

PRESENTED AT

13th Annual Advanced Texas Administrative Law Seminar

August 16-17, 2018

Austin, Texas

**NEWS FROM THE FRONT: Restructuring,
Sunsetting, and More**

Karen L. Watkins

Priscilla Hubenak

Author Contact Information:

Karen L. Watkins

Office of the Attorney General of Texas

Austin, Texas

NEWS FROM THE FRONT

The purpose of this paper is to provide an overview of changes affecting agencies during the 85th legislative session and the changes that the Sunset Advisory Commission has recommended the Legislature make during the 86th Legislative Session. Sunset recommendations will not have been issued for all of the agencies undergoing review during the 86th Legislative Session by the deadline for submission of this paper, so the anticipated dates for issuance of the Sunset Commission's recommendations for those agencies are included at the end of the paper.

I. PROGRAMMATIC CHANGES FROM 85TH LEGISLATIVE SESSION

A. Overview

The Sunset Advisory Commission was very active during the 85th Legislative Session. Sunset recommendations resulted in the passage of 193 statutory changes and 147 management directives to the agencies under review. Sunset Advisory Commission, *Final Results of Sunset Reviews 2016-2017*, Summary, Aug. 2017, at 1. The Commission reviewed 24 agencies, including the four smallest river authorities, several agencies responsible for licensing and regulating health care professionals, TxDOT, the Railroad Commission, and the State Bar and Board of Law Examiners. What follows are highlights of the changes to or within various agencies as a result of the sunset process. *This paper is not intended to be an exhaustive list of the Sunset-induced changes at the various agencies.*

B. Specific Agencies

1. *State Bar of Texas and the Board of Law Examiners*

Senate Bill 302 modifies the operations of the State Bar, and Senate Bill 303 modifies the operations of the Board of Law Examiners. The Legislature authorized continued existence of both entities for 12 years.

There are several significant changes in Senate Bill 302. That bill, which went into effect on September 1, 2017:

- imposes on Texas lawyers the obligation to self-report criminal activity and discipline imposed on them in other jurisdictions in which they are licensed to practice. Act of May 28, 2017, 85th Leg. R.S., ch. 531, § 9, 2017 Tex. Sess. Law Serv. (codified at Tex. Gov't Code § 81.082);
- limits the amounts of membership fees that the State Bar may impose; the Board of Directors of the State Bar may raise fees without a vote of the membership of the Bar only once in a six-year period and only if the amount of the increase is less than 10% of the existing membership fee. *Id.* at § 3(a-4) (codified at Tex. Gov't Code § 81.022);
- creates an ombudsman for the attorney disciplinary system that independently oversees the operation of that system, provides information to the public about the system, and annually makes recommendations to the State Bar Board of Directors and to the Supreme Court for improvements in the lawyer discipline system in this State; *id.* at § 10 (codified at Tex. Gov't Code §§ 81.0881 through 81.0885);
- empowers the State Bar to obtain criminal history information from both the Department of Public Safety and the Board of Law Examiners; *id.* at § 12 (codified at Tex. Gov't Code § 411.100(a-1); and
- requires the Supreme Court to ensure that no rules governing the admission to the practice of law in this State violate Chapter 110 of the Texas Civil Practice and Remedies Code. *Id.* at § 6 (codified at Tex. Gov't Code § 81.062). Texas Civil Practice and Remedies Code chapter 110 is entitled "Religious Freedom."

2. ***Texas State Board of Podiatric Medical Examiners.***

The Legislature transferred responsibility for licensing and regulating podiatrists from the tiny stand-alone Texas State Board of Podiatric Examiners to the Texas Department of Licensing and Regulation. An Act of May 27, 2017, 85th Leg., R.S., ch. 282, §§ 16 through 60 (codified at Tex. Occ. Code §§ 202.1515 through 202.604). To maintain the expertise of the abolished board, a Podiatric Medical Examiners Advisory Board was created. *Id.* at § 2 (codified at Tex. Occ. Code § 51.2032). The Commission on Licensing and Regulation may not adopt a rule "relating to the scope of practice of, a health-related standard of care for,

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: News from the Front: Restructuring, Sunsetting, and More

Also available as part of the eCourse

[Current Issues in Administrative Law: Agency News and TABC Spotlight](#)

First appeared as part of the conference materials for the
13th Annual Advanced Texas Administrative Law Seminar session
"News from the Front: Restructuring, Sunsetting, and More"