SUNSET REVIEW REPORT 2015

December, 1 2015

Volume I

Edmund G. Brown Jr., Governor

Kristina Dixon, MBA, President, Board of Podiatric Medicine

Jason S. Campbell J.D., Executive Officer, Board of Podiatric Medicine

"Boards are established to protect the people of California."
– Bus. & Prof. Code §101.6

State of California

Edmund G. Brown Jr., Governor

Anna M. Caballero, Secretary, State and Consumer Services Agency

Awet Kidane, Director, Department of Consumer Affairs

Board of Podiatric Medicine

Kristina M. Dixon, MBA, President

Jason S. Campbell, J.D., Executive Officer

Additional copies of this report can be obtained from: www.bpm.ca.gov

Board of Podiatric Medicine
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STATE OF CALIFORNIA
BOARD OF
PODIATRIC
MEDICINE

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

VIA ELECTRONIC MAIL SUBMISSION & HAND DELIVERY

November 20, 2015

The Honorable Jerry Hill, Chair
Senate Business, Professions and Economic Development Committee
State Capitol, Room 2053
Sacramento, CA 95814

The Honorable Susan Bonilla, Chair
Assembly Committee on Business and Professions
Legislative Office Building
1020 N Street, Room 383
Sacramento, CA 958154

Dear Senator Hill and Assembly Member Bonilla:

On behalf of the California Board of Podiatric Medicine (Board), I am pleased to submit to you and the Committees the Board's 2015 Sunset Review Report. The report has been prepared in accordance with the directions and guidance provided by the Senate Business, Professions and Economic Development Committee in preparation for the 2016 public oversight hearing.

Remaining fully committed to protection of the public as our highest priority, the Board continues to strive towards its vision for all California-licensed doctors of podiatric medicine to provide nothing less than safe and competent foot and ankle care. Toward that end, we look forward to and welcome the opportunity to work with the Legislature, the Administration and interested parties in a joint and collaborative effort to continue advancing the health, welfare and safety of the people of California.

As always, we remain steadfast in our mission and eager to continue fulfilling the legislative mandates set before us.

Very best regards,

Kristina Dixon
Board President

Kristina M. Dixon, MBA
Board President

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Forward

This report is submitted to the Joint Sunset Review committee in compliance with section 9147.7 of the California Government Code as part of its mandate to identify and eliminate waste, duplication and inefficiency in government agencies.

The information in this report is organized and presented in accord with the 12 subject categories of inquiry provided to the California Board of Podiatric Medicine by the Joint Committee's Sunset Review survey. For the sake of clarity, consistency and ease of review the report retains the Joint Committee's question and answer format. Responses and tables are completed according to the guidance and instructions provided by the Joint Committee.

Finally, requested supplementary materials are included separately and contained under Volume II of this report and marked as exhibits as specified and referenced throughout the report.

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- Board and Committee Quorum Issues
- Board Changes Since the Last Sunset Review
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- Board Approved Regulatory Changes Since the Last Sunset Review
- Major Studies Conducted by the Board
- National Association Memberships
- National Examination

California Board of Podiatric Medicine
BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM
As of December 1, 2015

Section 1 – Background and Description of the Board and Regulated Profession

Provide a short explanation of the history and function of the board.[1] Describe the occupation/profession that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).

History of the Board

The California Board of Podiatric Medicine ("BPM" or the "board") is a unit of the Medical Board of California ("MBC" or the "Medical Board") that regulates the practice of podiatric medicine. BPM has historical roots that can be directly traced back to as early as 1957 when the Legislature authorized the creation of the Chiropody Examining Committee ("Chiropody Committee"). Prior to that time Doctor of Podiatric Medicine ("DPM") licensure had been handled directly by the board of Medical Examiners; or the forerunner of today's Medical Board of California ("Medical Board"). Accordingly, the state's first podiatric medical doctors were licensed by MBC and the earliest extant license in board archives dated to 1926 to a Doctor of Surgical Chiropody.

The Chiropody Committee was created in response to podiatric medical association petitions for an independent licensing board. The legislative response was a committee intentionally structured under the auspices of the Medical Board. Originally composed of five licensed podiatric physicians and one member of the public, the Chiropody Committee was charged with receiving and approving applications; preparing and conducting examinations; and recommending persons for licensure to the Medical Board. BPM continues to operate independently under the jurisdiction of the Medical Board while making licensure recommendations for issuance of certificates to practice podiatric medicine to the Medical Board pursuant to section 2479 of the California Business and Professions Code ("B&P").

As a result of Legislative amendments to section 2462 B&P governing membership of the board passed in 1998, BPM is overseen today by a professional majority of four

[1] The term "board" in this document refers to a board, bureau, commission, committee, department, division, program, or agency, as applicable. Please change the term "board" throughout this document to appropriately refer to the entity being reviewed.

physicians holding valid certificates to practice podiatric medicine and is composed of seven members total. Each member serves four-year terms with no more than a maximum of two consecutive terms permitted. The Governor appoints four professional members and one public member, while the Senate Rules Committee and the Assembly Speaker each appoint one of the two remaining public members of the board.

Having undergone slight changes to composition and name over the years, including the Podiatry Examining Committee in 1961 to its eventual present-day moniker established in 1986, the board's paramount mission and commitment to public protection has never changed.

Function of the board

Broadly speaking the purpose of BPM is to protect consumers through licensing of Doctors of Podiatric Medicine ("DPMs") and enforcement of the Podiatric Medicine Practice Act ("Article 22") of the Medical Practice Act. Accordingly, BPM is authorized to adopt, amend or repeal all regulations necessary to enable it to carry out the Podiatric Practice Act's statutory provisions pursuant to section 2470 of the California Business and Professions Code ("B&P").

The regulatory function is supplemented by explicit legislative authority for establishing the minimum qualifications and levels of competency for podiatric medical licensure; for licensing applicants; for investigating complaints; for taking disciplinary enforcement action against licensees as warranted; and for periodically verifying compliance with relevant sections of the B&P as a means of protecting the public from unfit and incompetent doctors practicing in the podiatric medical field.

The board's licensing, regulatory and disciplinary enforcement functions are spearheaded by the mission priority for advancing public protection above all else. This effort has been greatly assisted by a number of unique initiatives advanced and adopted by the board over the years. These have included:

- Requiring candidates for licensure to possess a Certificate of Podiatric Medical Education, representing a minimum of 4,000 hours of academic instruction from a board-approved school.
- Requiring applicants to pass Parts I, II and III of the national board exam for assessing a candidate's knowledge, competency, and skills.
- Requiring a Podiatric Resident's License for all participants of California-based podiatric graduate medical education residency programs.
- Requiring applicants to complete two years of graduate medical education residency for licensure as a podiatric physician rather than one year as is standard for other physicians.

- Annual review of California-based podiatric graduate medical education residency programs.
- Requiring primary source verification of all licensing credentials before issuing certificates to practice podiatric medicine to applicants for licensure.
- Requiring licensed Doctors of Podiatric Medicine (DPMs) to complete 50 hours of approved continuing medical education every two years.
- Requiring DPMs to demonstrate compliance with board-mandated continuing competency requirements; the only doctor-licensing board in the country to implement such a performance based assessment program over and above continuing education alone.

Profession Licensed and Regulated

The board licenses and regulates Doctors of Podiatric Medicine. As a specialty focus in the care and treatment of the human foot and ankle, the practice of podiatry as a branch of medicine may be said similar to what cardiology is to the human heart or ophthalmology is to the human eye. This highly specialized group of physicians comprises a licentiate base of approximately 2,000 practitioners statewide. The scope of podiatric medical practice is defined under section 2472 B&P. Accordingly, Doctors of Podiatric Medicine are licensed, authorized and expected to diagnose and treat conditions affecting the foot, ankle and related structures including the tendons that insert into the foot and whose practice authorization extends to the diagnosis and medical treatment of the muscles and tendons of the leg through all nonsurgical means and modalities.

Similar to medical doctors (MDs) California Doctors of Podiatric Medicine may order all anesthetics and sedations and may administer all except general anesthetics—just as no MD who is not an anesthesiologist would not. Once generals are administered DPMs perform all surgeries within their scope of practice and section 2472(e) B&P specifies the various peer-reviewed facilities in which ankle surgery may be performed**.** Accordingly, California podiatric surgeons routinely perform basic and complex reconstructive surgeries; repair fractures and treat injuries; perform amputations and may assist MDs and osteopathic doctors ("DOs") in any type of surgery upon the human body including non-podiatric surgical specialties falling outside the normal Doctors of Podiatric Medicine scope of practice pursuant to B&P section 2472(d)(1)(B).

Given their near unmatched training and education in the care and treatment of the lower extremity, Doctors of Podiatric Medicine are in high demand. Medical specialists in the community of practice including endocrinology, geriatrics, primary care, rheumatology and vascular medicine, among others, routinely refer patients to Doctor of Podiatric Medicine and podiatric physicians practice in specialized areas as varied as

sports medicine, biomechanics, and care and management of diabetic foot. DPMs are fully authorized and expected to perform comprehensive history and physical examinations; independently prescribe medications and controlled substances; prescribe and perform physical therapy; prescribe and fit orthotics; and perform and interpret X-rays and other imaging studies.

1. Describe the make-up and functions of each of the board's committees (cf., Section 12, Attachment B).

The board currently has five standing Committees as listed and described below. The committee structure exists as a means to research issues, develop preliminary policy plans, and to provide the necessary foundation information for discussion of pertinent issues during public meetings of the full board. The committee structure also serves as a mechanism to address succession planning. The board President generally assigns two individual members to each committee and as new members are brought aboard they are ideally appointed to serve on committees that are chaired by more senior members who are able to impart their knowledge and expertise. In keeping with the board's value of transparency, it is the policy of the board to also apply all notice requirements of the Open Meeting Act to its two member committees and advisory bodies.

All BPM committees are advisory in nature with the exception of the executive committee which may exercise the authority of the board delegated to it by the body. None are statutorily mandated and each is generally composed of two members each. Individual committee functions are as described immediately below.

<u>Executive Committee</u>
Members of the Executive Committee include the board's president and vice-president (elected annually), and may include a ranking member of the board or such other member as appointed by the board president. As elected officers, this Committee may make interim (between board meetings) decisions as necessary as long as notice requirements are met where necessary. This Committee also provides guidance to administrative staff for the budgeting and organizational components of the board and is responsible for directing the fulfillment of recommendations made by legislative oversight committees.

<u>Enforcement Committee</u>
Members of the Enforcement Committee are responsible for the development and review of board-adopted policies, positions and disciplinary guidelines. Although members of the Enforcement Committee do not review individual enforcement cases

they are responsible for policy development of the enforcement program, pursuant to the provisions of the Administrative Procedure Act (APA).

Licensing Committee

Members of the Licensing Committee are responsible for the review and development of regulations regarding educational and course requirements for initial licensure and continuing education programs. Essentially, they monitor various education criteria and requirements for licensure taking into consideration new developments in technology, podiatric medicine and current activity in the health care industry.

Legislative Committee

Members of the Legislative Committee are responsible for monitoring and making recommendations to the board with respect to legislation impacting the board's mandate. They may also recommend pursuit of specific legislation to advance the mandate of the board or propose amendments or revisions to existing statutes for advancing same.

Public Education/Outreach Committee

Members of the Public Education/Outreach Committee are responsible for the development of consumer outreach projects, including the board's newsletter, web site, e-government initiatives and outside organization presentations on public positions of the board. These members may act as good will ambassadors and represent the board at the invitation of outside organizations and programs.

For reference and review, Tables 1a and 1b follow immediately below and provide member attendance records and a roster dating to the last Sunset Review in 2011.

Table 1a. Attendance (Period Since 2011Sunset Review)			
Edward E. Barnes			
Date Appointed:	June 15, 2011		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	n/a
	09/23/2011	Los Angeles, CA	Yes
Board Meetings 2012	02/24/2012	Sacramento, CA	Yes
	07/20/2012	Los Angeles, CA	No
	11/16/2012	Sacramento, CA	Yes
Board Meetings 2013	02/22/2013	Orange, CA	Yes
	05/10/2013	Sacramento, CA	Yes
	09/13/2013	Los Angeles, CA	Yes
Board Meetings 2014	02/21/2014	Sacramento, CA	Yes

	05/02/2014	Sacramento, CA	Yes
	08/08/2014	Sacramento, CA	Yes
	11/07/2014	Sacramento, CA	Yes
	12/19/2014	Sacramento, CA	No
Board Meetings 2015	03/06/2015	Los Angeles, CA	No
	06/05/2015	Sacramento, CA	Term Ended 06/1/2015
	09/18/2015	Sacramento, CA	#
	11/13/2015	Sacramento, CA	#
Legislative Committee Meetings 2015	02/18/2015	Tustin, CA - via teleconference	No
	05/20/2015	Tustin, CA – via teleconference	No
Enforcement Committee Meetings 2015	02/18/2015	Tustin, CA - via teleconference	No
	05/20/2015	Tustin, CA – via teleconference	No

 # Did not seek reappointment

Dr. John Y. Cha, DPM

Date Appointed:	December 21, 2012		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	n/a
	09/23/2011	Los Angeles, CA	n/a
Board Meetings 2012	02/24/2012	Sacramento, CA	n/a
	07/20/2012	Los Angeles, CA	n/a
	11/16/2012	Sacramento, CA	n/a
Board Meetings 2013	02/22/2013	Orange, CA	Yes
	05/10/2013	Sacramento, CA	Yes
	09/13/2013	Los Angeles, CA	Yes
Board Meetings 2014	02/21/2014	Sacramento, CA	Yes
	05/02/2014	Sacramento, CA	Yes
	08/08/2014	Sacramento, CA	Yes
	11/07/2014	Sacramento, CA	Yes
	12/19/2014	Sacramento, CA	Yes
Board Meetings 2015	03/06/2015	Los Angeles, CA	Yes
	06/05/2015	Sacramento, CA	Yes
	09/18/2015	Sacramento, CA	Yes
	11/13/2015	Sacramento, CA	Yes
Licensing Committee Meetings 2015	02/19/2015	Cerritos, CA - via teleconference	No - lack of quorum
	05/21/2015	Inglewood, CA - via teleconference	Yes - lack of quorum
	08/19/2015	Gardena, CA via teleconference	Yes
	10/21/2015	Gardena, CA – via teleconference	Yes

*Executive Management Committee Meetings 2015	05/20/2015	Inglewood, CA – via teleconference	Yes
	08/19/2015	Gardena, CA via teleconference	Yes
	10/21/2015	Gardena, CA – via teleconference	Yes
*** Committee established in May 2015**			
Kristina M. Dixon, MBA			
Date Appointed:	February 02, 2010		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	Yes
	09/23/2011	Los Angeles, CA	Yes
Board Meetings 2012	02/24/2012	Sacramento, CA	Yes
	07/20/2012	Los Angeles, CA	Yes
	11/16/2012	Sacramento, CA	Yes
Board Meetings 2013	02/22/2013	Orange, CA	Yes
	05/10/2013	Sacramento, CA	Yes
	09/13/2013	Los Angeles, CA	Yes
Board Meetings 2014	02/21/2014	Sacramento, CA	Yes
	05/02/2014	Sacramento, CA	Yes
	08/08/2014	Sacramento, CA	Yes
	11/07/2014	Sacramento, CA	Yes
	12/19/2014	Sacramento, CA	Yes
Board Meetings 2015	03/06/2015	Los Angeles, CA	No
	06/05/2015	Sacramento, CA	Yes
	09/18/2015	Sacramento, CA	Yes
	11/13/2015	Sacramento, CA	Yes
Legislative Committee Meetings 2015	02/18/2015	Cerritos, CA – via teleconference	Yes
	05/20/2015	San Bernardino, CA – via teleconference	Yes
	08/19/2015	San Bernardino, CA via teleconference	Yes
	10/21/2015	San Bernardino, CA – via teleconference	Yes
Enforcement Committee Meetings 2015	02/18/2015	Cerritos, CA – via teleconference	Yes
	05/20/2015	San Bernardino, CA – via teleconference	Yes
	08/19/2015	San Bernardino, CA via teleconference	Yes
	10/21/2015	San Bernardino, CA – via teleconference	Yes
*Executive Management Committee Meetings 2015	05/20/2015	San Bernardino, CA – via teleconference	Yes
	08/19/2015	San Bernardino, CA via teleconference	Yes
	10/21/2015	San Bernardino, CA – via teleconference	Yes

Public Education Committee Meetings 2015	08/19/2015	San Bernardino, CA - via teleconference	Yes
Licensing Committee Meetings 2015	08/19/2015	San Bernardino, CA - via teleconference	Yes
* **Committee established in May 2015**			

Dr. Neil B. Mansdorf, DPM			
Date Appointed:	January 26, 2010		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	Yes
	09/23/2011	Los Angeles, CA	Yes
Board Meetings 2012	02/24/2012	Sacramento, CA	Yes
	07/20/2012	Los Angeles, CA	Yes
	11/16/2012	Sacramento, CA	Yes
Board Meetings 2013	02/22/2013	Orange, CA	Yes
	05/10/2013	Sacramento, CA	Yes
	09/13/2013	Los Angeles, CA	Yes
Board Meetings 2014	02/21/2014	Sacramento, CA	Yes
	05/02/2014	Sacramento, CA	Yes
	08/08/2014	Sacramento, CA	Yes
	11/07/2014	Sacramento, CA	Yes
	12/19/2014	Sacramento, CA	Yes
Board Meetings 2015	03/06/2015	Los Angeles, CA	Yes
	06/05/2015	Sacramento, CA	Yes
	09/18/2015	Sacramento, CA	Yes
	11/13/2015	Sacramento, CA	Yes
Enforcement Committee Meetings 2015	02/18/2015	Tustin, CA – via teleconference	Yes
	05/20/2015	Orange, CA – via teleconference	Yes
	08/19/2015	Orange, CA - via teleconference	Yes
	10/21/2015	Orange, CA – via teleconference	Yes

Melodi Masaniai			
Date Appointed:	April 24, 2013		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	n/a
	09/23/2011	Los Angeles, CA	n/a
Board Meetings 2012	02/24/2012	Sacramento, CA	n/a
	07/20/2012	Los Angeles, CA	n/a
	11/16/2012	Sacramento, CA	n/a
Board Meetings 2013	02/22/2013	Orange, CA	n/a
	05/10/2013	Sacramento, CA	Yes

	09/13/2013	Los Angeles, CA	Yes
Board Meetings 2014	02/21/2014	Sacramento, CA	Yes
	05/02/2014	Sacramento, CA	Yes
	08/08/2014	Sacramento, CA	Yes
	11/07/2014	Sacramento, CA	Yes
	12/19/2014	Sacramento, CA	Yes
Board Meetings 2015	03/06/2015	Los Angeles, CA	Yes†
	06/05/2015	Sacramento, CA	No
	09/18/2015	Sacramento, CA	Yes
	11/13/2015	Sacramento, CA	Yes
Public Education Committee Meetings 2015	02/19/2015	San Jose, CA – via teleconference	Yes
	05/21/2015	San Jose, CA – via teleconference	No - lack of quorum
	08/19/2015	San Jose, CA - via teleconference	No
	10/21/2015	San Jose, CA – via teleconference	Yes
Licensing Committee Meetings 2015	02/19/2015	San Jose, CA - via teleconference	Yes - lack of quorum
	05/21/2015	San Jose, CA - via teleconference	No - lack of quorum
	08/19/2015	San Jose, CA - via teleconference	No
	10/21/2015	San Jose, CA – via teleconference	Yes

†Partial attendance due to transportation and logistical issues

Dr. Michael A. Zapf, DPM			
Date Appointed:	January 10, 2013		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	n/a
	09/23/2011	Los Angeles, CA	n/a
Board Meetings 2012	02/24/2012	Sacramento, CA	n/a
	07/20/2012	Los Angeles, CA	n/a
	11/16/2012	Sacramento, CA	n/a
Board Meetings 2013	02/22/2013	Orange, CA	Yes
	05/10/2013	Sacramento, CA	Yes
	09/13/2013	Los Angeles, CA	Yes
Board Meetings 2014	02/21/2014	Sacramento, CA	Yes
	05/02/2014	Sacramento, CA	Yes
	08/08/2014	Sacramento, CA	Yes
	11/07/2014	Sacramento, CA	Yes
	12/19/2014	Sacramento, CA	Yes
Board Meetings 2015	03/06/2015	Los Angeles, CA	Yes
	06/05/2015	Sacramento, CA	Yes

	09/18/2015	Sacramento, CA	Yes
	11/13/2015	Sacramento, CA	Yes
Legislative Committee Meetings 2015	02/18/2015	Cerritos, CA – via teleconference	Yes
	05/20/2015	Thousand Oaks, CA – via teleconference	Yes
	08/19/2015	Thousand Oaks, CA - via teleconference	Yes
	10/21/2015	Thousand Oaks, CA – via teleconference	Yes
Dr. Judith Manzi, DPM			
Date Appointed:	September 03, 2014		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	n/a
	09/23/2011	Los Angeles, CA	n/a
Board Meetings 2012	02/24/2012	Sacramento, CA	n/a
	07/20/2012	Los Angeles, CA	n/a
	11/16/2012	Sacramento, CA	n/a
Board Meetings 2013	02/22/2013	Orange, CA	n/a
	05/10/2013	Sacramento, CA	n/a
	09/13/2013	Los Angeles, CA	n/a
Board Meetings 2014	02/21/2014	Sacramento, CA	n/a
	05/02/2014	Sacramento, CA	n/a
	08/08/2014	Sacramento, CA	n/a
	11/07/2014	Sacramento, CA	No
	12/19/2014	Sacramento, CA	No
Board Meetings 2015	03/06/2015	Los Angeles, CA	Yes
	06/05/2015	Sacramento, CA	Yes
	09/18/2015	Sacramento, CA	Yes
	11/13/2015	Sacramento, CA	Yes
Public Education Committee Meetings 2015	02/19/2015	Sacramento, CA	Yes
	05/21/2015	Sacramento, CA	Yes -- no meeting due to lack of quorum
	08/19/2015	Santa Clara, CA via teleconference	Yes
	10/21/2015	Santa Clara, CA – via teleconference	Yes
Dr. James J. Longobardi, DPM			
Date Appointed:	January 26, 2010		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	Yes
	09/23/2011	Los Angeles, CA	Yes

Board Meetings 2012	02/24/2012	Sacramento, CA	Yes
	07/20/2012	Los Angeles, CA	Yes
	11/16/2012	Sacramento, CA	Yes
Board Meetings 2013	02/22/2013	Orange, CA	Termed Out 12/21/2012
	05/10/2013	Sacramento, CA	Termed Out 12/21/2012
Term Expired 12/21/12			
Dr. Karen L. Wrubel, DPM			
Date Appointed:	May 16, 2007		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	Yes
	09/23/2011	Los Angeles, CA	Yes
Board Meetings 2012	02/24/2012	Sacramento, CA	Yes
	07/20/2012	Los Angeles, CA	Yes
	11/16/2012	Sacramento, CA	No
Board Meetings 2013	02/22/2013	Orange, CA	Yes
	05/10/2013	Sacramento, CA	Yes
	09/13/2013	Los Angeles, CA	Yes
Board Meetings 2014	02/21/2014	Sacramento, CA	Yes
	05/02/2014	Sacramento, CA	Yes
	08/08/2014	Sacramento, CA	Yes
	11/07/2014	Sacramento, CA	Termed Out 6/1/14
	12/19/2014	Sacramento, CA	Termed Out 6/1/14
Final Term Expired 6/1/14			
Raymond Cheng, AIA			
Date Appointed:	October 31, 2002		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	Yes
*** Term ended prior to the beginning of FY 11/12 and submission of 2011 Sunset Report**			
Aleida Gerena-Rios, MBA			
Date Appointed:	August 25, 2004		
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
Board Meetings 2011	02/11/2011	San Jose, CA	Yes
*** Term ended prior to the beginning of FY 11/12 and submission of 2011 Sunset Report**			

Table 1b. Board/Committee Member Roster (Last 4 FY 11/12 – 14/15)					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Raymond Cheng†	10/31/2002	5/16/2007	06/01/2010 Grace term exp 06/01/2011	Governor	Public
Aleida Gerena-Rios†	08/25/2004	06/01/2007	06/01/2011 Grace term exp	Senate	Public
Karen L. Wrubel	05/16/2007	12/21/2010	06/01/2014	Governor	Professional
James J. Longobardi	01/26/2010		12/21/2012*	Governor	Professional
Neil B. Mansdorf	01/26/2010	12/21/2012	06/01/2016	Governor	Professional
Kristina M. Dixon	02/02/2010	11/15/2010 11/24/2014	06/01/2014 06/01/2018	Speaker	Public
Edward E. Barnes	06/15/2011	Did not seek reappointment	06/01/2015	Senate Rules	Public
John Y. Cha	12/31/2012		06/01/2016	Governor	Professional
Michael A. Zapf	01/10/2013	07/23/2014	06/01/2017	Governor	Professional
Melodi Masaniai	04/24/2013	06/06/2014	06/01/2018	Governor	Public
Judith Manzi	09/03/2014		06/01/2018	Governor	Professional
Senate Rules Appointee Vacancy	06/01/2015		06/01/2019	Senate Rules	Public
***Served entirety of partial term appointment** **†Term ended prior to the beginning of FY 11/12**					

2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?

