “DSC,” “[“G cp,” “M cp,” “Ped G,”] “DPM,” “*Doctor of Podiatric Medicine*,” “Foot Specialist,” “Foot Correctionist,” “Pedopractor” nor any other title, name or description implying or calculated to lead to the belief that he is qualified to practice **[podiatry] podiatric medicine.**

Section 13. *Penalties.*—(a) Any person violating any of the provisions of this act, or any rule or regulation of the board, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not **[less than fifty dollars (\$50) nor more than two hundred dollars (\$200)] more than one thousand dollars (\$1,000)**, or undergo imprisonment for not **[less than thirty days nor]** more than six months for the first violation. On the second and each subsequent conviction, he shall be sentenced to pay a fine of not **[less than one hundred dollars (\$100) nor more than five hundred dollars (\$500)] more than two thousand dollars (\$2,000)**, or undergo imprisonment for not less than **[sixty days nor more than]** six months *nor more than one year* in jail, or both.

(b) *In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of*

the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of four members, whichever is greater, may levy a civil penalty of up to one thousand dollars (\$1,000) on any current licensee who violates any provision of this act or on any person who practices podiatric medicine without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

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

(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,” 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.

(d) The board may charge a fee, as set by the board by regulation, for all examinations, registrations, renewals, certifications, licenses or applications permitted by this act or the regulations thereunder.

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 containing 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 resolution.

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

Section 16. Refusal to Grant, Suspension and Revocation.—(a) The board may refuse to grant and may suspend or revoke or cancel a license or a registration for the following reasons:

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

(2) Pleading guilty or nolo contendere to, or being found guilty [of, a crime], *or receiving probation without verdict, disposition in lieu of trial, or an Accelerated Rehabilitative Disposition in the disposition of felony charges or an offense in connection with the practice of podiatric medicine or* involv- ing moral turpitude by a court of competent jurisdiction, or a jury.

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

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

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

(6) That said applicant or licensee is [an habitual drunkard or is addicted to the use of morphine, cocaine or other drugs having a similar effect] *addicted to alcohol or drugs or has been convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country, or if he or she is or shall become mentally incompetent. An applicant's statement on the application declaring the absence of a conviction shall be deemed satisfactory evidence of the absence of a conviction unless the board has some evidence to the contrary. In enforcing this paragraph, the board shall, upon probable cause, have authority to compel a podiatrist to submit to a mental or physical examination by a physician or a psychologist approved by the board. Failure of a podiatrist to submit to such examination when directed by the board, unless such failure is due to circumstances beyond his or her control, shall constitute an admission of the allegations against him or her, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A podiatrist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume a competent practice of podiatry with reasonable skill and safety to patients.*

(7) Knowingly making substantial misrepresentations.

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

(9) Soliciting patronage other than by legitimate advertisement, or paying a commission or agreeing to pay a commission to any person or

persons for soliciting or for business secured, or paying any gratuity to any person with intent to have such person aid in securing business, or like unprofessional conduct.

(10) Having a license to practice podiatric medicine suspended, revoked or refused or receiving other disciplinary action by the proper podiatry licensing authority of another state, territory or country.

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

(b) When the board finds that the license of any person may be refused, revoked or suspended under the terms of subsection (a), the board may:

(1) Deny the application for a license.

(2) Administer a public reprimand.

(3) Revoke, suspend, limit or otherwise restrict a license as determined by the board.

(4) Require a licensee to submit to the care, counseling or treatment of a physician or a psychologist designated by the board.

(5) Suspend enforcement of its finding thereof and place a licensee on probation with the right to vacate the probationary order for noncompliance.

(6) Restore or reissue, in its discretion, a suspended license to practice podiatric medicine and impose any disciplinary or corrective measure which it might originally have imposed.

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

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

(b) A license issued under this act shall automatically be suspended upon the legal commitment to an institution of a licensee because of mental incompetency from any cause upon filing with the board a certified copy of such commitment, conviction of a felony under the act of April 14, 1972

(P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or conviction of an offense under the laws of another jurisdiction, which, if committed in Pennsylvania, would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act." As used in this section the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this subsection shall not be stayed pending any appeal of a conviction. Restoration of such license shall be made as hereinafter provided in the case of revocation or suspension of such license.

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

Section 16.3. Surrender of Suspended or Revoked License.—The board shall require a person whose license or registration has been suspended or revoked to return the license or registration in such manner as the board directs. Failure to do so shall be a misdemeanor of the third degree.

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

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

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

(c) An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon receiving notification of an alleged violation of this act. The board shall maintain current records of all reported alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.

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

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

Section 19. Injunction or Other Process.—[The board, upon the advice of the Attorney General, may maintain an action in the name of the Commonwealth for an injunction, or other process, against any person, to restrain or prevent his practicing the profession of podiatry in a public or private capacity. Any such action shall be instituted in the court of common pleas in any county where the alleged unauthorized practice was committed. The court may issue a temporary restraining order or injunction under this act, but shall determine any such action on its merits as soon as convenient, whether in term time or in vacation. No bond shall be required of and no costs shall be taxed against the board on account of any such action. No actions brought under the provisions of this act shall prevent the prosecution or institution of any civil or criminal action provided by this act for violation thereof, or of any rule or regulation of the board promulgated thereunder.] *It shall be unlawful for any person to practice or attempt to offer to practice podiatric medicine, as defined in this act, without having at the time of so doing a valid, unexpired, unrevoked and unsuspended license issued under this act. The unlawful practice of podiatric medicine as defined in this act may be enjoined by the courts on petition of the board or the Commissioner of Professional and Occupational Affairs. In any such proceeding, it shall not be necessary to show that any person is individually injured by the actions complained of. If it is found that the respondent has engaged in the unlawful practice of podiatric medicine, the court shall enjoin him or her from so practicing unless and until he or she has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction hereby given is in addition to any other civil or criminal prosecution and punishment.*

Section 14. Section 20 of the act is repealed.

