

T EXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS

PHYSICAL ADDRESS: 333 GUADALUPE, TOWER II, SUITE 320, AUSTIN, TEXAS 78701

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"Over 79 Years of Ensuring Quality Podiatric Medicine For The Citizens Of Texas"

HEMANT MAKAN
EXECUTIVE DIRECTOR

USE OF TECHNOLOGY POLICY

HTTP://WWW.FOOT.STATE.TX.US

[Effective July 5, 2006]

PURPOSE

The Sunset Advisory Commission, during the 79th Legislative Session (2005), required that the Texas State Board of Podiatric Medical Examiners (TSBPME) implement a "Use of Technology" policy.

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. [Added by Acts 2005, 79th Leg., ch. 26, § 11, eff. Sept. 1, 2005.]

MISSION

The purpose of the TSBPME is to protect the health, safety and welfare of the citizens of the State of Texas through regulation of Podiatric Physicians licensed by the Board and investigation of complaints against Podiatric Physicians and persons practicing Podiatric Medicine without a Texas license. It is our goal to ensure that Texas consumers are effectively and efficiently served by high quality professionals and businesses by setting clean standards and maintaining compliance.

The Texas State Board of Podiatric Medical Examiners develops, through its planning process, an Information Resources Strategic Plan (IRSP). The "Information Resource" goals of the agency are consistent with the agency's overall Strategic Plan. They include the on-going review of the agency's overall operations to determine if additional or updated information resources are necessary to continue to regulate effectively in the public interest and the pursuit of securing necessary resources. These goals support the "Statewide Strategic Plan for Information Resources Management" as outlined by the Texas Department of Information Resources (Texas Government Code § 2054.091 and §2054.096).

POLICY

It is the policy of the Texas State Board of Podiatric Medical Examiners to ensure that the public is able to interact with the Board on the Internet. Any person may use the Board's website to send electronic mail (e-mail) to Board staff for any reason to include questions, concerns, or information requests. Citizens may download a complaint form from the Board's website to register a complaint against a Podiatric Physician; issues related to the practice of Podiatric Medicine or can submit a complaint as an e-mail. The public may review a variety of information on the website, including license verifications and disciplinary actions (Board Actions).

All Board Actions are reported to the 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). Board Actions, as a service to the citizens of Texas (Open Record), are published on the Board's website pursuant to 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.

Applicants for a Podiatric Physician license may view requirements and request an application to sit for the Board's Jurisprudence Examination from the website. Current license holders may use www.texasonline.com (Texas On-Line) to renew a license or to report a change of address to the Board.

Information about Board activities, such as copies of agendas/minutes and certain licensure materials, are available as Open Records requests. All Board complaint, report, investigation files, or other investigative information in the possession of or received or gathered by the Board or an employee or agent of the Board that relates to a license holder, a license application, or a criminal investigation or proceeding is privileged, confidential, and not subject to discovery, subpoena, or any other legal method of compelling release pursuant to Texas Occupations Code §202.509.

The Board, as described below, works collaboratively with the Texas Department of Information Resources and the Texas Health Professions Council to continue to improve or implement technological solutions to enhance its ability to perform its functions and to maintain and improve public services available on the Internet.

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, 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 per year (as adjusted) for ITSS support. 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 on servers in the Board office. The Board currently contracts IT support and resources via an interagency contract through the Health Professional Council and with the Texas Department of Information Resources (DIR) that includes support of internet access through the Texas Building and Procurement Commission (CAPNET).

Again, 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. We will be adding in the future, the capability to download additional licensure forms.

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.

INQUIRIES

Inquiries regarding the content of this policy should be directed to Hemant Makan, Executive Director, at (512)-475-3301 or by e-mail at Hemant.Makan@foot.state.tx.us.

Hemant Makan; Executive Director; (512)-475-3301; Hemant.Makan@foot.state.tx.us

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HEMANT MAKAN
EXECUTIVE DIRECTOR / INVESTIGATOR

May 22, 2006

POLICIES AND PROCEDURES FOR OBTAINING CRIMINAL HISTORY RECORD INFORMATION RELATED TO PERSONS WITH ACCESS TO INFORMATION RESOURCES OR INFORMATION RESOURCES TECHNOLOGIES

In accordance with Texas Government Code section 411.1405(e) the Texas State Board of Podiatric Medical Examiners (the Board) adopts the policies and procedures contained herein.

General Statement

Upon the effective date of these policies and procedures, the Board may obtain from the Department of Public Safety (DPS) the criminal history record information maintained by DPS that relates to a person who:

- (1) is an employee, applicant for employment, contractor, subcontractor, or intern or other volunteer with the Board or with a contractor or subcontractor for the Board; and
- (2) has access to information resources or information resources technologies, other than a desktop computer or telephone station assigned to that person.