The board and its members have demonstrated an excellent record of service and dedication to the board's mission of public protection. With the sole exception of three committee meetings that were unable to convene due to a lack of quorum in 2015, the board has achieved a nearly unblemished record of assembly throughout the last four fiscal years. This may be quantified as a 100% successful record of assembly for full meetings of the board during the last four fiscal years and a 84% record of assembly for committees since implementation of committee meetings beginning calendar year 2015 and measured through to October 2015.

As more fully described in response to question 3 below, the board adopted a new committee meeting schedule with separate open and noticed committee meetings for the 2015 calendar year. This recently implemented modification had been a change from past practice. However, due to committee membership consisting of only two members per committee, unforeseen transportation issues or last minute schedule

demands with a single committee member may very easily thwart a committee quorum rather unexpectedly.

This situation occurred to the Licensing Committee in February and May of 2015 and once with the Education Committee also in May of the same year. The inability to go forward was not terribly disruptive to operations as all committee business was simply forwarded to the full board without recommendation. In an effort to combat the issue, the board has implemented a set meeting schedule with all committees convening on the Wednesday three weeks before the scheduled meeting of the board. This permits members to quickly and easily determine the committee meeting schedule far into the future and to plan schedules accordingly.

3. Describe any major changes to the board since the last Sunset Review, including:

- **Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)**

Beginning with membership changes in board composition, the Board of Podiatric Medicine saw the departures of members Dr. James J. Longobardi, DPM; Dr. Karen L. Wrubel, DPM; and Mr. Edward E. Barnes since the last Sunset Review. Vacancies have since been filled by incoming members Dr. John Y. Cha, DPM; Dr. Michael A. Zapf, DPM, Ms. Melodi Masaniai and Dr. Judith Manzi, DPM. A Senate Rules appointee position continues to remain vacant since June 2015 as of the date of this writing.

The 2011 calendar year carried with it the board leadership of Dr. Karen L. Wrubel, DPM, and Dr. Neil B. Mansdorf, DPM, as board president and vice-president, respectively. In turn, during calendar year 2012, leadership of the board was exchanged with Dr. Neil B. Mansdorf, DPM, ascending to the board presidency and with Dr. James J. Longobardi, DPM, joining as Vice-President. Dr. Mansdorf, DPM, retained the board presidency during 2013 and was joined by Kristina M. Dixon, MBA as Vice-President. In 2014, Ms. Dixon succeeded Dr. Mansdorf to the board presidency and was joined by Dr. John Y. Cha, DPM, serving as Vice-President. Both Ms. Dixon and Dr. Cha, retain their positions for 2015.

In addition to the membership and leadership changes described above, with board adoption of its new Strategic Plan for 2015-2018 at the March 6, 2015 meeting of the board, the board has endeavored to rededicate itself to enhanced consumer protection outreach and education. The new Strategic Plan has brought forth a new mission, vision and values statement with ambitious drive for accomplishing increased public outreach to stakeholders, consumers and the profession.

As a result, following a near decade hiatus without separately convened meetings of the standing and advisory committees of the board, consideration of issues associated with non-convening committees led the board to approve a quarterly meeting schedule with separate open and noticed committee meetings for the 2015 board meeting calendar. This more fully open and transparent posture has brought forth a number of significant benefits not least of which include greater opportunities for public engagement; increased occasions to address issues that are important to the practice community; and lending a more active and engaged standing committee structure.

Finally, in March 2015 the board also moved toward the creation of a comprehensive Board Administrative Manual containing all critical and applicable laws, governance policies, and procedures in order to provide a solid reference framework for member guidance and to foster stability, continuity and enhanced effectiveness in achieving the board's consumer protection mandate. While the manual currently remains under development and in draft form, it is provided as an accompanying attachment marked Exhibit A under section 12 of this report. It is expected to be approved and adopted by the board by late 2015 or early 2016.

- **All legislation sponsored by the board and affecting the board since the last sunset review.**

The following list below delineates all legislation sponsored and/or affecting the board since the last Sunset Review.

2011

AB 415 (Logue, Chapter 547) Telehealth
This bill enacted the Telehealth Advancement Act of 2011 which facilitated telehealth as a service delivery mode in managed care.

AB 541 (Price, Chapter 339) Expert Consultants
This bill enabled all boards within DCA to continue to use expert consultants through use of a simplified and expedited procurement process.

AB 1127 (Brownley, Chapter 115) Unprofessional Conduct – Failure to Participate in Board Interview
This bill provided that unprofessional conduct includes the repeated failure of a licensee who is the subject of a board investigation to participate and attend in a board interview scheduled by mutual agreement absent good cause.

AB 1424 (Perea, Chapter 455) – Delinquent Tax Debt
This bill authorized all licensing programs under the Department of Consumer Affairs except the Contractors' State Licensing Board to deny, suspend or revoke a license if the licensee or applicant appeared on the list of 500 largest tax delinquencies over $100,000 by the Franchise Tax Board or State Board of Equalization and authorized the Department to act in the event that a board did not.

2012

AB 1588 (Atkins, Chapter 742) Reservist Licensees – Fees and Continuing Education
This bill authorized a waiver from license renewal fees and continuing education requirements for any licensee of a program under the Department of Consumer Affairs who is called to active duty by the U.S. Armed Forces or National Guard.

AB 1733 (Logue, Chapter 782) – Telehealth
This bill clarified that health care practitioners may practice telehealth only within the parameters of their individual scopes of practice and made clear the authority of all boards to regulate telehealth.

AB 1904 (Block, Chapter 399) Military Spouses – Expedited Licensure
This bill required expedited licensure by any licensing program within the Department of Consumer Affairs for any spouse or domestic partner of a member of the military on active duty and assigned to a duty station within the state.

AB 2570 (Hill, Chapter 561) Licensees – Settlement Agreements
This bill prohibited any licensee of any program within the Department of Consumer Affairs from using or allowing the use of confidentiality clauses in settlement agreements.

SB 1236 (Price, Chapter 332) Board of Podiatric Medicine
This bill extended authorization for BPM until January 1, 2017, and eliminated the requirement that applicants obtain a higher passing score than the national passing score. This bill also authorized doctors of podiatric medicine to examine a patient in an acute care hospital.

SB 1575 (B&P Comm., Chapter 799) Omnibus
This bill required the board to provide written notification to a doctor of podiatric medicine who does not renew his or her license within 60 days of expiration either by certified mail or by electronic mail if requested by the licensee.

2013

AB 258 (Chavez, Chapter 227) Veterans
This bill required state agencies inquiring into an applicant's veteran status to ask if he or she ever served in the United States military.

AB 1057 (Medina, Chapter 693) Licenses – Military Service
This bill provided that all licensing programs within the Department of Consumer Affairs must inquire whether the applicant is serving or has previously served in the military.

SB 304 (Lieu, Chapter 515) Healing Arts – Boards
This bill provided for the transfer of all Medical Board investigative staff utilized by BPM under a shared services agreement to the Department of Consumer Affairs Division of Investigation (DOI) and extended the vertical enforcement process indefinitely. The bill also created the Health Quality Investigation Unit within DOI and tasked it with primary responsibility for investigation of violations within the jurisdiction of BPM.

SB 305 (Lieu, Chapter 516) Healing Arts – Board Authority
This bill clarified the authority of licensing entities within the Department of Consumer Affairs to obtain local and state records of arrests and convictions and related documentation in connection with applicant or licensee investigations.

SB 809 (DeSaulnier, Chapter 400) CURES
This bill established the Controlled Substances Utilization Review and Evaluation System (CURES) within the State Treasury for funding maintenance and operation of the system administered by the Department of Justice through a $6 annual fee on licensee populations authorized to prescribe or dispense controlled substances.

2014

AB 809 (Logue, Chapter 404) – Telehealth
This bill revised patient consent telehealth provisions and permits written in addition to oral consent for a designated course of health care and treatment.

AB 2396 (Bonta, Chapter 737) – Licensees – Expungement
This bill prohibited licensing boards under the Department of Consumer Affairs from denying an applicant a license based solely on a single conviction if it was dismissed pursuant to Penal Code expungement procedures.

AB 2720 (Ting, Chapter 510) – Open Meetings – Record of Actions Taken
This bill amended the Bagley-Keene Open Meeting Act to require all state bodies to keep a record of and publicly report every vote and abstention of each voting member of a board, committee or commission.

SB 1159 (Lara, Chapter 752) – License Applicants – Federal Tax Identification Number
This bill required all programs within the Department of Consumer Affairs to accept individual taxpayer identification numbers of any applicant in lieu of social security numbers and directs licensing programs to issue licenses to qualified individuals notwithstanding unlawful presence in the United States.

- **All regulation changes approved by the board the last sunset review. Include the status of each regulatory change approved by the board.**

The following list below delineates all regulatory changes approved by the board since the last Sunset Review.

2011
No regulatory changes proposed for adoption or approved in 2011.

2012
No regulatory changes proposed for adoption or approved in 2012.

2013
No regulatory changes proposed for adoption or approved in 2013.

2014
No regulatory changes proposed for adoption or approved in 2014.

4. Describe any major studies conducted by the board (cf. Section 12, Attachment C).

A major formal study conducted by the board since the last Sunset Review includes a Fee Audit commissioned by the Executive Officer on July 14, 2015, after a motion for authorization to pursue an independent fee rate analysis for determining the long term sustainability of the board's existing fee structure was approved by BPM at its June 6, 2015 meeting of the board. The fee study and its findings and conclusions are further discussed in response to Question 9 of Section 3 below.

Recently, during September 2015, the board also completed an Equal Employment Opportunity (EEO) Survey of its pool of professional podiatric Consultants and Experts retained by BPM for evaluation of quality of care issues arising in connection with the BPM's Enforcement Program. Survey results are discussed in greater detail under question 56 of Section 8.

Copies of both documents have been provided for review as part of the oversight hearing process as requested under Section 12 – Attachments and labeled Exhibit C and C1, respectively.

5. List the status of all national associations to which the board belongs.

BPM holds membership with the Federation of Podiatric Medical Boards (FPMB). The FPMB is responsible for providing state podiatric licensing boards with score results for Part III of the national licensing examination and also serves as a clearinghouse of disciplinary action data to state boards and other designated entities. The FPMB is the only national organization to which BPM is a member.

- **Does the board's membership include voting privileges?**

Yes. The board's FPMB membership includes voting privileges at the national association's Annual Meeting held out of state. However, state travel restrictions which preclude non-mission critical travel continue to remain in effect and inhibit attendance and exercise of voting privileges.

- **List committees, workshops, working groups, task forces, etc., on which board participates.**

BPM has not actively participated in national association committees, workshops, task forces, etc..

- **How many meetings did board representative(s) attend? When and where?**

Given the current participation level discussed immediately above, there is nothing to report regarding meeting attendance by board representatives at this time.

- **If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?**

BPM is not directly involved in current development, scoring, analysis or administration efforts of the American Podiatric Medical Licensing Examination (APMLE), Parts I, II, and III administered by the National Board of Podiatric Examiners (NBPME). The board had previously been a vocal supporter of testing upgrades for appropriately gauging competencies expected of candidates with one year of post-graduate training which were eventually implemented by NBPME in 2011.

The board continues to monitor NBPME and communicate as needed. Most recently it has been noted that after an initial pilot testing effort following a multi-year design study, NBPME has elected to offer and implement a Clinical Skills Patient Encounter ("CSPE")

examination to coincide with APMLE Part II. Accordingly, BPM is aware that there will shortly be two official sections for Part II of the APMLE exam; Part II Written and the new Part II CSPE. The written and traditional portion of Part II which is the required part for board licensure is designed to assess a candidate's knowledge in the clinical areas of Medicine, Radiology, Orthopedics, Biomechanics and Sports Medicine; Anesthesia and Surgery and other subjects. On the other hand, the clinical portion of the new Part II exam is designed to assess a candidate's proficiency in podiatric clinical tasks that are needed to enter into residency. Examinees are expected to perform a focused physical examination that includes podiatric and general medicine physical exam maneuvers appropriate for each patient presentation.

Accordingly, NBPME has elected to begin administration of Part II CSPE in August 2016 for the expected graduating class of 2017. Administrative difficulties prevented implementation for the class of 2016. BPM will be monitoring these developments for future determination as to whether to officially incorporate Part II CSPE as part of its state licensure requirements in the future.

Performance measures and Customer Satisfaction Surveys

- Performance measure reports published by the department of consumer affairs
- Consumer satisfaction surveys

Section Two

Sunset Review Report 2015

Section 2 – Performance Measures and Customer Satisfaction Surveys

6. Provide each quarterly and annual performance measure report for the board as published on the DCA website.

Quarterly and annual performance measure reports as published on the DCA website for BPM are provided for review as requested and may be found under Section 12 and are labeled as Exhibits H through W.

7. Provide results for each question in the board's customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

Customer satisfaction surveys for BPM have been consistently sent with every complainant closure letter encouraging consumers to respond with their views. This is done in a genuine effort to determine public opinion regarding BPM enforcement performance in the same manner as for the Medical Board. This process includes recording consumer response data returned to DCA and analysis by staff with the Strategic Organization Leadership and Individual Development ("SOLID") department. Quarterly reports are prepared for boards having more than 4 or more responses in the previous quarter.

No reports have been compiled or received by BPM to date. This may be attributed to the traditionally low volume of consumer complaints fielded by the board per year which average less than 130 annually, in addition to the fact that survey response rates are extremely low; with only 1% of complainants historically completing and returning any survey response at all. As a result, BPM does not have any customer satisfaction survey data results to report and has been advised that none are on record after repeated inquiry for same.

Notwithstanding, given the utilization of MBC services for all BPM complaint processing and investigation, that handle DPM complaints and investigations identically to those of any other licensed medical doctor, it is not unreasonable to conjecture that any survey respondent would likely convey the same impressions of service as those expressed for the larger Medical Board.

Fiscal and Staff

- Board Current Reserve Level and Spending
- Deficit projections and anticipated fee changes
- General fund Loans
- Board Expenditure Percentages by Program Component
- Budget distribution
- License Renewal Cycle and History of Fee Changes
- Budget change proposals
- Staffing Issues
- Staff Development Efforts

Section 3 – Fiscal and Staff

Fiscal Issues

Existing solely to serve the public, the board's mission is accomplished without reliance on taxpayer monies from the State's General Fund. As may be seen in the following Tables, through careful fiscal stewardship and budgetary discipline, the board has diligently operated totally within funding levels generated exclusively from fees set by statute and collected from licensees and applicants.

8. Describe the board's current reserve level, spending, and if a statutory reserve level exists.

When determining the current budgetary reserve level calculated by dividing the existing fund balance in any fiscal year by total projected expenditures for the next fiscal year and multiplying the quotient by 12, the board's current reserve level measures 12.6 months of operating funds.

Calculating the board's current spending as an average of the last three fiscal year expenditure levels yields a current spending rate of approximately $894,000 annually.

While a statutory reserve level does not exist, board management believes it critical to maintain a robust reserve level given the unpredictable nature of potential enforcement costs. This position is supported by past institutional history and experience. In the late nineties the board faced extraordinary and unplanned costs of investigation and prosecution for a single specific case in addition to associated defense litigation expenses for 25 counter lawsuits initiated against the board by a single defense attorney which nearly exceeded a total capital outlay of $400,000 to defend against.

While all lawsuits were eventually dismissed by the Superior Court, the litigation had been characterized on record as being both a concerted effort to bankrupt the board and a defense strategy to litigate the board out of existence by financially forcing a merger with MBC.

9. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.

No deficits are anticipated to occur for at least the next two fiscal years when assuming fiscal year revenues and budget authority using the Governor's most recent proposed budget in addition to future expenditure projections based on percentages reverted in

the prior three full fiscal years. Table 2 immediately below best illustrates this scenario using the parameter assumptions just discussed.

However, when accounting for the future effects of anticipated retirements to BPM's relatively invariable licensee base and revenue stream in addition to factoring increasing departmental and statewide pro rata expenditures necessary to fund the department-wide BreEZe project, these foreseeable cost increases and reductions to the revenue base are expected to result in a slight fiscal imbalance that will gradually and incrementally start to chip away at the fund over time beginning FY 16/17.

This scenario is illustrated in Table 18a and 18b of the board's recently completed Fee Audit accompanying the Sunset Report and labeled as Exhibit C under section 12. This issue and proposed options are discussed more fully in response to Issue no. 3 under section 11 near the end of this report.

Table 2. Fund Condition

(Dollars in Thousands)	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Beginning Balance	857	863	908	945	993	1039
Revenues and Transfers	921	895	996	909	943(proj)	942(proj)
Total Revenue	**$1778**	**$1758**	**$1904**	**$1854**	**$1936**	**$1981**
Budget Authority	1367	1393	1438	1446	1466	1466(est.)
Expenditures	919	865	957	861	894(proj)	894(proj)
Fund Balance	$859	$893	$947	$993	$1039	$1090
Months in Reserve	**11.9**	**10.8**	**12.6**	**12.6**	**13.3**	**13.9**

*Fund Balance and Beginning Balance do not tie due to prior year adjustments.

10. Describe the history of general fund loans. When were the loans made? When have payments been made to the board? Has interest been paid? What is the remaining balance?

The history of BPM general fund loans is provided in BPM Table 2a below. As may be noted only a single loan has been made in nearly two decades. It was fully satisfied including interest in FY 00/01.

BPM Table 2a. General Loan Fund History

Fiscal Year	Loan	Repayments	Balance
91/92	$625,000	-	$625,000
92/93 – 95/96	-	-	-
96/97	-	$140,000	$547,442
97/98	-	-	-
98/99	-	$438,550	$140,113
99/00	-	-	-
00/01	-	$140,115	$0

11. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

Referencing Table 3 below, during the last four fiscal years the average amounts and percentages broken out by board program component total the following amounts:

- Licensing Expenditures: $95,000 annual average: 10.2% of total spending
- Enforcement Expenditures: $332,000 annual average: 34.2% of total spending
- Admin Expenditures: $386,000 annual average: 39.6% of total spending
- Pro Rata Expenditures: $155,000 annual average: 16% of total spending

Table 3. Expenditures by Program Component (list dollars in thousands)

	FY 2011/12		FY 2012/13		FY 2013/14		FY 2014/15	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Licensing	65	27	63	32	80	27	58	28
Enforcement	65	327	63	258	80	210	58	266
Administration*	290	85	279	101	341	86	269	91
DCA Pro Rata	-	135	-	127	-	203	-	156
TOTALS	$420	$574	$405	$518	$501	$526	$385	$541

*Administration includes costs for executive staff, board, administrative support, and fiscal services.

12. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.

Pursuant to section 2423 of the California Business and Professions Code (B&P) certificates to practice podiatric medicine are renewed on a two-year (biennial) cycle. The biennial renewal cycle is echoed in section 2499.5(c) B&P.

The statutory fee authorities for the majority of board fees are contained in section 2499.5 B&P and are as follows:

- Application Fee: $20 Section 2499.5(a) B&P
- Certificate Fee: $100 Section 2499.5(a) B&P
- Oral Exam Fee: $700 Section 2499.5(b) B&P
- Initial License Fee: $800 Section 2499.5(c) B&P
- Biennial Renewal Fee: $900 Section 2499.5(d) B&P
- Delinquency Fee: $150 Section 2499.5(e) B&P
- Duplicate Wall Certificate Fee: $40 Section 2499.5(f) B&P
- Duplicate Renewal Receipt: $40 Section 2499.5(g) B&P
- Endorsement Fee: $30 Section 2499.5(h) B&P
- Letter of Good Standing Fee: $30 Section 2499.5(i) B&P
- Resident's License Fee: $60 Section 2499.5(j) B&P
- Ankle License Application Fee: $50 Section 2499.5(k) B&P
- Ankle License Exam Fee: $700 Section 2499.5(k) B&P
- Exam Appeal Fee: $25 Section 2499.5(l) B&P
- CME program Approval Fee: $100 Section 2499.5(m) B&P
- Penalty Fee: $450 Section 2424(b)(2) B&P

Other than a permanent increase of $100 to the biennial license renewal fee effective 2005 made possible under SB 1549 [Figueroa, Statutes of 2004, Chapter 691], there has been no history of fee increases to the board statutory fee authorities referenced above in over 10 years.