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

Section 21. *Licensed Physicians not Affected; Sale or Fitting of Shoes or Appliances.*—Nothing in this act contained shall be construed to interfere with, or affect, regularly licensed physicians in the discharge of their professional duties, and nothing herein contained shall be construed to prohibit or restrict the sale or fitting of shoes or commercial foot appliances. No retail merchant shall be permitted to practice **[podiatry] podiatric medicine** as pro-

vided for in this act, unless duly licensed to practice **[podiatry] podiatric medicine**.

Section 16. The act is amended by adding sections to read:

Section 21.1. Impaired Professional.—(a) *The board, with the approval of the Commissioner of Professional and Occupational Affairs, shall appoint and fix the compensation of a professional consultant who is a licensee of the board, or such other professional as the board may determine, with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. Such consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups, which are approved by the board and which provide services to licensees under this act.*

(b) *The board may defer and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program, provided that the provisions of this subsection shall not apply to a professional convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or convicted of, pleaded guilty to or entered a plea of nolo contendere to a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country. An approved program provider shall, upon request, disclose to the consultant such information in its possession regarding an impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States. Such requirement of disclosure by an approved program provider shall apply in the case of impaired professionals who enter into an agreement in accordance with this section, impaired professionals who are the subject of a board investigation or disciplinary proceeding and impaired professionals who voluntarily enter a treatment program other than under the provisions of this section but who fail to complete the program successfully or to adhere to an after-care plan developed by the program provider.*

(c) *An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under which the professional's license shall be suspended or revoked but enforcement of that suspension or revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on his practice imposed by the board to protect the public. Failure to enter into such an agreement shall disqualify the professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.*

(d) *If, in the opinion of the consultant after consultation with the provider, an impaired professional who is enrolled in an approved treatment program has not progressed satisfactorily, the consultant shall disclose to the*

board all information in his possession regarding said professional; and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license shall be vacated.

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

(f) Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of his or her license shall make or cause to be made a report to the board: Provided, That any person or facility who acts in a treatment capacity to an impaired podiatrist in an approved treatment program is exempt from the mandatory reporting requirements of this subsection. Any person or facility who reports pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide such report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed one thousand dollars (\$1,000). The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

Section 21.2. Radiologic Procedures.—(a) On and after January 1, 1987, no auxiliary personnel shall perform radiologic procedures on the premises of a podiatrist unless such person is under the direct supervision of a podiatrist who is on the premises at the time the X-ray is taken and unless such person has passed an examination approved by the board and administered in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(b) The board shall, by regulation, provide for the exclusion of auxiliary personnel from performing radiologic procedures if the continued performance of radiologic procedures by the auxiliary personnel is determined by the board to pose a threat to the health, safety or welfare of the public.

(c) It shall be unlawful under this act to knowingly permit radiologic procedures to be performed in violation of this section or in violation of the regulations promulgated or orders issued in accordance with this section.

(d) No auxiliary personnel who has or obtains a license, certificate or registration issued by, or on behalf of, a board within the Bureau of Professional and Occupational Affairs shall be required to undergo any additional education or testing pursuant to this section, if radiologic procedures were included in the education or the examination which he or she was required to complete successfully in order to be eligible for such license, certificate or registration.

Section 17. Section 5 of the act of August 24, 1963 (P.L.1199, No.505), entitled "An act reenacting and amending the act of March 2, 1956 (P.L.1206), entitled 'An act relating to and defining the practice of chirop-

ody; conferring powers and imposing duties on the State Board of Chiropractic Examiners and the Department of Public Instruction; requiring licensure; providing for the granting, cancellation, suspension and revocation of licenses; preserving the rights of existing licenses; providing for the promulgation of rules and regulations; transfer of jurisdiction and records to the board; regulation of schools of chiropractic; reciprocity; and providing penalties, and remedies,' providing for the State Board of Podiatry Examiners, providing that podiatry shall include chiropractic and changing provisions of the act so that chiropractic and matters relating thereto shall be deemed podiatry, changing requirements relating to attendance at educational conferences, and making changes to conform to existing law," is repealed.

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

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

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

Section 20. The presently confirmed members of the State Board of Podiatry Examiners constituted under section 464 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as of December 31, 1985, shall continue to serve as board members until their present terms of office expire, provided that any present board member whose term has expired on or before the effective date of this act shall serve until a successor has been appointed and qualified but no longer than six months after the effective date of this act.

Section 21. Each rule and regulation of the board in effect on December 31, 1985, not inconsistent with this act, shall remain in effect after such date until repealed or amended by the board, provided that the board shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act. Each fee of the board in effect on December 31, 1985, and not inconsistent with this act shall remain in effect after such date until repealed or amended in accordance with the provisions of this act.

Section 22. Any person who holds a valid license issued by the State Board of Podiatry Examiners under the act of March 2, 1956 (1955 P.L.1206, No.375), known as the Podiatry Act of 1956, relating to the practice of podiatry, prior to the effective date of this amendatory act shall, on and after the effective date hereof, be deemed to be licensed by the State Board of Podiatry as provided for in this amendatory act.

Section 23. This act shall take effect January 1, 1986, or immediately, whichever is later.

APPROVED—The 20th day of December, A. D. 1985.

DICK THORNBURGH