Evidence of a criminal conviction or other relevant information obtained from the criminal history record information shall not automatically disqualify an individual from employment with the

Board. Consideration of such information shall be in conformity with applicable federal and state statutes.

The hiring official of the Board will determine, on a case-by-case basis, whether an individual about whom such information has been obtained is qualified for employment based on factors that include, but are not limited to:

- (1) the specific duties of the position;
- (2) the number of offenses committed by the individual;
- (3) the nature and seriousness of each offense;
- (4) the length of time between the offense(s) and the employment decision;
- (5) the efforts by the individual at rehabilitation;
- (6) the accuracy of the information on the individual's employment application;
- (7) whether the individual reported any subsequent criminal convictions after employment; and
- (8) the relationship of the crime or crimes to the employment;

As part of its procurement process, the Texas State Board of Podiatric Medical Examiners may require contractors and/or subcontractors to submit the names and other relevant information about the contractors' or subcontractors' employees, contract staff, volunteers and interns who have or will have access to information technology or information technology resources, so that the Board may obtain information in accordance with these policies and procedures. The Board may also obtain criminal history record information on any individual identified under Texas Government Code section 411.1405(b) at any time and as may be necessary to ensure the security of the Board's information technology.

If the Texas State Board of Podiatric Medical Examiners uses the criminal history record information in order to make an employment decision or take a personnel action, the Board shall give the affected applicant, employee, volunteer, intern, contractor or subcontractor or other individual notice of the use of the information and an opportunity to correct any inaccuracies in the information. The Board, in its discretion, shall specify the time period for correction when it notifies the affected individual of the utilization of such information. Such notice and period for correction is a personnel policy and does not alter the at-will status of the Board's employees.

If the Texas State Board of Podiatric Medical Examiners is authorized to submit fingerprints and receive FBI identification records under 28 C.F.R. § 50.12, the Board shall notify the individuals fingerprinted that the fingerprints will be used to check the criminal history records of the FBI. The hiring official shall provide the individuals the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record. The hiring official also must advise the individuals that procedures for obtaining a change, correction, or updating of an FBI identification record are set forth in 28 CFR 16.34.

If the Board receives the criminal history record information during the pendency of any

proceeding in which a conviction is not final, the Board reserves the right to make an employment decision or take a personnel action before the conviction is final, if failure to do so would be impracticable or detrimental to the Board. In determining whether a conviction is final for the purposes of these policies and procedures, the Board shall exercise its discretion in accordance with all relevant federal and state statutes.

Definitions

“Information resources” and “information resources technologies” have the meanings given to those terms by Government Code section 2054.003 upon the effective date of these policies and procedures, and as that section may later be amended.

Disclosure

In accordance with Texas Government Code §411.1405 (Vernon 2005), any information obtained pursuant to these policies and procedures and any documents or other records derived from that information shall not be released or disclosed except:

- (1) by court order;
- (2) with the consent of the person who is the subject of the information; or
- (3) to the affected contractor or subcontractor. If DPS obtained the information from the Federal Bureau of Investigations, the information may not be disclosed to an affected contractor or subcontractor.

Destruction of Information

In accordance with Texas Government Code §411.1405 (Vernon 2005) and notwithstanding current records retention requirements, the Texas State Board of Podiatric Medical Examiners and an affected contractor or subcontractor shall destroy information obtained pursuant to these policies and procedures after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

Self-reporting

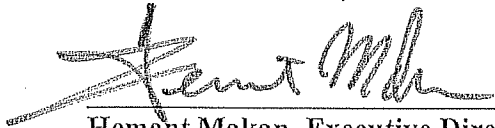
The Texas State Board of Podiatric Medical Examiners shall make a form for reporting subsequent convictions available to all persons about whom criminal history record information could be obtained pursuant to these policies and procedures.

Distribution

These policies and procedures shall be available from the Board’s Human Resources department/designee and on the Board’s website. The Texas State Board of Podiatric Medical Examiners shall make these policies and procedures available to contractors and subcontractors

during the procurement process and thereafter on the agency website.

These policies and procedures are hereby adopted, to be effective upon the date of approval by the Office of the Attorney General.

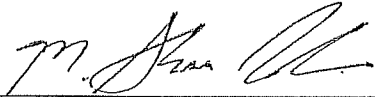


Hemant Makan, Executive Director, TSBPME

05/24/06

Date

This policy has been reviewed by the Office of the Attorney General and has been found to be consistent with applicable legal requirements.



**OAG Representative
Shane Linkous, Assistant Attorney General
General Counsel Division**

5/22/06

Date