Table 4. Fee Schedule and Revenue (list revenue dollars in thousands)

Fee	Current Fee Amount	Statutory Limit	FY 2011/12 Revenue	FY 2012/13 Revenue	FY 2013/14 Revenue	FY 2014/15 Revenue	% of Total Revenue
CURES	12	12	0	0	3	12	0.40%
Limited License Fee	60	60	2	2	3	3	0.27%
Duplicate License	40	40	0	0	1	1	0.05%
Duplicate Renewal Receipt	40	40	1	1	0	0	0.05%
Letter of Good Standing	30	30	2	2	1	1	0.16%
Citation Fee - Variable	Var	5000	1			4	0.13%
Application Fee	20	20	2	2	2	2	0.22%
Fictitious Name Permit	50	50	1	1	2	2	0.16%
National Board Certificate	100	100	6	7	7	7	0.73%
Initial License	800	800	49	52	56	54	5.70%
Fictitious Name Renewal	40	40	7	7	7	6	0.73%
Biennial Renewal	900	900	844	813	906	806	90.93%
DPM Delinquent Fee	150	150	1	2	2	2	0.19%
Penalty Fee	450	450	2	3	2	3	0.27%

13. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

There have not been any Budget Change Proposals submitted by the board in the last four fiscal years.

Table 5. Budget Change Proposals (BCPs)

BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	$ Requested	$ Approved	$ Requested	$ Approved
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Staffing Issues

14. Describe any board staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.

The four years since the last Sunset Review also wrought extraordinary change in board executive management and administration staff beginning with the retirement of Executive Officer Jim Rathlesberger, M.P.A., in 2014. Mr. Rathlesberger's 25 years of dedicated public service with the board was instrumental in achieving many critical licensing initiatives and signature reforms, unique in California, that continue to advance consumer protection for the people of the state.

The retirement also brought with it the recruitment and selection of Jason S. Campbell, J.D., as Executive Officer for the board on May 22, 2014. Mr. Campbell is a former government agency ethics official with a strong background in regulatory enforcement and compliance who continues the consumer protection mission of the board through diligent enforcement of board's licensing, regulatory and disciplinary functions.

2014 also brought with it two staff vacancies, beginning with the departure of the Licensing Coordinator in April 2014, who served BPM for just less than three years. As a result, BPM promoted its incumbent Office Technician to Staff Services Analyst (SSA) over the Licensing Coordinator function after holding an open recruitment and selection. In an effort to realize additional personnel cost savings, the vacant Office Technician position was in turn reclassified to a Program Technician classification. The move offered BPM a $289-$406 monthly budgetary savings opportunity. The vacancy was successfully filled October 2014 by a candidate recruited and selected from the California Franchise Tax Board who had previous experience serving with the California Secretary of State.

During the Program Technician vacancy period, BPM's Administration Analyst elected to pursue a promotional opportunity within the Department of Consumer Affairs BreEZe Integration team in August 2014 after a total of 10 years of public service with BPM. While the incumbent's departure was an especial loss given the instrumental role played in assisting BPM achieve a near seamless transition to the BreEZe system, the board is pleased to have been able to serve as a foundational role for continued professional growth and advancement within state service for staff.

The Administration Analyst position was reclassified into a dual class Staff Services Analyst/Associate Governmental Program Analyst (SSA/AGPA) position in order to broaden the potential applicant pool and to also potentially realize additional personnel cost savings of up to $1583 monthly should a qualified SSA be selected. The Administration Analyst position was in turn successfully filled in January 2015 by an AGPA candidate brought over from the California Public Employee's Retirement System

with a strong background in board governance and administration as well as experience managing national health associations in the private sector.

As a result of the above described vacancies and corresponding recruitment and selection efforts, board administrative personnel operated at 75% of staff capacity from May to August 2014. With the onset of the second employee departure that year, staffing levels sunk to a low of 50% operating capacity from August to October 2014. The 50% vacancy rate presented significant challenges to board operations and was an extremely demanding period, but through the willful determination and extraordinary effort of remaining analyst staff, the board was able to maintain all critical functions, with the exception of the FY 13/14 CME audit, unimpeded and uninterrupted.

15. Describe the board's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).

The board considers staff to be "the" most valuable resource available. This feeling is echoed by executive management. Accordingly, during the last fiscal year development planning has taken center stage in addition to concerted efforts by the executive to foster an environment of ongoing support, professional growth and knowledge sharing. The board avails itself of the many training opportunities provided at no cost to BPM through the Department of Consumer Affairs Strategic Organization, Leadership and Individual Development program (SOLID). Table 5a below provides an itemization of courses taken by staff in the last four fiscal years.

Table 5a. Staff Development Courses

FY	Cost	Staff	Course Title	Description
14/15	N/C	Licensing	First Aid/CPR/AED Certification Class	Emergency Response Team Required Training
	N/C	All	True Colors	Teambuilding activities to strengthen communication and cooperation with coworkers
	N/C	All	Privacy and Security from within DCA	Privacy and Security Training
	N/C	Executive	Defensive Driver Training	General safe and healthy work practices training and specific instructions with respect to workplace hazards associated with their job assignments
	N/C	Executive	DCA Board Member Orientation Training	Roles and responsibilities of board Members
	N/C	Executive	Ethics Orientation for State Officials - Department of Justice	Laws governing acceptable practices as a state official

	N/C	All	DCA Sexual Harassment Prevention Training	Sexual Harassment prevention
	N/C	Program Support/ Administrative	Welcome to DCA	New Employee Orientation to familiarize yourself with DCA
	N/C	Program Support	Excel 2010 - Level 1	Know and use the basic tools and features available in Excel 2010
	N/C	Program Support/ Administrative	DCA Purchasing Process	2-day training exploring the interrelated pieces required to successfully complete the purchasing process
	N/C	Program Support	PowerPoint 2010 - Level 1	Know and use the basic tools and features available in PowerPoint 2010
	N/C	Program Support	Non-IT Contracts	Overview of the DCA contract process
	N/C	Program Support	CalATERS Training	Travel Reimbursement Training
	N/C	Program Support	Growing in your State Career	Topics that are covered include, the state exam process, building your resume, and successful interview techniques
	N/C	Program Support/ Enforcement/ Administrative	Excel 2010 - Level 2	Learn how to use the advanced tools and features of Excel 2010
	N/C	Enforcement	Effective Public Speaking	Public Speaking Training
	N/C	Executive	Delegated Contracts	Overview of the Delegated Contract process
	N/C	Executive	Hiring and Onboarding New Employees	Policies regarding recruiting valuable and effective employees
	N/C	Executive	Bagley-Keene Open Meeting Act Training	Open Meeting Act Training
	N/C	Executive	Abbreviated Expert Consultant Delegated Contract	Delegated Contracts Training
	N/C	Executive/ Administrative	Legislative Process	Legislative Process Training
	$250	Administrative	2016-17 Governor's Budget Training	Technical training on the 2016-17 Governor's Budget process
13/14	N/C	All	Preventing Harassment and Other EEO Issues at Work: It's All About Respect (AB 1825 Compliance)	Preventing Harassment Training
12/13	N/C	Licensing/	Preventing Harassment	Preventing Harassment

		Administrative	and Other EEO Issues at Work: It's All About Respect (AB 1825 Compliance)	Training
11/12	N/C	Licensing	Safety and Crime Prevention	
	N/C	All	Preventing Harassment and Other EEO Issues at Work: It's All About Respect (AB 1825 Compliance)	Preventing Harassment Training
	N/C	Licensing	Excel 2010 - Level 1	Know and use the basic tools and features available in Excel 2010
	N/C	Licensing	Growing in your State Career	Topics that are covered include, the state exam process, building your resume, and successful interview techniques
	N/C	Executive/ Administrative	Delegated Contracts	Overview of the Delegated Contract process
	N/C	Administrative	Safety and Crime Prevention	
	N/C	Administrative	Microsoft Access 2007 - Level 2	Know and use the basic tools and features available in Microsoft Access 2007

Licensing program

- Performance targets/expectations
- Timeframes for application review and licensing – performance barriers/improvements made
- Cycle times
- Verification of applicant information – criminal history information/prior disciplinary action
- Applicant/licensee fingerprints
- National practitioner databank and physician information
- Primary source verification
- Legal requirements and process for out-of-state and out-of-country applicants
- no longer interested notification to DOJ
- examination process/data - pass rates
- existing statute changes
- school approval

Section Four

Sunset Review Report 2015

- Legal requirements regarding approval of international schools
- Continuing medical education/competency requirements
- Verification of CME
- CME audits
- CME course approval
- Auditing CME providers
- Licensees' continuing competence

Section 4 – Licensing Program

16. What are the board's performance targets/expectations for its licensing[1] program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

The board's performance target for license processing is to provide same-day issuance of certificates to practice podiatric medicine once all documents satisfying an applicant's licensure requirements have been received. Applicants are often personally guided through the application process and in some instances are immediately telephoned with their new license number when issued which then appears on the system in real time under the new BreEZe system. This internal performance target/expectation is being satisfactorily met as it has been for several decades and serves as a matter of personal pride for all board staff. BPM's focus on customer-centric processes has directly contributed to the creation of a personalized, streamlined and efficient licensing program function that has eliminated delay and backlog for nearly 25 years.

17. Describe any increase or decrease in the board's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the board to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?

Since BPM began primary-source verification of credentials in 2003, the board has relied on the exchange of credentials and verifications from source institutions by postal mail. Accordingly, average license processing times—from the time of receipt of the application and all required supplemental documentation including applicable fees to the time of approval and issuance of a certificate—are wholly predicated on the applicant's speed, ability and efficiency in contacting source institutions and having them forward all required credentials that affirmatively demonstrate qualification for licensure directly to BPM. This has translated into a 64-day average licensing cycle time for the last four fiscal years as illustrated in Table 7a.

Again, the bulk of this time is directly attributed to the time it takes an applicant to coordinate mail delivery of all licensure materials such as educational transcripts, certificates of approved residency training, certified examination scores and disciplinary

[1] The term "license" in this document includes a license certificate or registration.

databank reports directly to BPM from source institutions. Notwithstanding, there has not been an appreciable backlog of pending applications nor has there ever been a growth rate that would exceed completed applications. Of the 13 total pending applications handled by BPM in the last four fiscal years; 3 in FY 12/13; 4 in 13/14; and 6 in 14/15; all 13 have been attributed to factors entirely outside of board control.

BPM is gradually beginning to accept and expand its use of electronic source verification from an ever increasing number of institutions. Electronic primary source verification represents a significant advance over the paper verification process. Various security features also ensure that only certain institutional officials are able to send credentials. This process eliminates both transit time and delivery delay normally associated with use of the mails and serves as a benefit to source institutions and the applicant. It is expected that as more and more institutions begin to implement electronic source documents for verification, average BPM licensing cycle times will continue to decline.

18. How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?

The total yearly license issuance data for BPM is contained in Table 7b below. As may be seen, the board issues an average of 106 licenses each year for a grand total of 425 new licenses issued in the past four years. This figure includes a combined average total for both permanent DPM licenses and Resident licenses which may be roughly segregated out along a 60/40 percentage split, respectively. The board also issues an average of 1106 renewals each year. Table 7a supplies the pertinent figures below. Referencing the data indicates that 1114 renewals were issued FY 11/12; 1032 renewals were issued in FY 12/13; 1126 renewals were issued in FY 13/14; and 1052 renewals issued in FY 14/15.

Table 6. Licensee Population

		FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Doctor of Podiatric Medicine	Active	2144	2155	2288	2249
	Out-of-State	281	308	332	373
	Out-of-Country	6	6	9	9
	Delinquent	120	118	145	218
Resident	Active	116	121	122	117
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	0	0	0	0
Fictitious Name Permit	Active	592	604	337	318
	Out-of-State	0	0	0	0

	Out-of-Country	0	0	0	0
	Delinquent	322*	325*	390*	424*

*The Medical Board of California (MBC) handles Fictitious Name Permit (FNP) application processing for the Board of Podiatric Medicine. The delinquency rate for FNPs is attributable to non-renewal. Barring subsequent renewal by a registrant, an FNP will remain in delinquent status for a total of 5 years. All FNPs will automatically cancel following a 5 year period of delinquency. MBC is aware of the high delinquency rate and is making an effort to reach out to delinquent FNP registrants for resolution.

Table 7a. Licensing Data by Type

	Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside board control	Within board control	Complete Apps	Incomplete Apps	combined, IF unable to separate out (days)
FY 2011/12	Permanent*	64	64	64	64	0	0	0	-	-	71
	Resident**	36	36	36	36	0	0	0	-	-	
	Renewed	1114				n/a					
FY 2012/13	Permanent	69	66	66	66	3	3	0	-	-	67
	Resident	45	45	45	45	-	-	-	-	-	
	Renewed	1032				n/a					
FY 2013/14	Permanent	60	60	60	60	-	-	-	-	-	55
	Resident	51	47	47	47	4	4	-	-	-	
	Renewed	1226				n/a					
FY 2014/15	Permanent	69	69	69	69	-	-	-	-	-	63
	Resident	44	38	38	38	6	6	-	-	-	
	Renewed	1052				n/a					

*Permanent DPM License **Resident/Limited/Temporary DPM License

Due to BreEZe database conversion in October 2013, data for FY 13/14 was obtained from two different sources using a different methodology than other fiscal years

Table 7b. Total Licensing Data

		FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Initial Licensing Data:					
Initial License Applications Received	Permanent	64	69	60	69
Initial License Applications Approved	Permanent	64	66	60	69
Initial License Applications Closed	Permanent	64	66	60	69
Initial License Applications Received	Resident (Limited/Temporary)	36	45	51	44
Initial License Applications Approved	Resident (Limited/Temporary)	36	45	47	38
Initial License Applications Closed	Resident (Limited/Temporary)	36	45	47	38
Total Initial License Issued – Permanent and Resident		100	111	107	107
Initial License Pending Application Data:					

Pending Applications (total at close of FY)	0	3	4	6
Pending Applications (outside of board control)*	0	3	4	6
Pending Applications (within the board control)*	0	0	0	0
Initial License Cycle Time Data (WEIGHTED AVERAGE):				
Average Days to Application Approval (All - Complete/Incomplete)	71	67	55	63
Average Days to Application Approval (incomplete applications)	Combined cycle times (unable to separate)			
Average Days to Application Approval (complete applications)				
License Renewal Data:				
License Renewed – Permanent and Resident	1114	1032	1226	1052
Due to BreEZe database conversion in October 2013, data for FY 2013-14 was obtained from two different sources using a different methodology than other fiscal years				

19. How does the board verify information provided by the applicant?

Since passage of AB1777 [Statutes 2003, Chapter 586], the board standard has been to require 100% primary source verification for all applicant information. BPM thus requires all applicant information to be supplied directly from original sources alone. This standard ensures qualification and credential authenticity and accuracy and remains a critical tool for combatting document falsification.

a. What process does the board use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?

Before any license to participate in a California podiatric residency program or to practice podiatric medicine in California is issued, BPM requires that a criminal record clearance be obtained through both the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI).

This process is facilitated through DOJ's Live Scan Program; the State's electronic fingerprinting system with automated background check and response. Live Scan is offered as an alternative to the traditional paper and ink fingerprint cards. Out-of-state applicants must contact the board to request that fingerprint cards be mailed to them and completed with assistance of a local law enforcement office and submitted with the license application. While either option is available to applicants, those residing in California are strongly encouraged to use the Live Scan option as it provides quicker processing times usually taking 48 to 72 hours as opposed to 60 days for traditional fingerprint cards with processing costs being the same.

Applicants must also arrange to have the national disciplinary databank report sent directly to BPM which may disclose information regarding any existing malpractice suits filed or other adverse action taken against the applicant. Additionally, those applicants currently or previously licensed in another state or states are required to have each respective state licensing agency submit a license verification containing current status and any existing disciplinary actions or investigations directly to the board.

b. Does the board fingerprint all applicants?

Yes. All applicants for licensure including those applying for a resident's license are fingerprinted.

c. Have all current licensees been fingerprinted? If not, explain.

Yes. All current and existing licensees have been fingerprinted.

d. Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?

Yes. There is a national disciplinary databank report sent directly to BPM from the Federation of Podiatric Medical Boards that is reviewed for information regarding any existing malpractice suits filed or other adverse actions taken against an applicant as a qualification for licensure before issuance. Applicants must arrange to have the national disciplinary databank report sent directly to BPM for review by the board prior to license issuance.

Licensees renewing their certificates to practice podiatric medicine are required to disclose any convictions for any crimes in any state and/or disciplinary action taken by any government agency or other disciplinary body on their biennial renewal form under penalty of perjury. The board also has mandatory reporting from several entities that are received by the board's Enforcement Program which in turn determines the appropriate action to pursue. Finally, because fingerprinting is a requirement for podiatric medical licensure, the board Enforcement Program also receives automatic DOJ notification of any subsequent arrest of any active licensee pursuant to section 11105.2 of the California Penal Code which are reviewed for a determination if action should be taken.

e. Does the board require primary source documentation?

Yes. Having been an early champion and recommending primary source verification as a statutory requirement for licensing DPMs in California, BPM has fully adopted and implemented primary source documentation which remains the national gold standard in licensing and medical credentialing.

20. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.

Failure to satisfy any California requirement for podiatric licensure will preclude the issuance of a certificate to practice podiatric medicine by the board. Further, the board does not have reciprocity with any other state. The statute delineating the board's legal requirements for processing out-of-state applicants to obtain licensure is contained in section 2488 B&P. The statutory provision is known as BPM's licensure by credentialing statute and it was codified in 2003. In addition to requiring the absence of

acts or crimes that would constitute grounds for denial of a license as for any other license applicant, BPM's credentialing provision calls for out-of-state applicants to have:

- graduated from an approved school or college of podiatric medicine accredited by the Council on Podiatric Medical Education (CPME);
- have passed either Part III of the examination administered by the National Board of Podiatric Medical Examiners or an examination recognized as equivalent by the board within the last 10 years; and
- satisfactorily completed one year of post-graduate medical education as opposed to two.

To date there are no CPME accredited teaching institutions located abroad. It bears mentioning that podiatric professions internationally on a whole continue to lag behind U.S. standards and California education and training requirements particularly. Accordingly, while there is no current process in place for processing out-of country applicants, it has not presented an issue to date.

21. Describe the board's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.

While the board is not currently aware of any existing military medical schools such as the Uniformed Services University that offer a podiatric medical curriculum or equivalent medical training leading to a doctor of podiatric medicine (DPM) degree, existing law and regulation under BPC 2483 and section 1399.666 of Podiatric Medicine Regulations do currently provide for recognition if the military educational program were to be accredited by the Council on Podiatric Medical Education (CPME). This is also true of post-graduate podiatric medical education training which necessarily includes military podiatric residencies such as those offered by the Department of Veteran's Affairs that are by all indications already CPME accredited.

However, should a prospective California DPM applicant with experience gained in the U.S. Armed Services as a doctor of podiatric medicine present a non-CPME accredited residency, there would be no currently feasible process in place for evaluating equivalency under existing regulations. Having said this, the board has recently undertaken efforts to investigate ways to meet the BPC § 35 mandate which is more fully discussed under question 21 subsection c below.

a. Does the board identify or track applicants who are veterans? If not, when does the board expect to be compliant with BPC § 114.5?

Yes. BPM's Application for a Certificate to Practice Podiatric Medicine has been appropriately amended to include questions regarding an applicant's past and/or current service in the U.S. Armed Forces. Further, with the recent August 10, 2015 completion of User Acceptance Testing (UAT) for two new System Investigation Requests (SIRs) for implementing BPM § 114.5 enhancements to BreEZe system-wide, veteran data

recording features are now in production and functioning as designed. Accordingly, BPM is now able to systematically identify and track veteran applicants through its licensing software database.

b. How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the board?

The board has not had any applicants offer military training or experience to meet licensing or credentialing requirements for a certificate to practice podiatric medicine in California to date. However, if one considers post-graduate medical education obtained in a U.S. Department of Veterans Affairs podiatric medical residency program as a classification of military related education, the board has had a total of 38 applicants offer such education for meeting licensure requirements; all which were accepted. An annual summary for the last four fiscal years is provided in the table immediately below.

BPM Table 7c. Department of Veterans Affairs Medical Residents

Academic FY year	Residents offering VA residencies for licensure
11/12	8
12/13	8
13/14	12
14/15	10

c. What regulatory changes has the board made to bring it into conformance with BPC § 35?

With board approval of a motion passed at the June 5, 2015 meeting of the board, BPM is currently in the process of conducting an evaluation of military education, training and experience obtained in the Armed Services for a determination as to how they may possibly be used for satisfying state licensure or credentialing requirements for podiatric medical licensure.

Preliminary findings prove that it is nearly axiomatic that basic qualification requirements for Active Duty employment as a Doctor of Podiatric Medicine in the armed services medical corps mandates, among other things, a doctor of podiatric medicine degree; current licensure in one of the fifty states or the District of Columbia; and successful completion of a surgical residency or an equivalent formal surgical training program. Accordingly, two issues immediately become evident: 1) not all states require two years of podiatric residency and podiatric surgical training; 2) nor are all podiatric and surgical

training residencies CPME accredited; both are required criteria for licensure by the board.

It is therefore conceivable that recognition of military medical experience gained in active duty service with the U.S. Armed Forces as a doctor of podiatric medicine for a yet undetermined number of requisite years may serve a possible basis for equivalency licensure under BPM's credentialing statute for those DPM veterans presenting less than two years of podiatric and surgical residency training; or with a non-CPME accredited residency; or alternately presenting no residency training at all. These and other possibilities are currently in the process of research and investigation by the board as required by BPC section 35.

d. How many licensees has the board waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on board revenues?

The board has not had any section 114.3 requests from active duty members of the armed forces or National Guard for waiver of fees or requirements in the last four fiscal years. Accordingly, BPC section 114.3 has had no impact on board revenues.

e. How many applications has the board expedited pursuant to BPC § 115.5?

Requisite amendments to BPM's Application for a Certificate to Practice Podiatric Medicine have duly incorporated appropriate questions for compliance with BPC § 115.5 mandates. To date, however, the board has not received any applications for expedited licensure from spouses of active duty service members assigned to duty in California.

22. Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

Yes. Pursuant to Penal Code section 11105.2, the board continues to send No Longer Interested notifications to DOJ for licensees with canceled, surrendered, revoked or deceased status. While this process is completed through use of the mails or facsimile transmittal rather than electronically there is no backlog to report or address.

Examinations

Table 8. Examination Data				
California Examination (include multiple language) if any:				
	License Type	N/A	N/A	N/A
	Exam Title	BPM Oral Clinical	BPM Oral Clinical	BPM Oral Clinical
FY 2011/12	# of 1st Time Candidates	Not Applicable to this program (BPM Oral Clinical Exam discontinued in 2002)		
	Pass %			
FY 2012/13	# of 1st Time Candidates			
	Pass %			
FY 2013/14	# of 1st Time Candidates			
	Pass %			
FY 2014/15	# of 1st time Candidates			
	Pass %			
	Date of Last OA			
	Name of OA Developer			
	Target OA Date			
National Examination (include multiple language) if any:				
	License Type	Resident	Resident	DPM
	Exam Title	Part I	Part II	Part III
FY 2011/12	# of 1st Time Candidates	Examinations administered by the National Board of Podiatric Medical Examiners (NBPME)		41
	Pass %			93%
FY 2012/13	# of 1st Time Candidates			51
	Pass %			98%
FY 2013/14	# of 1st Time Candidates			42
	Pass %			98%
FY 2014/15	# of 1st time Candidates			60
	Pass %			91%
	Date of Last OA	2011		2010
	Name of OA Developer	NBPME		
	Target OA Date	Date unavailable		

23. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required?

The examinations required for podiatric licensure by BPM include Parts I, II and III of the American Podiatric Medical Licensing Examination ("APMLE"). APMLE is a national examination administered by the National Board of Podiatric Medical Examiners ("NBPME") and its use is mandated by section 2486 B&P.

Applicants must sit for and pass APMLE Parts I and II while attending podiatric medical school in order to qualify for a Resident's License before participating in California based post-graduate medical training as required by section 2475.1 B&P. During post-graduate residency training an applicant must also sit and pass APMLE Part III, which is the clinical competence component of National Board examination, in order to satisfy the requirements for full licensure to practice podiatric medicine.

With the passage of SB 1955, APMLE Part III replaced the California specific examination as a means for determining entry-level competence of knowledge and clinical skills evaluating, diagnosing, and treating patients consistent with sound medical practice and consumer protection. Use of BPM's oral clinical examination was therefore discontinued and is no longer required for State licensure as recommended by the Joint Committee in 2002.

24. What are pass rates for first time vs. retakes in the past 4 fiscal years? *(Refer to Table 8: Examination Data)*

Referring to the data reflected in Table 8 above, first time examinee passage rates range from a low of 91% in FY 14/15 to a high of 98% in FYs 12/13 & 13/14 for an average pass rate of 95% during the past 4 fiscal years. While not indicated in the accompanying table FY 11/12 had 4 examinee retakes with a 25% passage rate. There was a 100% retake passage rate in FY 12/13 consisting of one examinee. FY 13/14 brought 4 examinee retakes with a 0% passage rate followed by another 100% passage rate in FY 14/15 again consisting of a single examinee.

25. Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?

While the board does not administer its own examination, all parts of the national examination administered by the NBPME are computer based tests.

Exams are comprised of a set number of questions. NBPME reports that each question is presented only one time. Once an examinee advances to a subsequent question, he or she is precluded from returning to the previous question. Questions are presented to the examinee in four different formats which include: 1) single answer multiple choice; 2) check all applicable choices; 3) drag and drop panels for correct sequencing; and 4) image clicks to the correct area depicted. Credit is received for correctly answered questions alone.

Test center locations for each examination are located and reserved within a fifty mile radius of the nine schools of podiatric medicine. Exam takers may register online and check for exam center locations near them. For the 2015 calendar year, Parts I and III are scheduled to be held twice during the year with Part II being administered three times.

26. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

There are no existing statutes that are believed to hinder the efficient and effective processing of applications at this time.

School approvals

27. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?

The statutes delineating the board's legal requirements regarding school approvals are contained within sections 2470 and 2483 B&P. The board may approve and develop equivalency standards for extending approval to any schools or colleges offering an adequate medical curriculum related to podiatric medicine extended over a period of four years or 32 actual months of instruction representing a minimum of 4,000 course hours of study.

Accordingly, through exercise of its regulatory authority, the board has required teaching institutions to be accredited by the Council of Podiatric Medical Education ("CPME") pursuant to section 1399.662 of BPM's podiatric medicine regulations. CPME requires a four-year didactic and clinical curriculum nearly identical to that of medical schools with the exception of focused emphasis on the lower extremity of the human body. CPME holds designated accrediting status nationally and has held official recognition as the national authority for accrediting first professional degree programs in podiatric medicine from the United States Department of Education since 1952.

While the Bureau of Private Postsecondary Education ("BPPE") serves an important and vital mission in promoting and protecting the interests of students and consumers through effective oversight of private postsecondary educational institutions, BPPE does not approve medical or podiatric medical schools or colleges as of this writing. Therefore, the board does not work with BPPE as a result of the BPPE's lack of role in the medical and podiatric school approval process.

28. How many schools are approved by the board? How often are approved schools reviewed? Can the board remove its approval of a school?

There are only a total of nine CPME accredited and board approved podiatric medical schools and colleges in existence within the United States. Periods of accreditation may extend no longer than a maximum of eight years based upon comprehensive on-site visits and continued demonstration of compliance with CPME standards.

If warranted CPME may institute focused evaluations and/or place accredited educational institutions on probationary status in order to address specific concerns. Eight year accreditation cycles may be abbreviated in instances where deterioration or

substantial programmatic changes have occurred, a complaint has been filed, or whenever circumstances require review in the discretion of the accrediting agency which may impact existing accreditation periods.

The board may remove its approval of any school notwithstanding CPME accreditation if it is determined that the school or college does not meet statutory or regulatory requirements pursuant to BPM podiatric medicine regulation section 1399.662(b).

29. What are the board's legal requirements regarding approval of international schools?

Pursuant to BPM Podiatric Medicine Regulations, podiatric medical schools and colleges are required to be accredited by CPME under sections 1399.662 and 1399.666. There are currently no CPME accredited teaching institutions located abroad in other countries. CPME criteria and guidelines require a four-year didactic and clinical curriculum nearly identical to that of medical schools with the exception of focused emphasis on the lower extremity of the human body.

While education for podiatrists and chiropodists is available across jurisdictions globally, international programs do not generally award Doctor of Podiatric Medicine degrees. Accordingly, no existing international school yet offers an educational curriculum leading to a doctor of podiatric medicine degree which serves as the recognized basis for licensure in California and the U.S. Rather the international focus has been to continue to award either post-secondary diplomas in chiropody or bachelors of podiatry. Further, the days of licensing chiropodists in the state have long ceased and are the product of a bygone era. The podiatric professions in the United States have advanced significantly while internationally on a whole continue to lag behind U.S. standards and California education and training requirements particularly.

It has been reported that an international four-year program located in Canada is reputed to be substantially patterned on U.S. podiatric medical curriculums that begins to approach CPME standards of accreditation. However, BPM is unaware of any effort on behalf of the Universite de Quebec a Trois-Rivieres in Trois-Rivieres, Quebec to seek CPME certification. Nor has CPME—as the designated national accrediting agency for United States in podiatric medical education—accredited any teaching institution outside of the United States.

Continuing Education/Competency Requirements

30. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.

The statute and regulations delineating the requirements for the board's continuing education (CE) and competency programs are found in section 2496 B&P and section 1399.669 of the Podiatric Medicine Regulations. Continuing education requirements include:

- Completion of 50 hours of approved continuing medical education every two years.

Satisfaction of BPM mandated continuing competency—the only doctor-licensing board in the country to implement such a program over and above continuing education alone—may be affirmatively demonstrated at licensure renewal through satisfaction of one of eight statutory pathways and include:

- Completion of an approved residency or fellowship program within the past 10 years.
- Passage of a board administered exam within the past 10 years.
- Passage of an examination administered by an approved specialty certifying board within the past 10 years.
- Current diplomate, board-eligible or qualified status granted by an approved specialty certifying board within the past 10 years.
- Recertification of current status by an approved specialty certifying board within the past 10 years.
- Passage of Part III of the national board examination with the past 10 years.
- Grant or renewal of staff privileges within the past 5 years by a health care facility recognized by the federal/state government or organization approved by the Medical Board of California.
- Completion of an extended course of study within the past 5 years approved by the board.

a. How does the board verify CE or other competency requirements?

The board verifies CE and mandated continuing competency requirements by licensee self-reporting through submission of a signed declaration of compliance to BPM under penalty of perjury during each two-year renewal period for every licensee.

b. Does the board conduct CE audits of licensees? Describe the board's policy on CE audits.

Yes. It is the board's policy to conduct CE and continuing competency audits of licensees once each year through a sample of doctors of podiatric medicine who have reported compliance with the requirements pursuant to Podiatric Medicine Regulation

sections 1399.669 and 1399.676. Doctors selected for audit through a random sample are required to document their compliance with CE and continuing competency requirements. Those selected for audit may not be audited more than once every two years.

c. What are consequences for failing a CE audit?

Any doctor of podiatric medicine found out of compliance with board mandated CE and continuing competency requirements will be ineligible for renewal of his or her license to practice podiatric medicine unless granted a discretionary waiver under Podiatric Medicine Regulation section 1399.678 which may only be granted once.

Non-compliant physicians granted a waiver will in turn be required to satisfy the identified deficiencies in addition to demonstrating compliance with the hours required for the next renewal period. Those failing to demonstrate compliance prior to the next biennial renewal will not be permitted to practice until such time as all required hours of CE are met in addition to one of the continuing competency pathways.

d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?

The board has conducted 3 CE audits in the past four fiscal years. Out of 114 licensees randomly selected for CME in the past four fiscal years, 9 have not successfully passed for an average 7.8% failure rate overall. BPM Table 8a below provides a summary of the relevant data for each of the last four fiscal years the CME audit was performed.

BPM Table 8a. CME Audits			
FY 2011/12			
Number Audited	**Pass**	**Fail**	**Percentage Compliance**
20	19	1	95%
FY 2012/13			
20	18	2	90%
FY 2013/14			
No audit conducted due to 25% to 50% staff shortage during 2014 year.			
FY 2014/15			
74	68	6	91%

e. What is the board's course approval policy?

The board's policy on approved CE courses is contained in Podiatric Medicine Regulation sections 1399.670 and 1399.671. Only scientific courses directly related to patient care may be approved. With the exception of podiatric residency programs and clinical fellowships, all approved institutions, organizations and other CE providers must also utilize surveys and participant assessment evaluations for the purpose of determining areas of clinical practice having the greatest need for instruction relevant to patient care and developments in the field of podiatric medicine and to determine whether course program objectives have been met.

The following below listed categories are recognized by BPM as having met these criteria.

- Courses approved by the California Podiatric Medical Association
- Courses approved by the American Podiatric Medical Association
- Courses certified for Category 1 credit by the American Medical Association; or affiliates
- Courses certified for Category 1 credit by the California Medical Association; or affiliates
- Courses certified for Category 1 credit by the American Osteopathic Association; or affiliates
- Courses certified for Category 1 credit by the California Osteopathic Association; or affiliates
- Courses offered by approved colleges or schools of podiatric medicine
- Courses offered by approved colleges or schools of medicine
- Courses offered by approved colleges or schools of osteopathic medicine
- Courses approved by a government agency
- Podiatric residency programs or clinical fellowships
- Courses approved by the board pursuant to the requirements set forth in Podiatric Medicine Regulation section 1399.671

f. Who approves CE providers? If the board approves them, what is the board application review process?

In addition to the board, the following institutions are recognized as authorized CE course provider approvers:

- The California Podiatric Medical Association
- The American Podiatric Medical Association
- The American Medical Association; or affiliates
- The California Medical Association; or affiliates
- The American Osteopathic Association; or affiliates
- The California Osteopathic Association; or affiliates
- Approved Colleges or Schools of Podiatric Medicine
- Approved Medical Schools or Colleges
- Approved Colleges or Schools of Osteopathic Medicine
- Government agencies
- Podiatric residency programs or clinical fellowships

The board also approves CE providers under the board application review process delineated in Podiatric Medicine Regulation 1399.671. The review process requires those individuals, organizations or institutions not recognized as an approved course provider to submit documents and other evidence directly to the board for verification of compliance with board mandated course requirement criteria. Courses are approved on an hour-for-hour basis and the criteria for course approval include:

- A faculty appointment in a public university, state college or private post-secondary educational institution approved by section 94310 of the California Education Code.
- A demonstrated rationale of necessity for the course and how the need was determined
- A description of course content and how it satisfies the identified need for the course
- A clearly articulated list of educational objectives that may be realistically achieved
- Description of the planned methods of teaching instruction for course delivery
- Stated intent to maintain a record of attendance for all participants

g. How many applications for CE providers and CE courses were received? How many were approved?

Since the last Sunset Review in 2011, the board has received 1 application for CE course approval which was approved during the 14/15 Fiscal Year.

h. Does the board audit CE providers? If so, describe the board's policy and process.

While the board does not actively audit CE providers, it is the board's policy under section 1399.674 of Podiatric Medicine Regulations to withdraw the approval of any individual, organization, institution or other CE provider for failure to comply with board course criteria requirements. Accordingly, BPM does monitor any stakeholder feedback provided in order to determine if action may be appropriate.

i. Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensee's continuing competence.

With passage of SB 1981 [Chapter 736, Statutes of 1998] BPM became and remains the only doctor-licensing board in the country to implement performance based assessments of competency beyond continuing education alone. Contained in section 2496 of the California Business and Professions Code, the board's continuing competence program has become the hallmark for meeting BPM's stated goal of preventing patient harm and has been embraced by the profession as a mark of professionalism.

Accordingly, all California licensed DPMs must affirmatively demonstrate satisfaction of one of the eight available statutory pathways as more fully described in question 30 above in order to renew their certificate to practice podiatric medicine. Over the years, BPM has continued efforts to provide program improvements and the program as it exists today represents a higher standard of licensing and professionalism that the podiatric community has fully embraced and marked as a trademark of excellence for an elite and highly-specialized profession.

Enforcement program

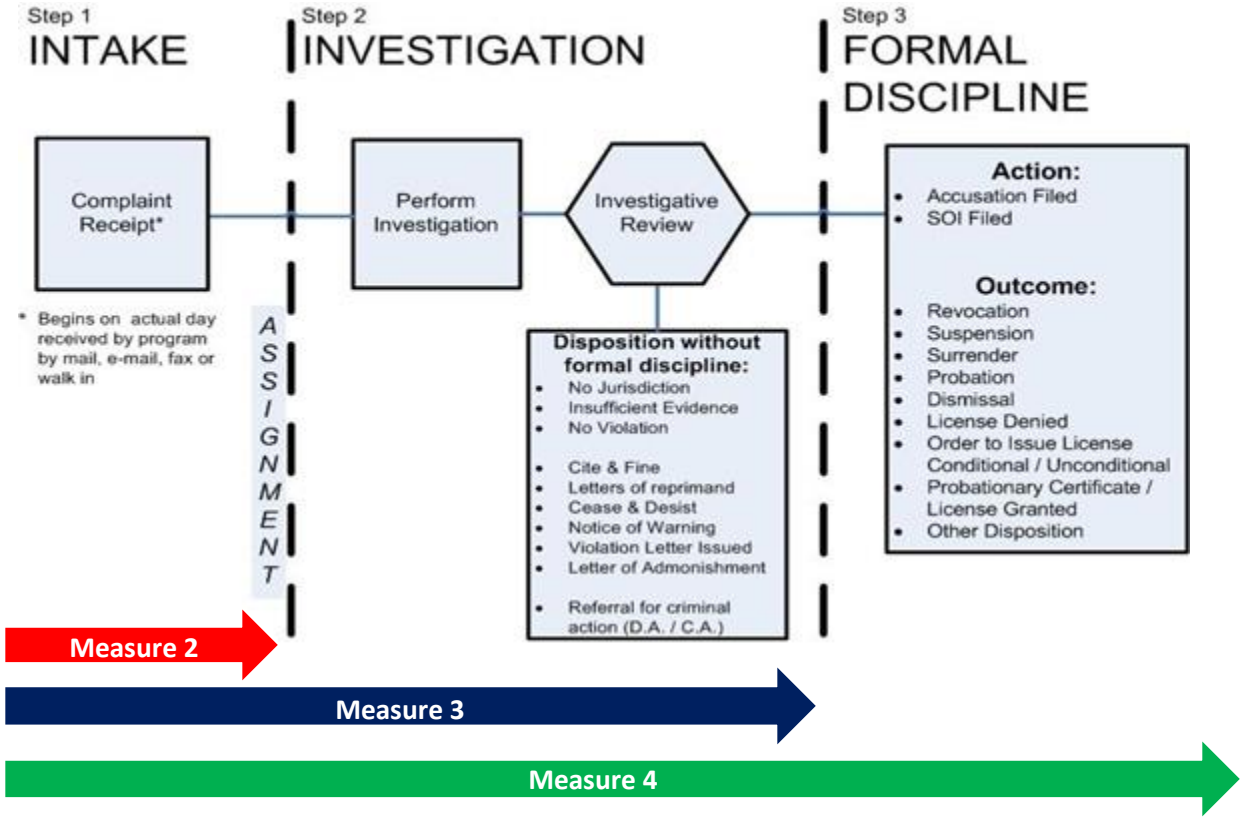
- Performance Targets and Expectations
- Enforcement Data Trends and Performance Barriers
- Statistical Changes in Disciplinary Action
- Case prioritization
- Mandatory Reporting
- Statues of Limitations
- Unlicensed activity and the underground economy Case prioritization
- Citations and Fines
- Citation Violation Types
- Informal Conferences and Administrative Procedure Act Appeals
- Common citation and fine violations
- Average Fine Amounts – Pre and Post Appeal
- Franchise tax board intercept program
- Cost recovery and restitution
- Revocations, Surrenders and Probationers
- Non-Cost Recovery Cases
- Restitution Types

Section 5 – Enforcement Program

31. What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

Section 2319 B&P provides in pertinent part that the Medical Board of California—under whose jurisdiction BPM is placed—must set a performance target not exceeding 180 days for the completion of an investigation beginning from the time of receipt of a complaint. Complex fraud, business or financial arrangement investigations or those that involve a measure of medical complexity are permitted to extend the target investigation completion time by an additional 6 months.

In an effort to demonstrate efficient and effective use of limited resources, DCA and its stakeholders set out to develop and implement an easy to understand and transparent system of performance targets and expectations for all boards including BPM on or about FY 09/10. The performance criteria—the first attempt DCA wide in over 15 years—established a set of consistent measures and definitions across all DCA program enforcement processes. Specific areas of performance measurement included:



- Time to complete the complaint intake process (Measure 2)
- Time to complete the complaint investigation process (Measure 3)
- Time to complete the complaint enforcement process from beginning to end (Measure 4)

The performance measures additionally included metrics for two additional areas including complaint volume and probation monitoring data not discussed here. Through what has been characterized as a deliberative process of collaboration across line, managerial and executive staff agency wide, performance targets were established. The most relevant target metrics for BPM are set forth below as follows:

- 9 days for Measure 2
- 125 days for Measure 3
- 540 days for Measure 4

Each report is published quarterly with the baseline reporting period for BPM released on DCA's website in the first quarter of FY 10/11. Overall, it is believed that the reports more or less represent an accurate portrait of current board performance and it is the DCA performance targets that the board strives to meet with an eye toward satisfaction of the statutory timelines mandated by 2319 B&P. Using averages for performance measures obtained using current BreEZe reporting configurations available to the board for the last three fiscal years yield the following performance figures:

- BPM achieves an average 9 day cycle for Measure 2
- BPM achieves an average 140 day cycle for Measure 3
- BPM achieves an average 797 day cycle for Measure 4

BPM continues to strengthen the intra-agency collaboration between it and the larger Medical Board in order to ensure that DPM cases shepherded through the complaint investigation and enforcement services of the larger Medical Board under the annual Shared Services contract are promptly and efficiently processed. Most recently, the board's enforcement coordinator has implemented new procedures with the Medical Board's Central Complaint Unit in order to better facilitate and expedite case complaint assignment through increased communication and accountability. Additional efforts as those just described to improve performance throughout subsequent stages of the disciplinary process are currently under development and will be implemented.

Having said this, it may be noted that the current measures do not capture all timelines involved in case investigations. For example, those that are sent to the Attorney General or the Office of Administrative Hearing are not appropriately accounted. Given that cases meriting formal discipline will by nature take longer to resolve than those that do not, in addition to the fact that these subjects are entitled to due process, there is no current mechanism in place for sorting out legitimate reasons for case delays, such as

continuance requests by respondent parties, from those that may be staff and/or casework related.

Finally, the board is advised that the Department of Consumer Affairs is currently re-assessing whether or not current performance expectations are realistic and achievable. Through identification of universal processes that form part of all case life cycles, it is hoped that an improved framework of measurement may be achieved for enhanced reporting processes that will uncover reasonable expectations that serve consumer interests. The board believes that any revision to performance targets will necessarily have to be program driven to account for operational differences, but BPM very much looks forward to constructive discussion and collaboration with DCA for improving the metric reporting processes overall.

32. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

The board's enforcement statistics for the last three fiscal years generated through BreEZe reporting configurations currently available continue to reflect an annual sub-130 complaint intake average. As in years past, this reflects a more than 50% longitudinal decline in complaints received since implementation of the board's continuing competency program in 1999 that continues to hold.

As may be noted from Table 9a below, the greatest source of complaints are received from the public with approximately 72% of total complaints fielded from consumers. Only two complaints were closed without the need for further investigation in FY 13/14. Based on complaint intake averages, approximately 9 actions a year are initiated by the Attorney General which equates to 7.2% of the total complaint volume received. Of cases resulting in disciplinary action, the board enforcement statistics reflect an average 797 day cycle for case completion. After referral to the Attorney General, following conclusion of an investigation, the board's enforcement coordinator shifts focus to working with deputy attorneys general and accompanying support staff.

Of cases referred in the last four fiscal years, nearly 25% closed in two years or less. Nearly half or 43% were closed in 3 years with the remaining 33% closing in 4 or more years. It may also be noted that the total number of cases with the Attorney General in the last four fiscal years represents a 32% decrease in the total number of cases over

the last review. Significantly, the last four years saw 21 case closures as opposed to 31 cases closed as reported in the 2011 Sunset Review.

Referencing case aging data shows a tremendous improvement in overall case investigation closures in the last four fiscal years with a full 71% of all investigations closed in 180 days or less whereas only 19% closed in this timeframe as reported in 2011. This period also saw 26.5% or 123 cases closed in two years or less and the remaining 11 cases taking 3 years or longer to complete. By comparison to the last Sunset Review period, the overall average discipline completion time of 797 days represents a 45-day average improvement since last reported in 2011.

Table 9a. Enforcement Statistics

	FY 2012/13	FY 2013/14	FY 2014/15
COMPLAINT			
Intake (BreEZe Report 249)			
Received	123	110	143
Closed	0	2	0
Referred to INV	126	107	137
Average Time to Close	**6**	**9**	**12**
Pending (close of FY)	1	1	7
Source of Complaint (BreEZE Report 249)			
Public	91	80	100
Licensee/Professional Groups	2	5	3
Governmental Agencies	24	18	20
Other	21	19	25
Conviction / Arrest (BreEZe Report 252)			
CONV Received	16	13	10
CONV Closed	16	13	9
Average Time to Close	6	4	16
CONV Pending (close of FY)	0	0	1
LICENSE DENIAL			
License Applications Denied	0	0	0
SOIs Filed	0	0	0
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	0	0	0
ACCUSATION (BreEZe Report 252)			
Accusations Filed	3	7	7
Accusations Withdrawn	0	0	0
Accusations Dismissed	0	0	0
Accusations Declined	0	0	1
Average Days Accusations	**884**	**771**	**532**
Pending (close of FY)	2	5	6

Table 9b. Enforcement Statistics (continued)			
	FY 2012/13	FY 2013/14	FY 2014/15
DISCIPLINE (BreEZe Report)			
Disciplinary Actions			
Proposed/Default Decisions	1	1	1
Stipulations	4	3	4
Average Days to Complete	**944**	**690**	**758**
AG Cases Initiated	7	10	11
AG Cases Pending (close of FY)	5	7	11
Disciplinary Outcomes (BreEZe Reports 249/252)			
Revocation	1	1	0
Voluntary Surrender	0	1	3
Suspension	0	0	2
Probation with Suspension	0	2	1
Probation	4	2	2
Probationary License Issued	0	0	0
Other	2	1	0
PROBATION			
New Probationers	3	3	2
Probations Successfully Completed	1	5	2
Probationers (close of FY)	17	15	15
Petitions to Revoke Probation	0	0	2
Probations Revoked	0	0	1
Probations Modified	0	2	0
Probations Extended	0	0	1
Probationers Subject to Drug Testing	0	0	1
Drug Tests Ordered	0	0	5
Positive Drug Tests	0	0	4
Petition for Reinstatement Granted	0	0	1
DIVERSION (Inoperative & Repealed July 2009)			
New Participants	-	-	-
Successful Completions	-	-	-
Participants (close of FY)	-	-	-
Terminations	-	-	-
Terminations for Public Threat	-	-	-
Drug Tests Ordered	-	-	-
Positive Drug Tests	-	-	-

Table 9c. Enforcement Statistics (continued)			
	FY 2012/13	FY 2013/14	FY 2014/15
INVESTIGATION (BreEZe Reports 251)			
All Investigations			
First Assigned	142	120	146
Closed (BreEZe Report 249 PM3)	154	85	112
Average days to close (BreEZe Report 249 PM3)	151	171	222
Pending (close of FY)	62	97	130
Desk Investigations			
Closed	157	111	167
Average days to close	103	88	98
Pending (close of FY)	31	43	80
Non-Sworn Investigation			
Closed	0	1	0
Average days to close	0	113	0
Pending (close of FY)	0	0	0
Sworn Investigation			
Closed	26	23	33
Average days to close	289	295	270
Pending (close of FY)	25	30	26
COMPLIANCE ACTION (Discipline Report – codes ISOL, ISOF, P23F, P23L, PLOR, CEAS, AG08)			
ISO & TRO Issued	0	1	1
PC 23 Orders Requested	2	0	1
Other Suspension Orders	0	1	1
Public Letter of Reprimand	0	0	0
Cease & Desist/Warning	-	-	-
Referred for Diversion (Inoperative/Repealed 2009)	-	-	-
Compel Examination	0	2	2
CITATION AND FINE			
Citations Issued	2	5	6
Average Days to Complete	827	612	354
Amount of Fines Assessed	$5,000	$12,500	$10,660
Reduced, Withdrawn, Dismissed	$2,500	$7,500	$5,000
Amount Collected	0	300	$3,500
CRIMINAL ACTION			
Referred for Criminal Prosecution	0	0	0

Table 10. Enforcement Aging

	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year	0	0	1	1	2	9.5%
2 Years	1	2	0	0	3	14%
3 Years	3	2	1	3	9	43%
4 Years	3	1	0	1	5	24%
Over 4 Years	0	0	2	0	2	9.5%
Total Cases Closed	7	5	4	5	21	100%
Investigations (Average %)						
Closed Within:						
90 Days	56	83	44	48	231	49%
180 Days	32	38	17	17	104	22%
1 Year	14	20	15	24	73	15.5%
2 Years	16	9	4	21	50	11%
3 Years	0	1	5	1	7	1.5%
Over 3 Years	0	3	0	1	4	1%
Total Cases Closed	118	154	85	112	469	100%

33. What do overall statistics show as to increases or decreases in disciplinary action since last review.

The overall statistics show that the board has maintained a steady program of enforcement with no meaningful statistical increases or decreases in disciplinary action since last review. Complaint volumes, Attorney General case referrals, revocations, surrenders and probation all reflect relatively constant levels that may be considered to be within normative operative ranges for the board.

34. How are cases prioritized? What is the board's compliant prioritization policy? Is it different from DCA's Complaint Prioritization Guidelines for Health Care Agencies (August 31, 2009)? If so, explain why.

In order to ensure that physicians representing the greatest threat of harm to the public are handled expeditiously, the Legislature has explicitly provided the prioritization schedule for all medical complaints. The governing statute is found under section 2220.05 B&P.

As a unit under the jurisdiction of the Medical Board, BPM uses the complaint investigation and enforcement services of the larger Medical Board by way of an annual Shared Services contract. This has proven to be the most efficient and cost effective process for regulating the board's licensee population of approximately 2000 physicians. Thus, while BPM considers every case to be a priority, BPM medical cases

are prioritized identically to Medical Board cases and managed through its Central Complaint Unit ("CCU") in the same manner.

Accordingly, cases involving gross negligence, incompetence and repeated negligent acts involving death or serious bodily injury are identified as holding the highest priority as mandated by statute. Cases involving physician drug and alcohol use, sexual misconduct with patients, repeated acts of excessive prescribing with or without examination and excessive furnishing or administering of controlled substances are also defined as priorities. Extra-statutory priorities are managed according to protocols as prescribed within DCA's Guidelines for Health Care Agencies.

35. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the board actions taken against a licensee. Are there problems with the board receiving the required reports? If so, what could be done to correct the problems?

Yes. There are mandatory reporting requirements statutorily imposed on several entities to alert BPM to possible disciplinary matters for action and investigation. As with complaint prioritization protocols discussed immediately above, mandatory disclosure reports are received and handled through the Medical Board CCU. Codified in section 800 et. seq. of Article 11 of the Business and Professions Code, the mandatory reporting requirements are fully applicable to California DPMs and include the following below listed disclosure reports:

<u>Section 801.01 B&P</u>
Requires settlement agreements exceeding $30,000 and arbitration awards or civil judgments of any amount to be reported within 30 days by insurer, employer or self-insured public agency acting as the insurer to a doctor of podiatric medicine. There are no problems with receiving the report known to exist and those received are within required timeframes.

<u>Section 802.1 B&P</u>
Requires a doctor of podiatric medicine to report criminal charges within 30 days upon indictment of a felony or conviction of any felony or misdemeanor including a plea of no contest. There are no problems with receiving the report known to exist. Reporting compliance is confirmed through independent verification received separately from Department of Justice subsequent arrest notifications. Within the last four fiscal years, the board has previously taken action on at least two separate occasions to address a licensee's failure to report a conviction of crime through citation and fine.

Section 802.5 B&P

Requires a coroner to submit pathologist findings indicating that a patient death may be related to gross negligence by a doctor of podiatric medicine.

Sections 803 and 803.5 B&P

Requires a clerk of the court that renders a criminal judgment or finding of liability for a doctor of podiatric medicine based on negligence or errors and/or omissions resulting in death or personal injury to report to the board within 10 days.

Section 805 B&P

Requires a Chief of Staff, Chief Executive Officer, Medical Director or Administrator of a health care facility or clinic to report a denial or revocation of a doctor of podiatric medicine's health facility privileges within 15 days of effective date of action taken.

Section 805.01 B&P

Requires a Chief of Staff, Chief Executive Officer, Medical Director or Administrator of a health care facility or clinic to report any decision or recommendation for disciplinary action against a doctor of podiatric medicine within 15 days of decision.

Section 2240 B&P

Requires a physician who performs a medical procedure or any person acting under physician supervision or orders that results in a patient death in an outpatient surgery setting to report to the board within 15 days.

Collectively, all mandatory reports are received directly by the Medical Board Central Complaint Unit. It is known that MBC has previously reported some concerns regarding County Coroner and Court Clerk reporting responsibilities and had made several outreach efforts to assist raising awareness and/or compliance levels with these officials. BPM however defers to MBC as to whether it believes there has been improved compliance as a result.

36. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the board's policy on statute of limitations?

Yes. The applicable statutes of limitation are found under section 2230.5 B&P. Accordingly, with certain limited exceptions, accusations filed pursuant to Government Code section 11503 must be brought against a licensee within seven (7) years after occurrence of the act or omission serving as the basis for disciplinary action or else within three (3) years after discovery of the act or omission by the board, whichever occurs first.

Actions involving sexual misconduct extend the time period for filing an accusation from seven (7) to ten (10) years and both 7 year and 10 year statutes of limitation just discussed are tolled until the age of majority is reached in cases involving a minor. Procurement of a license by fraud or misrepresentation and intentional concealment of unprofessional conduct based on incompetence, gross or repeated negligence are not subject to the limitations statute.

To date BPM has not lost the right to pursue an accusation against a licensee due to statute of limitation issues.

37. Describe the board's efforts to address unlicensed activity and the underground economy.

Because the board is a unit of the Medical Board which handles BPM investigation and enforcement cases under its annual Shared Services contract—which has proven to be the most efficient and cost effective process for regulating the board's licensee population of approximately 2000 physicians—the BPM is able to take advantage of the many benefits created by the larger Medical Board enforcement initiatives.

For example, in 2009 the Medical Board reestablished the Operation Safe Medicine (OSM) Unit to assist addressing the unlicensed practice of medicine and/or underground economy. OSM staff are specially trained experts with the necessary skills and abilities to proactively address unlicensed activity within the state which necessarily includes identification, investigation and prosecution of unlicensed individuals.

Historically speaking however, there has not been a large incidence of unlicensed activity either by individuals masquerading as licensed DPMs or by DPMs with invalid licenses. Nevertheless, OSM efforts have resulted in at least one successful action against a doctor of podiatric medicine who continued to practice podiatric medicine notwithstanding an expired and delinquent license.

Cite and Fine

38. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the board increased its maximum fines to the $5,000 statutory limit?

The board's statutory citation and fine authority contained under section 125.9 B&P and codified in regulatory sections 1399.696 and 1399.697 of BPM's Podiatric Medicine Regulations has historically been employed both as an educational and compliance measure. Over the years, while touted and recognized as an effective tool for demonstrating the board's willingness and ability to enforce the law, the system for issuance of citations has not traditionally been utilized to the extent of needless penalization of licensees for technical statutory violations such as address change oversights.

The board updated section1399.696 in 2008 to include qualified language for increasing citation fine amounts to the maximum statutory limit of $5000 in addition to providing the regulatory authority to issue citations for failure to produce medical records and for failure to comply with a term or condition of probation. There have not been any additional changes to the regulatory framework since the last sunset review and 2008 serves as the last year the board updated its citation and fine provisions.

39. How is cite and fine used? What types of violations are the basis for citation and fine?

The board's citation and fine authority is generally directed toward addressing conduct or omissions identified in the course of investigations that do not necessarily rise to the level to support disciplinary action but which nevertheless warrant redress. These issues have included failure to maintain adequate and accurate medical records; failure to produce requested medical records; in addition to conduct construed as unprofessional under the practice act. Most recently the board has begun opting to use citation and fine authority as an effective tool for gaining compliance with those owing probation monitoring costs. In this fashion it is expected that compliance may be achieved for minor violations of probation without resort to more costly administrative action and hearing.

40. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?

In the last four fiscal years the Board has held a total of six informal office conferences. None of the immediately aforementioned informal office conferences resulted in citation appeals under the Administrative Procedure Act (APA). Finally, the board does not employ the Disciplinary Review Committee mechanism for resolution of administrative citations.

41. What are the 5 most common violations for which citations are issued?

While fifth place was tied between seven different miscellaneous violations and therefore intentionally left unranked, the board's top four most commonly cited violations for the last four fiscal years are compiled below in BPM Table 10a.

BPM Table 10a. Top Five Violations

Rank	Number of Citations	Violation
1	4	2266 – Failure to maintain medical records
2	3	2225 – Failure to produce medical records
3	3	2234 – Unprofessional Conduct
4	2	802.1 – Failure to report conviction of crime
5	Tie between 7 different violations	Miscellaneous violations

42. What is average fine pre- and post- appeal?

The average fine amount for all citations issued prior to appeal is $2,190. As briefly mentioned BPM has not had any citations that resulted in appeals under the APA in the last four fiscal years. Accordingly, the board does not have a post-appeal average to report.

43. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.

Pursuant to the authority granted for the issuance of citations and assessment of fines under section 125.9 B&P the board may add fine amounts owed to the fee for licensure renewal if fines remain uncollected. The board is additionally authorized to pursue administrative disciplinary action for failure to remit fine payments within 30 days of assessment in cases where a citation is not contested.

Both administrative remedies have proven effective such that utilization of Franchise Tax Board ("FTB") intercepts for the collection of outstanding fines against licensees has proven unnecessary. The FTB intercept program would prove an effective tool in the collection of any unpaid fine in the event of a citation issued to an unlicensed party. However, the board has not had cause to employ enforcement mechanism against unlicensed individuals to date.

Cost Recovery and Restitution

44. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.

The Legislature has explicitly provided BPM with statutory authority for the recovery of costs in administrative disciplinary cases under section 2497.5 B&P. Accordingly, cost recovery is included as a standard condition in the board's "Manual of Disciplinary Guidelines and Model Disciplinary Orders" for all cases. Second only to settlement provisions aimed at ensuring consumer protection, the recovery of actual and reasonable costs is sought as part and parcel of stipulated settlement agreements by board staff and the Attorney General and is requested in ALJ proposed disciplinary decisions pending before the board. It is felt that cost recovery is critical to the board's continued ability to effectively perform its mission of public protection without which would result in an undue upward strain on board licensing fees.

Since the board's last Sunset Review Hearing in 2012, section 2497.5 B&P was successfully amended to permit assessment of additional costs when a proposed ALJ decision was not adopted by the board and found reasonable grounds for increasing. It was widely believed that ALJs were inconsistent in cost recovery matters across all cases and not in line with recovery of actual and reasonable costs of disciplinary proceedings to the agency. BPM thus recommended amendments to section 2497.5 to permit BPM exercise discretionary cost recovery increases in cases where the board voted to non-adopt an ALJ proposed decision in order to ensure the recovery of actual and reasonable costs.

45. How many and how much is ordered by the board for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.

The board has ordered a total of $170,976 in total cost recovery stemming from 17 disciplinary cases involving final board Decisions and Orders or Stipulated Agreements in the last four fiscal years. Of this amount, the board has collected $143,082 during the same period reflecting an 83% recovery rate. The board does not believe any outstanding amounts are uncollectable and will continue to ensure cost recovery orders are aggressively pursued.

46. Are there cases for which the board does not seek cost recovery? Why?

No. Once a board decision and order or stipulated agreement is effective with provisions for the recovery of enforcement costs, the board makes every effort to ensure that the actual and reasonable costs are obtained. Thus, there are no cases for which the board does not seek actual and reasonable costs of investigation and prosecution. The recovery of actual and reasonable costs is viewed as an integral component of the administrative enforcement process that permits the board to continue to provide effective mission critical services for consumer protection.

47. Describe the board's use of Franchise Tax Board intercepts to collect cost recovery.

Until very recently, the board had not officially employed FTB intercepts as an agency program for cost recovery collection efforts.

At this time, utilization of the FTB intercept program generally remains unnecessary for cost recovery collection attempts as any failure to pay costs will generally be considered a violation of the terms and conditions of probation upon which additional disciplinary action may be taken. Further, existing probationers will not be released from probation until all outstanding monies including probation monitoring costs have been satisfied. Accordingly, while there are rarely large inordinate sums of unrecovered costs, the FTB intercept program has nevertheless now been employed in those few circumstances where monies remain uncollected.

To date the program has been employed as an attempt to collect outstanding amounts totaling $19,101.32 for three separate accounts in the last four fiscal years.

48. Describe the board's efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.

The board has generally not sought restitution against licensees in the superior courts on behalf of individual consumers in the past.

While petition filing authority is extended to the board under section 125.5 B&P to seek monetary restitution in the superior courts for persons economically harmed as a result of practice act violations, civil proceedings in the superior courts have not traditionally been either the board's forum or its focus for redress against licensees. Being principally concerned with seeking protection of consumers from unfit and incompetent doctors, the board has sought redress against licensees on behalf of individuals for economic harm in the context of administrative proceedings governed by the provisions of the APA. Accordingly, it has been individuals that have historically sought restitution in the superior courts for economic harms.

Thus, pursuant to the board's Manual of Disciplinary Guidelines, restitution is always incorporated as a necessary component of probation in all administrative disciplinary proceedings against licensees involving economic exploitation or in cases of Medi-Cal or insurance fraud. In these cases the guidelines specifically recommend ALJs to award no less than the amount that was fraudulently obtained and to make failure to pay restitution a violation of probation. It is in this fashion—in the administrative forum—that efforts to secure restitution for consumers are made.

Cases involving instances of unlicensed practice by those who are not board licensees, are easily referred to local District Attorneys' offices for prosecution where restitution may be ordered as part of a criminal proceeding.

Table 11. Cost Recovery (list dollars in thousands)

	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Total Enforcement Expenditures	392	321	290	324
Potential Cases for Recovery *	7	5	4	5
Cases Recovery Ordered	6	5	3	3
Amount of Cost Recovery Ordered	$45.4	$42.2	$35.7	$47.6
Amount Collected	$45.1	$34.4	$33.6	$29.8

* "Potential Cases for Recovery" are those which disciplinary action has been taken based on practice act violations

Table 12. Restitution (list dollars in thousands)

	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Amount Ordered	0	0	0	0
Amount Collected	0	0	0	0

Public Information Policies

- Board Website – Meeting Documents and Materials
- Webcasting
- Meeting calendars
- Complaint disclosure policy
- Publicly Available Licensee Information
- Consumer outreach and education

Section 6 – Public Information Policies

49. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on the board's website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?

Foundational to board information policies which drive BPM's desire and commitment to keep the public informed of all board activity and decision-making, the board uses the internet as an integral tool for enhancing the values of increased public agency openness and transparency. Accordingly, the board routinely updates its website to notify the public of upcoming board activities and changes to law, regulations or guidelines or other information relevant to agency stakeholders and other interested parties. These efforts include posting board meeting agendas online in accordance with the requirements of the Bagley-Keene Act which directly correlates into document availability at least 10-days prior to a meeting with additional post-agenda documents added immediately upon availability.

In an effort to inform the public of the people's business as quickly as possible after board proceedings have been transacted, the board strives to immediately post a board Meeting "Recap of Proceedings" to its website within a week after a meeting of the full board has taken place. Minutes from the immediately preceding board meeting are posted to the website on the subsequent meeting's agenda and remain online after official approval and adoption by the board. All board meeting materials remain on the website indefinitely and may be conveniently located under the board meeting archive link.

50. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings? How long do webcast meetings remain available online?

Yes. In an effort to achieve additional enhancements for the public to monitor and potentially participate in the BPM decision-making process, at its November 7th meeting in 2014, the board elected to support a webcasting and teleconference program for both its board and Committee meetings. Accordingly, through utilization of DCA support services available within the Office of Information Services ("OIS"), the board initiated webcasting for all meetings of the full board beginning calendar year 2015. Given limited DCA resources, BPM committee meetings are webcast according to DCA resource availability notwithstanding the board's stated intention and desire to webcast all open and noticed meetings of the board. Webcasting links remain available on the board website indefinitely.

51. Does the board establish an annual meeting calendar, and post it on the board's web site?

Yes. The board has traditionally reviewed and approved the regular meeting schedule for the following calendar year annually and usually during the last meeting of each year. The meeting schedule has then been posted to the board website as soon as adopted. This year however, with the advent of the June 5th meeting of the board and in an effort to incorporate operational best practices, enhance consistency, predictability and probabilities for increased public participation, the board elected to adopt a policy establishing a set quarterly board and committee meeting schedule.

Accordingly, the newly established meeting schedule policy requires the board and each of its standing committees to meet quarterly with board meetings held on the first Friday in the third month of each quarter and with all committees meeting on the Wednesday three weeks preceding the regularly scheduled meeting of the board. Meeting calendars are to be posted to the web immediately on the first of every year. While the annual schedule is set the board will annually review it and may from time to time make adjustments to it as needed in its discretion.

52. Is the board's complaint disclosure policy consistent with DCA's Recommended Minimum Standards for Consumer Complaint Disclosure? Does the board post accusations and disciplinary actions consistent with DCA's Web Site Posting of Accusations and Disciplinary Actions (May 21, 2010)?

Yes. Contained in Article 9 of the BPM's Podiatric Medicine Regulations, the board's policy is to permit the public the maximum possible access to information that is legally permissible. Accordingly, the board not only meets but in some instances exceeds DCA recommended minimum standards for complaint disclosure and is consistent with DCA Website Posting of Accusations and Disciplinary Actions.

Specifically contained in section 1399.704 of Podiatric Medicine Regulations, BPM complaint disclosure policy also includes disclosure of complaints that have been referred for legal action to the Attorney General prior to the filing of an accusation. This information is disclosed on BPM's website and also available by telephone through consumer contact with BPM.

BPM Table 13 provides a convenient reference that fully summarizes BPM public disclosure policies below.

BPM Table 13. Disclosure Policies			
Document	**When Public**	**Retention Period**	**Applicable Statute**
SUSPENSION ORDERS			
PENAL CODE (PC) 23 SUSPENSION (Partial or full license restrictions per this code; limited or no practice allowed while suspension is in place)	Date issued by a criminal court	Available indefinitely	Designated Public Document pursuant to 803.1
AUTOMATIC SUSPENSION ORDER (B&P 2236.1) (Licensed suspended per this section; no practice allowed while license is suspended)	Date issued by board	Available indefinitely	Designated Public Document pursuant to 803.1
INTERIM SUSPENSION ORDER (ISO) (Licensee's practice has been temporarily restricted or suspended by an ALJ)	Date issued by an ALJ	Available indefinitely	Designated Public Document pursuant to 803.1
TEMPORARY RESTRAINING ORDER (TRO) (B&P 125.7) (Licensee's practice temporarily restricted or suspended by a court judge)	Date issued by a court judge	Available indefinitely	Designated Public Document pursuant to 803.1

Document	When Public	Retention Period	Applicable Statute
PLEADINGS			
ACCUSATION/PETITION TO REVOKE PROBATION/ACCUSATION AND PETITION TO REVOKE PROBATION (includes any amended or supplemental accusations)	Date filed by the BPM	Available indefinitely	Designated Public Document pursuant to 803.1
STATEMENT OF ISSUES (Document, similar to an Accusation, that lists reasons for denial of an application for licensure)	Date filed by BPM	Available indefinitely	Designated Public Document pursuant to Title 16 CCR Section 1399.703
DISMISSED ACCUSATION (Accusation dismissed after administrative hearing)	Date filed by BPM	1 year after withdrawal date	Available for 1 year after withdrawal date pursuant to Title 16 CCR Section 1399.703
WITHDRAWN ACCUSATION (Accusation filed by AG's Office was withdrawn before administrative hearing)	Date document filed by BPM	1 year after withdrawal date	Available for 1 year after withdrawal date pursuant to Title 16 CCR Section 1399.703
PROBATIONARY CERTIFICATE (Conditional license issued to an applicant on probationary terms and conditions)	On the ordered date after adoption	Available indefinitely	Designated Public Document pursuant to 803.1
Document	**When Public**	**Retention Period**	**Applicable Statute**
FINAL ACTIONS/DECISIONS			
PUBLIC LETTER OF REPRIMAND (B&P 2233) (A	Date issued by the Medical	Available	Designated Public Document pursuant to

lesser form of discipline that can be negotiated for minor violations **before** the filing of formal charges [Accusations])	board	indefinitely	803.1
PUBLIC REPRIMAND/PUBLIC LETTER OF REPRIMAND (whether or not the Accusation is withdrawn) issued **following** an administrative hearing	30 days after receipt by BPM or upon adoption, whichever occurs first	Available indefinitely	Designated Public Document pursuant to 803.1
PROPOSED DECISIONS (e.g., revocation, suspension, probation, limitation on practice)	30 days after receipt by BPM or upon adoption, whichever occurs first	Available indefinitely	Designated Public Document pursuant to 803.1
CITATION ORDER (Citation is a written order describing the nature of a violation, including the specific code of law violated; it is not a disciplinary action) including those with terms and conditions: an education course, examination and/or cost recovery	Date issued by the board	Retention: Available for 5 years from the date resolved, or if withdrawn or dismissed, deleted immediately from Web site pursuant to Title 16 CCR Section 1399.698	Designated Public Document pursuant to 803.1
Document	**When Public**	**Retention Period**	**Applicable Statute**
MISCELLANEOUS			
SURRENDER of LICENSE (either the licensee surrenders while charges are pending, or the licensee surrenders during probation without further administrative action pending)	On Date issued by board	Available indefinitely	Designated Public Document pursuant to 803.1

JUDGMENT/ARBITRATION AWARD (only the information regarding the matter is available, no documents are available from the Medical Board)	Date board becomes aware	Remains on profile 10 years	Designated as public information pursuant to 803.1 - No documents provided
MEDICAL MALPRACTICE SETTLEMENTS (only the information that licensee has 3 (low-risk category) or 4 (high-risk category) settlements within a 10 year period.	When the BPM is notified that licensee meets criteria	Remains on profile while criteria met	Designated as public information pursuant to 803.1 - No documents provided
FELONY CONVICTION (only the information regarding the conviction is available)	Date board becomes aware	Available indefinitely	Designated Public Document pursuant to Title 16 CCR Section 1399.703(f)
805 REPORTS to the public - resulting from termination or revocation of hospital privileges for medical disciplinary cause or reason	Date board becomes aware	Available indefinitely	Designated Public Document pursuant to Title 16 CCR Section 1399.703(b)
OUT-OF-STATE ACTIONS - discipline taken against a licensee by either a board or by another state or jurisdiction	Date board becomes aware	Available indefinitely	Designated Public Document pursuant to Title 16 CCR Section 1399.703(b)

53. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

The board provides the public with the following information disclosures regarding current and past licensees:

- Name of Licensee as appearing in Board records
- Address of record
- Podiatric Medical School name
- Year graduated
- License number and type
- License issue date and expiration
- License status
- Public record actions or disciplinary information

54. What methods are used by the board to provide consumer outreach and education?

The board has historically used a multi-pronged approach to consumer education and outreach which has consisted of using: 1) the board website; 2) licensing education; and 3) pamphlets and brochures; and 4) personal appearances.

Board Website

The board relies heavily on BPM's website which is an extremely informative venue for both consumers and the practice community having expertly and methodically identified all potential matters relating to both consumer protection concerns in addition to applicable DPM and stakeholder matters. It is a mainstay of board outreach effort and provides electronic access to licensing information and applications for applicants, research and information on laws and regulations governing podiatric medicine, and convenient information to consumers on both health and well-being in addition to information on enforcement, disciplinary matters and how-to information for filing complaints.

Licensing Education

As touched on in response to questions 16 and 17 in section 4 above, through the years BPM has perfected a customer-centric licensing process that has directly contributed to the creation of a personalized, streamlined and efficient licensing program function which personally guides applicants through the licensing process that has eliminated delay and backlog for nearly 25 years. Staff has literally worked one-on-one with hundreds of residents, advising them of document requirements and answering questions covering all aspects of the process which has served to save time, resources and avoid needless last minute applications for licensure. This internal outreach process has been in place for several decades and serves as a matter of personal pride for all board staff.

Pamphlets and Brochures

The board has a history of publication and distribution of DCA consumer pamphlets on various subjects touching on diabetes, orthotics and how doctors of podiatric medicine promote health and well-being. BPM informational fact-sheets have also been extensively incorporated over the years and cover subjects as diverse as: medical advertising; complaint, enforcement and disciplinary information; health facility privileging and credentialing; discrimination by health facilities; medical record retention; information for students; scope of practice; important contact information; and many other topics.

Personal Appearances

Personal appearances have traditionally been a useful tool for outreach to professional conferences and community events. However, state travel restrictions have significantly reduced attendance in recent years. Nevertheless, where travel is permitted under current guidelines outreach is occasionally performed at events such as the annual Western Foot and Ankle Conference sponsored the California Podiatric Medical Association.

In addition to the efforts above, recently—with board adoption of its new Strategic Plan 2015-2018 at the March 6, 2015 meeting of the board—BPM has endeavored to rededicate itself to enhanced consumer protection outreach and education. The Strategic Plan has brought forth a new mission, vision and values statement with ambitious drive for accomplishing increased outreach to stakeholders, consumers and the profession.

As part of these outreach and education objectives, the groundwork for the development and implementation of new tools has been laid. These efforts include re-inauguration of the board's quarterly newsletter that had been defunct for several years; development and publication of a comprehensive board publication regarding the "Laws Relating to the Practice of Podiatric Medicine" that will serve as a convenient reference source on federal and state laws governing the podiatric medicine for both consumers and the profession; and planned integration of internet FAQs covering critical consumer and stakeholder information that will help constrain user focus to crucial information in an organized and easily accessible manner.

Online Practice Issues

- Online Practice Regulation

Section Seven

Sunset Review Report 2015

Section 7 – Online Practice Issues

55. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate internet business practices or believe there is a need to do so?

California can be said to be at the forefront of the development of telehealth. Doctors practicing via telehealth are held to the same standard of care and retain the same responsibilities of providing informed consent, ensuring the privacy of medical information and many other duties normally associated with the practice of medicine.

It is known that the practice of prescribing prescription medication via telehealth is not an uncommon source of consternation and confusion among doctors nationally. The common inquiries that BPM has encountered regarding online practice are questions concerning out-of-state prescribing via telehealth and whether an appropriate patient/physician relationship exists; when that relationship develops; whether it may be established through remote interactions alone; and if a bona-fide relationship truly exists whether it is permissible to issue a prescription. At this juncture in the national development of telehealth, many states do not permit physicians to issue prescriptions to patients whom they have not met in person.

The board actively responds—in association with the Medical Board CCU through its existing shared services agreement—to all complaints received. There is currently robust statutory authority to pursue violations for dispensing or furnishing of any dangerous drugs or devices on the internet for delivery to persons in California without a prescription after an appropriate prior examination and medical indication under sections 2242.1 and 4067 B&P. Additional charges may also be warranted for unlicensed practice if committed by an individual without a certificate to practice medicine under sections 2052 and 2474 B&P. Notwithstanding, at this time there is no present evidence to indicate any prevalence of online practice issues existing among either the licensed podiatric community of physicians or with unlicensed populations.

While, it is certainly a subject that comes before the larger Medical Board from time to time, most recently in connection with the recommendation of medical marijuana and the requirement of an appropriate prior examination meeting the standard of care before recommending, it has not been an issue that has necessitated board attention.

Accordingly, there are no plans for BPM to address the subject through additional regulatory authorities at this time.

Workforce Development and Job Creation

- Workforce Development
- Impact Assessment of Licensing Delays
- Potential Licensee Outreach and Education
- Workforce Development Data

Section Eight

Sunset Review Report 2015

Section 8 – Workforce Development and Job Creation

56. What actions has the board taken in terms of workforce development?

While not structured to specifically create jobs or provide training to the people of California for learning specific medical job skills and abilities per se, the board has proactively and aggressively sought out business opportunities with Small Businesses (SB), Micro Businesses (MB) and Disabled Veteran Business Enterprises as an integral part in stimulating the State's economy. As a result, BPM has successfully met and/or exceeded its SB/DVBE participation goals in each of the last four fiscal years. BPM Table 13a is provided below for reference.

BPM Table 13a. SB/DVBE Participation

Fiscal Year	Small and Micro Business Goal: 25%	Disabled Veteran Business Goal: 3%
11/12	**33.34%**	**16.66%**
12/13	**23.59%**	**3.53%**
13/14	**27.51%**	**4.37%**
14/15	**33.34%**	**16.66%**

Additionally, as a licensing agency, over the last 25 years the board has been able to provide those applicants meeting the minimum qualifications for licensure nearly same-day issuance of certificates to practice podiatric medicine once all documents satisfying an applicant's licensure requirements have been received. This has gone extremely far to ensure a smooth and seamless transition into the state's podiatric medical community without delay as individuals cannot legally perform the duties required until properly licensed by the board.

The total license issuance rate averages 106 licenses a year for a grand total of 425 new licenses issued in the past four years. This figure includes a combined average total for both permanent DPM licenses and Resident training licenses. In addition, the board issues an average of 1106 renewals each year. These efforts help ensure continued unproblematic access to both medical training and employment programs to both the state's present and future medical workforce in order to ensure a robust, unimpeded and competitive podiatric medical community.

Apart from this the board has also recently conducted a voluntary Equal Employment Opportunity (EEO) survey of its professional consultant and expert pool retained under contract for the evaluation of quality of care issues in connection with BPM's Enforcement Program. Survey efforts were advanced with the stated intention of capturing data on diverse hires and evaluating what demographic groups the agency is making contact with when seeking new podiatric medical experts and consultants. This

data is planned to be used as a reasonable starting point for comparison to actual percentages of female and minority inclusion in the regulated podiatric profession.

It is believed that targeted recruitment opportunities can in turn be identified by comparison to the statewide availability pool of podiatric professionals as a baseline. It is known, for example, that a little less than 25% of the state's licensed doctors of podiatric medicine are female yet only make up slightly over 8% of BPM's panel of experts and consultants based on survey response data. This is viewed as an opportunity that can be addressed through implementation of rigorous targeted recruitment efforts that are desired to be considered and discussed by the board for future implementation. A copy of the board's EEO survey results have been included as an attachment and labeled as Exhibit C1 under section 12 for committee reference.

57. Describe any assessment the board has conducted on the impact of licensing delays.

The board has not had any licensing delays for nearly the last 25 years. Accordingly, the board has not had cause to conduct a delay assessment. The board will endeavor to continue to provide same-day licensure issuance to all applicants once all licensing requirements have been conclusively met. For fuller discussion of BPM licensing cycles, the board's licensing process has been more fully described in questions 16 and 17 under section 4 above.

58. Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.

The board has a record of successful educational outreach and accomplishment with podiatric medical teaching institutions and potential licensees. Beginning with personalized outreach performed as a part of the board's licensing function; BPM directly works one-on-one with potential licensees beginning late in their medical educational programs as residency approaches. Applicants are often personally guided through the application process and in some instances are immediately telephoned with their new license number when issued.

BPM's focus on customer-centric processes with applicants has directly contributed to the creation of a personalized, streamlined and efficient licensing program function that has worked to eliminate delay and backlog for nearly 25 years. The board has also published and distributed an informational career pamphlet for prospective students entitled "Step into a Rewarding Career in Podiatric Medicine" and has linked private association recruitment materials on its website which chronicle a series of career profiles focusing on doctors of podiatric medicine and surgical residents to highlight the rewards of a career in podiatric medicine.

The board has also been instrumental in offering early technical consultation to Western University of Health Sciences for support in helping to establish the second school of

podiatric medicine in the state in 2009; one of nine in the entire United States.

Going forward, with board adoption of its Strategic Plan for 2015-2018 at the March 6, 2015 meeting of the board, the board has endeavored to rededicate itself to enhanced consumer protection outreach and education. The new Strategic Plan has brought forth a new mission, vision and values statement with ambitious drive for accomplishing increased public outreach to stakeholders, consumers and the profession; which will of course include outreach to future and potential licensees.

Part of these renewed outreach and education objectives include re-inauguration of the board's quarterly newsletter that had been defunct for several years which is planned to also target educational institutions and potential licenses to better inform of the board's licensing requirements and processes.

59. Provide any workforce development data collected by the board, such as:

a. Workforce shortages

b. Successful training programs.

While the board keeps abreast of economic and workforce development data it is not appropriately resourced to act on information collected. For example, as of 2013 it has been known that the pipeline of future practitioners is smaller than in years past notwithstanding more educational institutions of podiatric medicine.

During the 1980's the average graduating class was composed of 580 individuals. This stayed constant during the 1990's with an average graduating class of 582 individuals. However, in the last two decades the average graduating populations have decreased with 482 and 528 graduates in the 2000's and through the 2010's, respectively. Indeed, even internally it is projected that the board's licensee population will begin to retire at a slightly higher rate than newly inducted licensees in the next five years. This is expected to result in a slight negative imbalance to BPM's relatively invariable licensee base and revenue stream.

What is more, it is also known that there is a shortage of residency positions in podiatric medicine nationally. The number of active first year residency positions does not equal those approved and each year there are programs that do not fill the full complement of positions due to funding concerns, among other things. The total residency placement statistics for 2013 compiled by the American Association of Colleges of Podiatric Medicine are illustrative. A full 16% or 99 total students were reportedly unable to find residency placements for the 2013/2014 training year out of a total of 631 total residency applicants.

While the reasons for the residency shortages nationally are undoubtedly both myriad and complex, the fact remains; the future of the profession is intertwined with finding a long term solution to this issue.

Current Issues

- Uniform Standards for Substance Abusing Licensees
- Consumer Protection Enforcement Initiative (CPEI) Regulations
- BreEZe

Section Nine

Sunset Review Report 2015

Section 9 – Current Issues

60. What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?

Mirroring efforts undertaken by MBC, BPM revised its Manual of Disciplinary Guidelines with Model Disciplinary Orders in 2011 to incorporate some but not all of the 16 standards propounded by the DCA Substance Abuse Coordination Committee (DCA SACC). This was mainly attributed to the fact that BPM had sunset its Diversion Program through enactment of SB 1981 [Greene, Statutes of 1998, Chapter 738] and therefore 8 of the 16 uniform standards relating to monitoring substance abusing licensees participating in drug or alcohol abuse programs were not applicable.

The effort did result in revisions to Conditions 9, 10 and 11, of the board's disciplinary guidelines which expanded the definition of "biological fluid testing" and permitted the board to impose a "cease practice" order for a positive drug or alcohol result on a biological fluid test in addition to requiring a timely filing for administrative action in order to preserve due process rights. Also included were revisions to the recommended range of penalties for probation violations in order to maintain consistency with MBC. These revisions were adopted by the board on September 23, 2011, with the central intent of updating the previous 2005 edition of the board's model disciplinary guidelines.

Again, this effort would have implemented some but not all of the Uniform Standards required by SB 1441 in addition to reestablishing consistency with MBC and their then current 2010 Manual of Model Disciplinary Orders and Disciplinary Guidelines which successfully passed the very same revisions. Unfortunately, BPM's revised model guidelines were disapproved by DCA in 2011 on grounds that BPM selectively incorporated the Uniform Standards required by SB 1441. Three legal opinions were cited including that of the Office of Legislative Counsel, the Office of the Attorney General in addition to the Department's own Legal Affairs Office, which concluded that compliance with section 315 of the Business and Professions Code was mandatory. Further, the proposed guidelines that BPM proposed to incorporate were found inconsistent with other legal requirements because they provided the board additional discretion to deviate from those Uniform Standards. Thus, BPM's attempted regulatory effort to incorporate the revised 2011 guidelines failed.

Not to be dissuaded, BPM has again undertaken renewed efforts to implement the Uniform Standards for Substance Abusing Licensees in 2015; this time incorporating all applicable standards originally recommended by DCA SACC in their totality. Draft

versions of the proposed regulatory changes had been reviewed and considered at the June and September 2015 meetings of the full board. The proposed changes were approved and adopted by the board for full implementation through the rulemaking process at the November 13, 2015 meeting of the board.

61. What is the status of the board's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

In an effort to overhaul the enforcement processes of the healing arts boards it oversees, the DCA CPEI was a comprehensive initiative to enable boards to handle consumer complaint investigations and outcomes of its health board licensees more efficiently.

Originally borrowed from existing practices contained in the Medical Practice Act, several enhancements were identified for proposed legislation under bill SB 1111 (Negrete McLeod) of 2010 and later SB 544 (Price) of 2011 to assist all DCA health boards improve their enforcement processes. Unfortunately, while BPM spearheaded support and was the only board listed as a backer of SB 1111 in committee analysis, both bills ultimately failed passage.

Notwithstanding, DCA reviewed the proposed CPEI legislation and determined that nine of the desired legislative enhancements could be implemented by DCA health boards through regulation. Therefore, DCA recommended adoption of the provisions to DCA health boards through regulatory implementation. As briefly stated above the proposed statutory enhancements were based on existing provisions contained within the Medical Practice Act. The Medical Practice Act provisions placed great emphasis on physician discipline and were specifically passed for BPM and MBC under the Presley bills beginning with SB 2375 of 1990. Thus, BPM has long had the existing statutory authorities regarding CPEI regulatory recommendations in place and has not found a need for additional BPM regulations.

The CPEI regulatory recommendations and the corresponding existing statutory authorities mandating BPM enforcement and administration under section 2222 B&P are provided below for reference and comparison.

1) **Recommended Regulation 720.2(b)** – Board Delegation of Authority to Executive Officer regarding Stipulated Settlements for Surrender or Revocation

Existing authority provided under section 2224 B&P which also includes authority to adopt default decisions.

2) **Recommended Regulation 720.10** – Revocation for Sexual Misconduct

Existing authority provided under section 2246 B&P prescribing an order of revocation for any finding of fact indicating that licensee engaged in sexual exploitation as defined in B&P section 729

3) **Recommended Regulation 720.12** – Denial or Revocation of an Application or License for Registered Sex Offender

Existing authority provided under sections 2221(c) and 2232 B&P prescribing denial of a license to any applicant required to register as a sex offender and prescribing revocation of a license to any DPM if required to register as a sex offender, respectively.

4) **Recommended Regulation 712.14** – Confidentiality Agreements regarding Settlements

Existing protection provided under section 2220.7 B&P positing that any agreement to settle civil disputes with terms that prohibit a party to the controversy from contacting, cooperating, filing a complaint or requiring withdrawal of a complaint with the board are void as against public policy and subject to board disciplinary action against the physician.

5) **Recommended Regulation 720.16(d) and (f)** – Failure to Provide Document; **Recommended Regulation 718(d)** – Failure to Comply with Court Order

Existing authorities provided under section 2225.5 prescribing civil penalties for failure to provide medical records and civil penalties and misdemeanor charges for failure to comply with court orders issued in connection with enforcement of a subpoena for release of medical records.

6) **Recommended Regulation 720.32** – Psychological or Medical Evaluation of Applicant

Existing authorization provided under section 2480 B&P for full authority to investigate and evaluate every applicant's ability to safely practice and to make determinations for admission.

7) **Recommended Regulation 726(a) & (b)** - Sexual Misconduct

Existing authority provided under section 726 B&P defining any act of sexual misconduct between physician and patient as unprofessional conduct.

8) **Recommended Regulation 737** - Failure to Provide Information or Cooperate in Investigation

Existing authority provided under section 2234(h) B&P defining any failure to cooperate by a licensee subject to a board investigation as unprofessional conduct.

9) **Recommended Regulation 802.1** – Failure to Report Arrest; Conviction

Existing authority provided under section 802.1B&P requiring mandatory licensee reporting of felony indictments or charges and felony or misdemeanor convictions.

62. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.

BPM successfully participated in and implemented Release 1of DCA's BreEZe online database for the board's licensing and enforcement functions in 2013. All BPM licensing and enforcement functions are up and successfully running on the new data system.

While the BreEZe transition period was not without difficulty given the significant diversion of staff time (1 staff member out of only 5 total available devoted almost exclusively full-time to the project) required for system testing and to conform system requirements to board business needs, the board successfully adopted and migrated to the new BreEZe system in a near seamless migration. BPM had successfully avoided many of the technical issues experienced by other boards and believes that the system has offered both consumers and licensees improved data quality, technology, customer service and enhanced board licensing and enforcement efficiencies.

Other than ongoing and routine maintenance corrections and fixes, current regression testing and/or script development to ensure that existing BreEZe configurations remain sound, operable and without deficiency during implementation of Release 2 of the system, BPM plays no ongoing continuing role in development. BPM is however significantly affected by recent DCA/vendor contract escalation costs necessary to fund the continuance of the BreEZe project department wide. Said contract costs have resulted in nearly 100% BreEZe cost increases to the board.

Board Action and Response to Prior Sunset Issues

- Prior Sunset Issues (2011)

Section Ten

Sunset Review Report 2015

Section 10 –
Board Action and Response to Prior Sunset Issues

Include the following:

1. **Background information concerning the issue as it pertains to the board.**
2. **Short discussion of recommendations made by the Committees/Joint Committee during prior sunset review.**
3. **What action the board took in response to the recommendation or findings made under prior sunset review.**
4. **Any recommendations the board has for dealing with the issue, if appropriate.**

BPM was last reviewed in 2011. A total of 12 issues were raised by the Committees/Joint Committee at that time. The following section covers prior issues drawn from the March 12, 2012 Oversight Hearing and provides a short background discussion; recommendations made by the Committees/Joint Committee; and a current status update. Board recommendations for issues not successfully addressed are provided where appropriate.

Background information, recommendations and current status are as follows:

1) **Amendment to section 2472(d)(1) of the California Business and Professions Code ("BPC") to eliminate reference to "ankle certification […] on and after January 1, 1984" to confirm a single scope of DPM licensure.**

<u>Background</u>

Legislation passed in 1983 (chapter 305, Statutes of 1983) clarified that treatment of the ankle was included in the licensed scope of practice for doctors of podiatric medicine ("DPMs"). DPMs that passed a rigorous and sophisticated oral examination for ankle certification administered by BPM were licensed to surgically treat the ankle in addition to the human foot. Subsequent legislation passed in 1998 (Greene, Chapter 736, Statutes of 1998) simply authorized all DPMs licensed by BPM after January 1, 1984, to perform ankle surgery by repealing the requirement that DPMs obtain an ankle certificate.

Enactment of AB 932 in 2004 removed outdated statutory language that prohibited DPMs from performing partial foot amputations. The law essentially continued a two-tier system of licensure between DPMs who were ankle certified on or after January 1, 1984, and permitted to perform amputations from those who were not. In response,

BPM offered non-ankle certified DPMs additional ankle certification examination opportunities in order to permit them to continue performing digital amputations as part of their podiatric medical practice in the care, treatment, management and preservation of diabetic foot. Due to lack of demand from the podiatric medical profession, ankle certification examinations were again discontinued in 2010.

Surgical treatment of the ankle had been part of the legitimate licensed scope of practice DPMs for nearly (30) thirty years. All DPMs licensed since 1984 have been automatically authorized to perform ankle surgery as a routine matter of practice. BPM therefore recommended that reference to ankle certification be removed from the statute.

2012 JLSRC Staff Recommendation

The Committee should consider amending BPC Section 2472(d)(1) to remove reference to "ankle certification by the BPM on and after January 1, 1984" thereby confirming a single scope of licensure for doctors of podiatric medicine.

Current Status

While reference to "ankle certification on and after January 1, 1984" was not removed from B&P Section 2472(d)(1) following the last Sunset Review, BPM has continued to intently review the issue. Most recently an informal internal study to obtain in depth data regarding the agency's non-ankle certified licensee population that includes both a detailed OIS data extraction in addition to a targeted research survey was undertaken. The findings are discussed more fully in Section 11 of this report below.

BPM Recommendation

BPM recommends that B&P section 2472(d)(1) be amended to remove reference to "ankle certification by BPM on and after January 1, 1984" thus confirming a single scope of podiatric medical licensure.

2) **Consideration of amendment to remove an obsolete provision from BPC 2472 prohibiting a DPM from performing an admitting history and physical examination.**

Background

B&P Section 2472(f) prohibited a DPM from performing an admitting history and physical examination ("H&P") of a patient in an acute care hospital if performance violated Medicare regulations. The California Attorney General issued an opinion in 2010 (Opinion No. 09-0504) opining that B&P Section 2472(f) did not preclude a DPM

from performing an H&P and failure to perform an H&P could amount to a departure from the medical standard of care.

2012 JLSRC Staff Recommendation

Section 2472 of the Business and Professions Code should be amended to repeal paragraph (f), thereby removing an obsolete provision prohibiting a DPM from performing an admitting history and physical exam at an acute care hospital.

Current Status

BPC 2472 was successfully amended to remove the obsolete statutory provision.

3) **Consideration of amendment to section 2475 B&P to eliminate a four-year limit on DPM post-graduate training.**

Background

While all graduates of a podiatric medical school with a resident's training license are required to receive a podiatric medical license within 3 years from the start of post-graduate training program, section 2475 B&P limited post-graduate medical education to four years alone. Podiatric resident's seeking post-graduate medical education lasting beyond four years would be prohibited from doing so under California law.

2012 JLSRC Staff Recommendation

The BPM should provide more information regarding the proposal to amend Section 2475 B&P to remove the four-year cap on DPM postgraduate resident's license.

Current Status

The four year cap on post-graduate medical education was successfully raised to eight years.

BPM Recommendation

Notwithstanding having successfully raised the post-graduate medical education cap to eight years, it is the board's position—borrowing from a well-known contemporary axiom of education—that there is no such thing as too much medical education and training. BPM therefore recommends that the current limitation on post-graduate education should be removed in its entirety. This issue is also more fully discussed below in Section 11.

4) Consideration of amendment to BPC 2477 to clarify that a medical license is required to diagnose and prescribe corrective shoes and appliances.

Background

Section 2477 B&P provides that the provisions of the Article 22 (Podiatric Medicine) of the Medical Practice Act are not intended to prohibit recommendations, manufacture or sale of orthotics. Orthotics generally refers to custom made corrective shoes or appliances for the human feet that are prescribed for wear by DPMs, MDs and DOs after a full medical examination and diagnosis. BPM proposed that section 2477 be amended to clarify that only licensed medical professionals were authorized to diagnosis and prescribe orthotics.

2012 JLSRC Staff Recommendation

The BPM should more thoroughly discuss with the Committee the need for this proposed change. The BPM should document the necessity for this change and further explain the reasons behind its proposal.

Current Status

While the proposed amendment was solely intended to underscore that the referenced provision did not authorize the unlicensed practice of medicine, BPM's recommended amendment to BPC 2477 was not incorporated into law.

BPM Recommendation

BPM believes that section 1399.707 of its Podiatric Medicine Regulations is sufficiently instructive to underscore that unlicensed persons may not diagnose and prescribe corrective shoes, appliances or other devices nor diagnose or treat podiatric medical conditions as defined by 2472 B&P. Therefore, BPM recommends that no further action need be taken in this area.

5) Consideration of amendment to BPC 2493 to eliminate requirement for a specific examination score of one standard deviation of measurement higher than the national passing scale score for licensure.

Background

Section 2493 B&P required a passing score one deviation of measurement higher than the national passing scale score on the American Podiatric Medical Licensing Examination ("AMPLE") Part III, administered by the National Board of Podiatric Medicine Examiners ("NBPME") and used for licensure in California. Requiring passing

scores one standard error of measurement higher than national scale scores was found to slightly lower overall California podiatric passage rates, inordinately delay or block some physicians from podiatric licensure in the state and result in job loss for others. After NBPME announced and reported that revised testing specifications were raised to reflect competency of a candidate with one year of post-graduate training, BPM recommended removal of the score requirement from the statute.

2012 JLSRC Staff Recommendation

As recommended by the BPM, BPC Section 2493 should be amended to repeal subdivision (b).

Current Status

BPC 2493 was successfully amended to eliminate the requirement for a specific examination score equaling one standard deviation of measurement higher than the national passing scale score.

6) **Consideration of amendment to BPC 2335 to eliminate the two-vote requirement for deferring a final disciplinary decision until consideration and discussion by the full Board.**

Background

Section 2335 B&P required two members of the board to vote to defer a final disciplinary decision of an Administrative Law Judge ("ALJ") pending a full hearing and discussion before BPM. BPM believed the two-vote requirement essentially prevented board members from fulfilling their role as a jury in administrative disciplinary matters because discussion among members before a vote to uphold a decision was precluded even in cases where an issue may have been identified by a member who desired to discuss the matter before voting. BPM therefore recommended eliminating the two-vote requirement to empower the board's role in disciplinary matters.

2012 JLSRC Staff Recommendation

The BPM should provide more information regarding the proposal to amend BPC Section 2335 to remove the two-vote requirement for a disciplinary decision to be discussed by the BPM as a whole.

Current Status

BPC 2335 was successfully amended to permit one vote of the board to defer a final disciplinary decision until consideration and discussion by the full body.

7) Consideration of amendment of BPC 2497.5 granting BPM authority to increase costs when a proposed administrative law judge decision is not adopted.

Background

Section 2497.5 provided statutory authority for cost recovery as a standard condition in administrative disciplinary cases. BPM believed ALJs were inconsistent in cost recovery matters across all cases and not in line with recovering actual and reasonable costs of disciplinary proceedings to the agency. It was also felt that provisions restricting ALJs from increasing recovery of costs even when cases were remanded was not quite rational as a policy matter. Therefore it was posited that cost recovery restrictions served to put undue upward pressure on licensing fees. BPM thus recommended amendments to section 2497.5 to permit BPM exercise discretionary cost recovery increases in cases where the board voted to non-adopt an ALJ proposed decision in order to ensure the recovery of actual and reasonable costs.

2012 JLSRC Staff Recommendation

BPC Section 2497.5 should be amended to authorize the BPM to increase costs assessed when a proposed decision is not adopted by the BPM and the BPM finds grounds for increasing the assessed costs.

Current Status

BPC 2497.5 was successfully amended to permit assessment of additional costs when a proposed decision was not adopted by BPM and BPM found grounds for increasing.

8) Status of BreEZe implementation.

Background

The BreEZe Project was envisioned to provide DCA boards, bureaus and committees with a new enterprise-wide enforcement and licensing system to replace an outdated legacy system.

2012 JLSRC Staff Recommendation

The BPM should update the Committee about the current status of its implementation of BreEZe.

Current Status

BPM successfully participated in and implemented Release 1of DCA's BreEZe online database for the board's licensing and enforcement functions in 2013. Other than

current issues related to significant cost increases to BreEZE maintenance expenses to BPM as a result of contractual cost overruns with DCA's technology project, there are no negative implementation impacts to report. The board's successful adoption and migration to the new BreEZe system has offered both consumers and licensees improved data quality, technology, customer service and enhanced board licensing and enforcement efficiencies.

9) Consideration of the justification for passing credit card transaction fees to licensees for the convenience of online license renewal on the BreEZe system.

Background

In a significant advance over the legacy system previously used by BPM for the administration of podiatric medical licenses, the new BreEZe database offers licensees an advanced feature that offers online license renewal. Assuming an 80% user rate with 1,000 renewals yearly at $900 each, implementation of the online credit card transaction feature incurs an approximate $15,000 in additional administrative costs to BPM. The amount is based on a 2% surcharge assessed on the total renewal fee amount per transaction for the capability of offering online renewal. BPM had previously suggested passing the additional credit card transaction fee to licensees electing to use online renewal in order to preserve its fund balance, maintain solvency, and avoid cutting licensing or enforcement programs.

2012 JLSRC Staff Recommendation

The BPM should discuss with the Committee its authority to charge additional fees such as the convenience fees contemplated by the BPM. Does the BPM currently have sufficient authority to charge such a fee? Is any legislative change needed to clarify the authority of the BPM to charge an additional fee to cover the cost of a credit card convenience fee? Should or can the fee be reduced?

Current Status

While some discussion regarding online credit card transaction fees were initiated with DCA following the 2012 Sunset Hearing, online renewal transactions have not yet been implemented by BPM. The board, however, has previously voted unanimously to pass the 2% assessment for online renewals to licensees. DCA Legal has also previously opined that Government Code section 6159(g) provides the board the legal authorization to do so. Implementation of online renewals remains a priority. A goal for implementation has been newly adopted by the board on March 6, 2015 as an objective to complete in its 2015-2018 Strategic Plan.

10) Consideration of justification for increasing the BPM schedule of service fees.

Background

BPM's statutorily set schedule of service fees contained in section 2499.5 B&P has been at its legislatively mandated limit for over 20 years. Further, in 2004 the DCA Budget Office recommended that the board's schedule of service fees be adjusted in order to: 1) relieve upward pressure on the license renewal fee which accounted for more than 90% of BPM operating revenue; 2) assist stabilizing the BPM fund condition; and 3) appropriately recover actual and reasonable costs for services provided.

2012 JLSRC Staff Recommendation

The BPM should discuss its fund projections, and whether the current fee structure will generate sufficient revenues to cover its administrative, licensing and enforcement costs and to provide for adequate staffing levels for critical program areas into the foreseeable future. The BPM should demonstrate the level of need for the proposed fee increase by completing the Committee's "Fee Bill Worksheet."

Current Status

BPM solvency has been extended for decades through shrewd fiscal management. By all indications there is no reason to believe that the careful, "lean and mean" fiscal management history of BPM will not be carried into the future under the leadership of its new executive officer. Now into the second year of the new administration, BPM has managed to return $48,000 to its special fund or the equivalent of a 23% increase in monies returned year over last. While current financial analysis projects maintenance of a fund balance years to come, a number of factors caution that while continued cost control is critical, the keys to continued sustainability is revenue growth.

A number of contemporary issues lend support to the fiscal wisdom of adjusting user based service fees to recover actual and reasonable costs for services provided. This includes recent DCA planning, development and implementation issues with BreEZe—the information technology system—which has contributed to thousands in increased project costs across all boards DCA wide and lead to significant increases in expenses for BPM in addition to anticipated increased expenses for BPM when online renewals are implemented as planned if transaction costs are not passed on to licensees. These issues are also more fully discussed under Section 11.

11) Consideration of justification for permitting continued licensing and regulation of podiatric medical profession by BPM.

Background

The board is responsible for the regulation and licensing of podiatric physicians in the State of California. Consumer welfare and safety is best protected when physicians are regulated and overseen by an efficient and effective regulatory board. BPM has proven itself to be a valuable resource committed to the health, welfare and safety of all Californians.

2012 JLSRC Staff Recommendation

Recommended that doctors of podiatric medicine continue to be regulated by the current BPM members under the jurisdiction of the MBC in order to protect the interests of the public and be reviewed once again in four years.

Current Status

BPM concurred with continued regulation of doctors of podiatric medicine by the board.

BPM Recommendation

BPM persists in its belief that regulation of the profession by the board continues to be in the best interests of the citizens and residents of the State of California and it therefore warrants an extension of its grant of consumer protection.

12) Consideration of several BPM proposals for technical language cleanup of Podiatric Medical Act.

Background

Four technical corrections to specific provisions of the Business and Professions Code were raised for administrative cleanup including sections 2465, 2484, 3496 and 2470.

2012 JLSRC Staff Recommendation

Amendments should be made to make the technical cleanup changes identified by the BPM and recommended by Committee staff.

Current Status

Technical cleanup of several provisions of the Podiatric Medical Act, including BPC sections 2465, 2484, 3496 and 2470 were successfully accepted and implemented.

New Issues

- Removal of Ankle Certification
- Post-Graduate Medical Education Cap
- Actual & Reasonable Recovery of Costs for Services Provided
- North Carolina State Board of Dental Examiners v. FTC, 574 U.S. ___ (2015)

Section 11 – New Issues

This is the opportunity for the board to inform the Committees of solutions to issues identified by the board and by the Committees. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

1. **Issues that were raised under prior Sunset Review that have not been addressed.**
2. **New issues that are identified by the board in this report.**
3. **New issues not previously discussed in this report.**
4. **New issues raised by the Committees.**

Issue #1: Should reference to ankle certification on and after January 1, 1984 be removed from the B&P code and thereby confirm a single scope of licensure for doctors of podiatric medicine?

BPM Recommendation

Yes. BPM recommends that B&P section 2472(d)(1) be amended to remove reference to "ankle certification by BPM on and after January 1, 1984" thus confirming a single scope of podiatric medical licensure.

Applicable Authority

Business and Professions Code section 2472 provides in pertinent part:

(a) The certificate to practice podiatric medicine authorizes the holder to practice podiatric medicine.

(b) […] "podiatric medicine" means the […] surgical […] treatment of the human foot, including the ankle and tendons that insert into the foot […]

(d)(1) A doctor of podiatric medicine who is ankle certified by the board on and after January 1, 1984, may do the following:

(A) Perform surgical treatment of the ankle and tendons at the level of the ankle […]

(B) Perform services under the direct supervision of a physician and surgeon, as an assistant at surgery, in surgical procedures that are otherwise beyond the scope of practice of a doctor of podiatric medicine.

(C) Perform a partial amputation of the foot no further proximal than the Chopart's joint.
[…]

Business and Profession Code section 2473: [Section repealed 1998.]

Repealed Stats 1998 ch 736 § 18 (SB 1981). The repealed section related to the requirement for ankle certification by the board in order to perform surgical treatment of the ankle.

Background

Through passage of legislation (chapter 305, Statutes of 1983) section 2472 B&P was amended in 1983 to include surgical treatment of the ankle in the definition of podiatric medicine. Physicians were therefore authorized to perform ankle surgery as part of their medical practice after gaining "ankle certification" by passing a rigorous oral examination offered and administered by the board. Upon successful passage of the ankle examination, physicians were issued the required ankle license for surgically treating the ankle. Thus, 1984 was the year that a two-tier system of podiatric licensure between ankle and non-ankle certified physicians was codified in the Podiatric Medicine Practice Act ("Article 22") of the Medical Practice Act.

A mere fifteen years later with enactment of SB 1981 (Greene, Chapter 736, Statutes of 1998) the state legislature completely repealed the requirement for any ankle certification at all. Then existing California doctors of podiatric medicine licensed by the board on and after January 1, 1984 were simply automatically fully authorized to perform ankle surgery. While the board commented at that time that elimination of the two-tier system of licensure was likely premature, the system evolved to distinguish between pre- and post-1984 licensed physicians.

For obvious reasons, the board endeavored to offer those physicians licensed prior to 1984 opportunities to become ankle licensed if certified by the American Board of Podiatric Surgery or through passage of a sophisticated board administered oral examination. Eventually, the board examination was discontinued due to a lack of demand. Nevertheless, the two-tier system of licensure continued.

With passage of AB 932 (Koretz, Chapter 88, Statutes of 2004) the demand for board administered ankle examinations again arose in 2004. At that time many practitioners with conservative practice in the preservation of diabetic foot—which unfortunately sometimes involves digital (toe) amputations critical for the care and treatment of diabetic patients—were being prohibited from performing surgical treatments of the foot that were part and parcel of their existing practices. The compromise measure

established “ankle certification” obtained “on and after 1984” as the criteria for authority to perform partial amputations.

While the impetus for passage of AB 932 mainly centered on removing outdated statutory language from the Podiatric Medicine Practice Act that was then being interpreted as a basis to prohibit doctors of podiatric medicine from performing minor toe amputations, the law essentially transformed the two-tier licensure system to discriminate not only between pre- and post-1984 licensed physicians but also between ankle and non-ankle certified physicians. This resulted in literally disenfranchising all pre-1984 non-ankle certified physicians from performing even the most basic diabetic toe amputations.

Accordingly, the board again endeavored to offer these newly disenfranchised physicians opportunities to sit for board administered ankle examinations. All those physicians interested in pursuing ankle licensure did so. In total 53 additional doctors of podiatric medicine successfully obtained ankle certification in four separate exam administrations. The last examination was administered in 2010 to the only two known remaining interested examinees. Ankle certification examinations were thus again discontinued due to a lack of demand.

Discussion

California has officially recognized and defined the practice of podiatric medicine to legitimately include surgical treatment of the ankle as part of the scope of podiatric medical practice for over 30 years. As a direct result, the practice of podiatric medicine in California has continued to evolve into a highly complex surgical subspecialty. The advances made by the podiatric medical profession in the state since those times are unquestionable. In the process however a two-tier system of podiatric licensure has been created and permitted to continue in California.

After the board’s Sunset Review report in 2011, Joint Committee staff recommended considering whether a single scope of licensure for doctors of podiatric medicine should be confirmed by removing reference to ankle certification on and after January 1, 1984 from the B&P Code. In support, the board had submitted that over 80% of the podiatric licensee population was ankle certified. Given indications that non-ankle certified physicians comprised a small number of older licensees that neither performed ankle surgeries nor amputations, it was also commented that the percentage was expected to increase over time as greater numbers of pre-1984 licensed physicians retired from practice.

To date, there has not been any further interest expressed by the podiatric medical community for ankle examinations since 2010. As a result, an informal executive study

was commissioned by the board on March 6, 2015, for the purpose of analyzing the current state of the podiatric licensee population and determining whether reference to ankle certification in the practice act continues to be necessary. The tables that follow below provide the study's relevant and significant findings for Joint Committee review and consideration.

BPM Table 14. Non-Ankle Certified Licensee Populations		
ACTIVE LICENSEES		
TYPE	**PRACTICE AUTHORIZATION**	**COUNT**
DPM	Practice Permitted	71
DPM – Military Waiver	Practice Permitted	0
DPM – Disabled	NO PRACTICE PERMITTED	20
DPM - Retired	NO PRACTICE PERMITTED	75
	TOTALS PERMITTED TO PRACTICE	**71**
	TOTALS PROHIBITED FROM PRACTICE	**95**
DELINQUENT/CANCELLED/REVOKED/SURRENDERED/DECEASED LICENSES		
DELINQUENT STATUS		
TYPE	**PRACTICE AUTHORIZATION**	**COUNT**
DPM	NO PRACTICE PERMITTED	3
DPM – Military Waiver	NO PRACTICE PERMITTED	0
DPM – Disabled	NO PRACTICE PERMITTED	9
DPM – Retired	NO PRACTICE PERMITTED	38
	TOTALS PERMITTED TO PRACTICE	**0**
	TOTALS PROHIBITED FROM PRACTICE	**50**
CANCELLED STATUS		
TYPE	**PRACTICE AUTHORIZATION**	**COUNT**
DPM	NO PRACTICE PERMITTED	37
DPM – Military Waiver	NO PRACTICE PERMITTED	9
DPM – Disabled	NO PRACTICE PERMITTED	21
DPM – Retired	NO PRACTICE PERMITTED	144
	TOTALS PERMITTED TO PRACTICE	**0**
	TOTALS PROHIBITED FROM PRACTICE	**211**
SURRENDERED STATUS		
TYPE	**PRACTICE AUTHORIZATION**	**COUNT**
DPM	NO PRACTICE PERMITTED	26
DPM – Military Waiver	NO PRACTICE PERMITTED	0
DPM – Disabled	NO PRACTICE PERMITTED	0
DPM – Retired	NO PRACTICE PERMITTED	0
	TOTALS PERMITTED TO PRACTICE	**0**

	TOTALS PROHIBITED FROM PRACTICE	26
REVOKED STATUS		
TYPE	**PRACTICE AUTHORIZATION**	**COUNT**
DPM	NO PRACTICE PERMITTED	41
DPM – Military Waiver	NO PRACTICE PERMITTED	0
DPM – Disabled	NO PRACTICE PERMITTED	0
DPM – Retired	NO PRACTICE PERMITTED	0
	TOTALS PERMITTED TO PRACTICE	**0**
	TOTALS PROHIBITED FROM PRACTICE	**41**
DECEASED		
TYPE	**PRACTICE AUTHORIZATION**	**COUNT**
DPM	N/A	9
DPM – Military Waiver	N/A	0
DPM – Disabled	N/A	2
DPM – Retired	N/A	31
	TOTAL	**42**
	GRAND TOTAL	**535**
	TOTAL NON-ANKLE CERTIFIED DOCTORS OF PODIATRIC MEDICINE AUTHORIZED TO PRACTICE	**71**

The board has a current active population of 2249 doctor of podiatric medicine licensees for FY 2014/15. The figure may be referenced in Table 6 under section 4 of the present report.

Counting both active and inactive populations, the board has a grand total of 535 licensees reflected as lacking ankle certification by the board. Unfortunately, 41 of these individuals are deceased. Thus, for obvious reasons, these should not be included in the analysis. Of the remaining 494 licensees in the board database indicating non-ankle certification, a full 66% are legally prohibited from practicing medicine in the state of California. These include revoked, surrendered, cancelled and delinquent status licensees. These may all be considered as having prohibited practice status that present little to no probability of ever returning to the active practice of medicine.

To be sure, while the class of delinquent licensees does present a chance that some individuals may remedy delinquencies in order to return to the active practice medicine, the likelihood is minor. Moreover, 47 of the existing 50 delinquent licensees are in retired or disabled status and cannot practice even if brought current; thus leaving 3 practitioners that may possibly return to practice. Table 14a immediately below provides the current timeline status for the 3 licensees that are neither in retired or disabled

status. Pursuant to section 2428 B&P delinquencies are cancelled after 3 years of non-renewal. Each of the 3 is less than 1 year in delinquency; 1 is 81 years of age who has not renewed and the remaining 2 are as a result of failure of the BPM CME Audit. It is unlikely that these deficiencies will be remedied.

BPM Table 14a. TIMELINE STATUS FOR DELINQUENT NON ANKLE LICENSEES			
COUNT	3	< 1 year	Between 5-11 months delinquent – No practice permitted
	0	1st year	No practice permitted
	0	2nd year	No practice permitted
	0	3rd year	Cancelled
TOTAL	3		

Based on these considerations, the board has an active population of 166 doctors of podiatric medicine that do not have ankle certification. Out of this population of licensees, 75 are in retired status and another 20 are unable to practice podiatric medicine due to disability. Both categories are also legally restricted from engaging in the practice of podiatric medicine. As a result there are only a total of 71 active doctors of podiatric medicine that lack ankle certification. 5 of the 71 are listed as residing out of state with no practice in California; thus leaving a total of 66. This represents a mere 2.9% of the active licensee population in the state without ankle certification.

Borrowing retirement analytics originally performed as part of the board fee study, analysis of central tendency indicates that the average age for licensee retirement is 64, with the mode at 62 and the median at 64. Based on the current age distribution of current licensees in the database, a projection of up to 367 licensees may be expected to retire in the next five years. Applying these analytics to the non-ankle certified population of 71 physicians who collectively average 67 years of age, 52 of the expected 367 retirements are non-ankle certified physicians that may be expected to retire from the practice of medicine in the next five years if not sooner. Table 14b provides the relevant age distribution for the active non-ankle certified population authorized to practice as a reference below.

BPM Table 14b. Current Non-Ankle Certified Licensees Age Distribution		
COUNT	**AGE**	**NOTE**
4	60	1 licensee resides out-of-state
4	61	1 licensee resides out-of-state
4	62	
7	63	
11	64	1 licensee resides out-of-state
5	65	
1	66	
4	67	
6	68	
3	69	
5	70	1 licensee resides out-of-state
4	71	
4	72	
3	73	
1	74	
2	76	
1	77	licensee resides out-of-state
1	79	
1	82	
TOTAL COUNT	**AVG AGE**	
71	**67**	5 total licensees residing out of state

For purposes of determining whether removing reference to “ankle certification by BPM on and after January 1, 1984” can be done without jeopardizing consumer safety, it is important to note that all physicians are required to limit their medical and surgical practice to the extent of their education, training and experience alone. Hospitals and health facilities also uniformly apply credentialing processes based on a licensee’s affirmative demonstration and satisfaction of required education, training and experience in order to grant facility and surgical privileges. In this case, ankle surgeries may only be performed in peer-reviewed health facilities pursuant section 2472(e) B&P.

As a result, while 97.1% of active BPM licensees may now in fact currently be licensed to perform ankle surgery, many physicians consciously choose not to do so and no health facility would grant ankle surgery privileges to them unless these physicians were able to affirmatively demonstrate the requisite training and experience necessary to perform ankle surgery; even if—legally speaking—they are licensed by BPM to do so.

The important corollary to this principle is that if reference to ankle certification by BPM on and after January 1, 1984 were to be removed—thereby legally recognizing the

remaining 2.9% of licensees authority to perform ankle surgery—health facilities and hospitals would not grant them automatic privileges to do so because these physicians would likely not be able to demonstrate the requisite credentials necessary to satisfy ankle surgery privileging requirements; and it is only in these peer-reviewed facilities where ankle surgeries may be lawfully performed at all. Thus, these physicians would be required to seek out and receive any additional relevant training and education necessary to pass health facility privileging requirements in order to be granted ankle surgery facility privileges.

It may therefore be reasonably concluded that amending section 2472(d)(1) to remove reference to "ankle certification by BPM on and after January 1, 1984" to confirm a single scope of podiatric medical licensure for the sake of simplifying the statute and its administration can be accomplished without any danger to consumer safety.

Conclusion

At this time, 31 years after section 2472 was amended to include surgical treatment of the ankle in the definition of podiatric medicine, a full 97.1% of the board's active licensees are ankle-licensed and legally authorized by the board to surgically treat the ankle. While not all current ankle-certified physicians perform ankle surgeries due to the lack of credentials for gaining health facility privileges to do so, any newly recognized physicians authorized through amendment of the law to permit ankle surgery would be required to demonstrate the training and experience necessary to gain privileges to perform ankle surgery at peer reviewed health facilities; the only locations where ankle surgeries are permitted.

With only 66 active status physicians left without ankle certification and currently remaining in the state, representing a mere 2.9% of the total active licensee population, it is believed that continued reference to ankle certification on and after January 1, 1984, has arguably run its course.

Thus, with less than 3% of the active licensee population lacking ankle certification, representing only 71 physicians (5 out of state) who bear an average age 67 years, it is indeed only a very small number of older licensees who are not legally authorized to perform ankle surgeries. These facts coupled with the expectation that a full 75% of them will retire in the next five years or less lend strong support to the contention that continued reference to ankle certification on and after January 1, 1984, has arguably ceased to provide any known continued usefulness and may be confidently amended to remove reference ankle certification by BPM on and after January 1, 1984 without danger to the public or jeopardy to consumer safety.

Issue #2: Should the limitation on post-graduate medical education be eliminated for doctors of podiatric medicine?

BPM Recommendation

Yes. BPM recommends that the statutory limitation on post-graduate medical education be eliminated for doctors of podiatric medicine.

Applicable Authority

Business and Professions Code section 2475 provides in pertinent part:

> […] no postgraduate trainee, intern, resident postdoctoral fellow […] may engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine […]
>
> However, a graduate of an approved college or school of podiatric medicine […] who is issued a resident's license, which may be renewed annually for up to eight years for [engaging in the practice of podiatric medicine] upon recommendation of the board, and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine […] as a part of that [postgraduate training] program […] under the following conditions:
>
> (a) […] in an approved internship, residency or fellowship program [;] may participate in training rotations outside the scope of practice of podiatric medicine, under the supervision of a physician and surgeon […] as part of the [postgraduate] training program, and […] *[i]f the graduate fails to receive a license to practice podiatric medicine […] within three years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.* […] (emphasis added.)

Discussion

Under section 2475(a) of the California Business and Professions Code all post-graduates in California podiatric residencies or fellowships must obtain full podiatric medical licensure within three years of starting their medical training programs or else they will be legally prohibited from continuing their studies. While recognizing that medical education is the very foundation upon which high-quality health care is built, this provision is specifically designed to ensure that all post-graduates progress into full licensure as doctors of podiatric medicine.

In addition to the above, also recognizing that a resident's license authorizes the bearer to participate in full rotations beyond the scope of podiatric medicine as part of a podiatric residency program, there are a number of additional provisions in the statute to

specifically preclude use of a resident's license as a sort of de facto occupational license.

First, all residency practice is required to be under the supervision of a licensed physician and surgeon. This also includes explicitly requiring board authorization to learn the practice of podiatric medicine in specific board-approved training programs alone. Accordingly, all post-graduates are required to demonstrate actual enrollment in a specific board approved educational program before a resident's license may issue.

A post-graduate is required to submit a Memorandum of Understanding with the board designating the name of the training program where accepted. An accepted resident must certify under penalty of perjury that they will limit training to the designated program alone and will immediately surrender the resident's license if departure from the program before expiration of the term of the one-year license occurs. Verification of continued enrollment occurs annually during the time for renewal.

As part of the annual board residency program approval process, a resident's certification of enrollment is cross-referenced with annual program documentation submitted to the board. Program directors are yearly required to provide the board with the names of all post-graduate residents enrolled in training for the upcoming year.

It is also important to note that there are only a finite number of programs in the state. There were only a total of 18 programs approved for the 2015/2016 podiatric medicine residency training year in California. There is in fact a shortage of residency programs nationally. Because they are specifically intended to train doctors in the clinical practice of podiatric medicine, residency training programs are limited in duration and thus are quite naturally extremely competitive. The likelihood of any individual staying on with a training program as a sort of "permanent resident" past three years of required residency in an age of limited financial sponsorship for residency programs and diminishing training opportunities is quite literally nearly non-existent.

Collectively, the protective provisions of section 2475 just discussed allay even the most poignant concerns that possession of a resident's license would somehow be used as a subversive backdoor attempt for expanding a doctor of podiatric medicine's scope of practice. Indeed, it cannot be so. The language of the statute itself limits practice authority to engage in podiatric medicine in a board approved training environment for learning purposes and explicitly provides that the bearer may only participate in training rotations outside the scope of podiatric medicine under the supervision of a physician and surgeon as part of the podiatric medical training itself. Podiatric medical training practice in non-compliance with any one of the above mentioned conditions is simply unlawful and would necessarily result in a violation for the unlicensed practice of medicine; which of course would be vigorously pursued.

Nevertheless, as currently codified section 2475 B&P also places an arbitrary and unreasonable obstacle to the acquisition of advanced medical education in formal programmatic settings. Lifelong learning has long been a hallmark in the medical licensing literature and has been fervently advocated by many organizations including the Federation of State Medical Boards, the American Board of Medical Specialties and the Pew Health Professions Committee. The negative corollary of this proposition is that medical educational limitations of any kind are detrimental and preclude advancement and acquisition of evolving medical knowledge and science. This is particularly true in California in two important respects.

One, BPM requires all licensed doctors of podiatric medicine to demonstrate compliance with board-mandated continuing competency requirements. BPM has been in the vanguard championing lifelong medical learning and is the only doctor-licensing board in the country to implement a peer reviewed, performance based assessment program for licensed physicians over and above satisfaction of continuing education units alone. Physicians licensed longer than ten years that lack specialty board certification or that do not have peer-reviewed health facility privileges have fewer options available to them in order to demonstrate competency.

Since use of BPM's oral clinical examination was discontinued as recommended by the Joint Committee in 2002 and no longer required for state licensure, available pathways for demonstrating competency by such individuals would be limited to just three options:

1) passage of Part III of the national board examination; 2) completion of a board approved extended course of study; or 3) completion of a board approved residency or fellowship program as specified under section 2496 B&P. However, once a physician's mandated post-graduate educational limit was reached, notwithstanding the fact that the doctor of podiatric medicine was already the holder of permanent license to practice podiatric medicine, the pathway for demonstrating continuing competency through successful completion of a program of post-graduate medical education is essentially foreclosed as an available option.

Accordingly, the board would be legally prohibited from issuing a resident's license to a licensed doctor of podiatric medicine desiring to satisfy continuing competency requirements through completion of an approved program of post-graduate education. This for no more than the simple reason that the doctor had already reached the limit of permissible education in the eyes of the state. The educational restriction discussed herein is the only statutorily imposed educational prohibition known to exist for any profession in the country.

Two, the state's leading and most advanced podiatric physicians are ostensibly precluded from advancing in their field through participation limitations on formal

programmatic educational options available for the acquisition of advanced medical knowledge in other fields. A resident's license represents plenary authorization to learn the entirety of clinical medical practice. This includes full training rotations normally outside the scope of podiatric medicine under the supervision of medical or osteopathic doctors in a formal programmatic training program. This is incredibly important for the development of expertise in the healing arts as the whole history of western medicine has been built on the foundation of the "see one, do one, teach one" theory of acquisition of medical knowledge. Perhaps equally important in this case because licensed doctors of podiatric medicine, as highly specialized independent medical practitioners, are in high demand to assist other physicians and surgeons in performing nonpodiatric surgeries of any kind anywhere upon the human body as already currently permitted by their scope of practice.

As it stands today, throughout residency training, doctors of podiatric medicine stand shoulder to shoulder with MDs and DOs in all medical and surgical rotations and with all physicians having the same level of responsibility and expectations. It is contrary to the very advancement of medical science and state of the art in the medical professions that a leading state licensed doctor of podiatric medicine would be precluded from combining with another foremost physician expert in a formal training program or fellowship simply because the licensed individual wishing to advance in her field may have already completed 8 years of formal post-graduate education.

Conclusion

Education and training are life-long processes for physicians. Accordingly, it is believed that the current medical education limitation placed on the state's doctors of podiatric medicine places an arbitrary and unreasonable obstacle to the acquisition of advanced medical education.

While a resident's license does represent the legal authorization to participate in training rotations normally outside the scope of podiatric medicine, there are a number of existing statutory provisions which preclude the training license from being used as a de facto occupational license or that prevent failure to progress to full licensure as doctors of podiatric medicine. These include the obligation of full licensure within 3 years from the start of training in addition to strict parameters requiring that all post-graduate education be undertaken only within formal board approved training programs under direct supervision of a licensed physician and surgeon that is verified by the board annually.

Sound public policy supports the idea that the ability to formally acquire medical education and training should not be limited by statute. As currently codified the post-graduate educational limitation works against the board's continuing competency program by potentially foreclosing an available pathway for a doctor to demonstrate

competency in a peer-reviewed, performance based assessment in a residency program. The limitation also works to unreasonably interfere with advanced training opportunities for the state's leading physicians with other leading experts. In truth, it is doubtful that California consumers would prefer to be treated by doctors having less post-graduate education rather than more. Therefore, the board believes that the statutory limitation on post-graduate medical education for doctors of podiatric medicine should be eliminated.

Issue #3: Should BPM's statutory schedule of service fees contained in section 2499.5 B&P be amended to allow for actual and reasonable recovery of costs for services provided?

BPM Recommendation

Yes. BPM recommends that its statutory schedule of service fees be amended to allow for the actual and reasonable recovery of costs for services provided.

Applicable Authority

Business and Professions Code section 2499.5 provides in pertinent part:

> The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless a lower fee is established by the board in accordance with Section 2499.6. Fees collected pursuant to this section shall be fixed by the board in amounts not too exceed the actual costs of providing the service for which the fee is collected.
>
> (c) Each applicant for a certificate to practice podiatric medicine shall pay an application fee of twenty dollars ($20) at the time the application is filed. […]
>
> (d) The oral examination fee shall be seven hundred ($700) dollars, or the actual cost, which is lower […]
>
> (e) […] The initial license fee shall be eight hundred dollars ($800). […]
>
> (f) The biennial renewal fee shall be nine hundred dollars ($900). […]
>
> (g) The delinquency fee is one hundred fifty dollars ($150).
>
> (h) The duplicate wall certificate fee is forty dollars ($40).
>
> (i) The duplicate renewal receipt fee is forty dollars ($40).
>
> (j) The endorsement fee is thirty dollars ($30).
>
> (k) The letter of good standing fee or loan deferment is thirty dollars ($30).
>
> (l) There shall be a fee of sixty dollars ($60) for the issuance of a resident's license under Section 2475.
>
> (m) The application fee for ankle certification […] shall be fifty dollars ($50). The examination and reexamination fee for this certification shall be seven hundred dollars ($700).
>
> (n) The filing fee to appeal for the failure of an oral examination shall be twenty-five dollars ($25).
>
> (o) The fee for approval of a continuing education course or program shall be one hundred dollars ($100).

Discussion

BPM's statutorily set schedule of service fees contained in section 2499.5 B&P has been at its legislatively mandated limit for over 20 years. Since 2001, it had been recognized that BPM's fees needed revision to sustain a long-term positive fund balance. Accordingly, a temporary increase to the renewal fee was made permanent in 2004 (SB 1549), with the understanding that fees for user based services would later be increased in order to cover actual costs. At that time DCA's Budget Office had also recommended that the board's schedule of service fees be adjusted for assisting to appropriately recover actual and reasonable costs for services provided. While the license renewal fee increase was helpful to ensure overall sustainability, BPM's schedule of user based service fees have not been adjusted to meet the actual costs for providing service. At this juncture a number of contemporary issues continue to lend support to the fiscal wisdom of adjusting user based service fees to recover actual and reasonable costs for services provided.

To begin the existing decades old fee schedule prevents the board from appropriately recovering actual costs for services provided as they do not properly account for increases in the cumulative rate of inflation. The existing user based schedule of service fees therefore represents a built-in structural operating deficit.

For example, according to the U.S. Department of Labor, Bureau of Labor Statistics Inflation Calculator, $30 in 1989 (the amount charged for issuing a letter of good standing in 1989) represents $57.76 worth of buying power in 2015. This represents a 92% increase in the cumulative rate of inflation. If adjusted for inflation alone the same service today would cost $57.76. However, the board continues to levy only a $30 fee for the service.

Using the hourly rate formula based on full absorption costing—as suggested by the board fee study—yields an actual cost calculation to the agency of up to $100 for providing the service. The board therefore loses up to $70 dollars each time the board issues a letter of good standing with the current fee maximum set at $30. In other words, BPM is structurally precluded from even coming close to recovery for actual costs of service.

Second, while there is every reason to believe that the careful "lean and mean" fiscal management history of BPM will continue into the future, a number of factors caution that while continued cost control is critical, the keys to continued sustainability are revenue growth. Revenue growth however can be expected to become revenue neutral or slightly negative in the foreseeable future when accounting for: 1) the effects of anticipated retirements in the next five years as projected in the fee study; and 2) the significant cost increases in expenses to BPM related to development and implementation issues with BreEZe which has contributed to thousands in increased

project costs across all boards DCA wide. Together, these can be expected to erode future positive reversions to the fund balance and incrementally chip away at the fund over time.

Thus, since BPM does not have authority to increase fees administratively, the board recommends an increase to its existing schedule in a proactive effort to maintain good financial housekeeping. The below recommended increases are believed sufficient to offset expected decreases to future revenue as a result of projected retirements in the next five years as well as to help defray known increased costs associated with the department wide BreEZe project. The proposed changes represent only a very modest increase in annual BPM revenue (approximately $11,000) and are solely driven by the motivation to recover actual and reasonable costs for providing service

CURRENT FEE RATE & FEE AUTHORITY (including code section references):
(1) Application Fee - $20 (BPC § 2499.5 (a))
(2) Duplicate License - $40 (BPC § 2499.5 (f))
(3) Duplicate Renewal Receipt - $40 (BPC § 2499.5 (g))
(4) Letter of Good Standing/Endorsement - $30 (BPC § 2499.5(h), (i))
(5) Resident's License - $60 (BPC § 2499.5 (j))
(6) Ankle License Application and Exam fees - $50, $700 (BPC § 2499.5 (k))
(7) Exam Appeal Fee - $25 (BPC § 2499.5 (l))
(8) CME Course Approval - $100 (BPC § 2499.5 (m))

PROPOSED/NEW FEE RATE:
(1) Application Fee - $100
(2) Duplicate License - $100
(3) Duplicate Renewal Receipt - $50
(4) Letter of Good Standing - $100
(5) Resident's License - $100
(6) Delete authorization for ankle exam fees - $0
(7) Exam Appeal Fee - $100
(8) CME Course Approval - $250

Conclusion

A number of contemporary issues lend support to the fiscal wisdom of adjusting user based service fees. The recommended amendments proposed above are aimed only at permitting the board the ability to recover actual and reasonable costs for services provided. Representing only a modest increase of approximately $11,000 in recovery of actual costs, the additional monies will help to offset expected decreases to future revenue as a result of projected retirements in the next five years as well as to help defray known increased costs associated with the department wide BreEZe project.

Issue #4: *N.C. State Board of Dental Examiners v. FTC*, 574 U.S. ___ (2015) and the potential application of federal anti-trust law to state licensing and regulatory boards.

BPM Recommendation

BPM looks forward to the opportunity to work with the Legislature, the Administration and interested parties in a joint and collaborative effort to address and reduce concerns presented by the U.S. Supreme Court decision.

Applicable Authority

***N.C. State Board of Dental Examiners v. FTC*, 574 U.S. ___ (2015)**

Background

On February 25, 2015, the U.S. Supreme Court rendered an anti-trust case opinion about the scope of the "state-action" doctrine in North Carolina State Board of Dental Examiners v. FTC, 574 U.S. ___ (2015). The board membership of the North Carolina Dental Board was composed of a majority of market participants. It was opined that the defensibility of board regulatory action turned on the state's review of board actions and whether existing mechanisms provided a "realistic assurance" that board anticompetitive conduct promoted state policy, rather than individual market participant interests. While the Court also held that the active state supervision inquiry was flexible, context dependent and would not require micromanagement of board operations, it is expected that the decision will nevertheless lead to future litigation against similarly-comprised boards across the country.

Discussion

BPM has very recently been provided with a presentation by DCA Legal Counsel at the November 13, 2015 meeting of the board and has been made aware of the decision's implication for board operations. The board is also aware that the Office of the California Attorney General has issued a legal opinion containing recommendations for guarding against board member antitrust liability. Additional guidance has also been recently issued by the Federal Trade Commission and reviewed. BPM is actively working with DCA Legal Counsel to implement measures that it can take to reduce liability concerns.

While it is believed that the board's licensing and typical disciplinary decisions are actions that fall within legislative mandates required by state law and thus likely to satisfy the state action requirement, BPM looks forward to and welcomes the opportunity to work with the Legislature, the Administration and interested parties in a joint and collaborative effort to address and further reduce concerns presented by the U.S. Supreme Court decision.

SUNSET REVIEW REPORT 2015

December, 1 2015

Volume II

Edmund G. Brown Jr., Governor

Kristina Dixon, MBA, President, Board of Podiatric Medicine

Jason S. Campbell J.D., Executive Officer, Board of Podiatric Medicine

"Boards are established to protect the people of California."
– Bus. & Prof. Code §101.6

Attachments

- **Exhibit A**; Board Member Administrative Procedure Manual
- **Exhibit B**: Current Organizational Chart Showing Relationship of Committees to the Board and Membership of Each Committee
- **Exhibit C & C1**: Major Studies and Publications
- **Exhibits D - G**: Year-end Organizational Charts for last 4 Fiscal Years
- **Exhibits H – W:** Quarterly and Annual Performance Measures

Section 12 – Attachments

Please provide the following attachments:

A. Board's administrative manual.

Please see the attached draft copy of the board's Administrative Manual accompanying this report and labeled as Exhibit A.

B. Current organizational chart showing relationship of committees to the board and membership of each committee (cf., Section 1, Question 1).

Please see a copy of the board's organizational chart presenting BPM's Board and Committee member composition and structure accompanying this report and labeled as Exhibit B.

C. Major studies, if any (cf., Section 1, Question 4).

Please see a copy of the board's recent Fee Audit labeled as Exhibit C.

Please also see Exhibit C1 which is a copy of the Equal Employment Opportunity (EEO) Survey advanced with the stated intention of capturing and evaluating data on diverse hires and the demographic groups the agency is making contact with when seeking new podiatric medical experts and consultants. This data is planned to be used as a reasonable starting point for targeted recruitment opportunities to increase representation of women and minorities among the board's professional panel of experts and consultants.

D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).

Please see copies of the board's year end organization charts for the last four fiscal years consisting of fiscal years 11/12, 12/13, 13/14, and 14/15 and labeled as Exhibits D, E, F, and G, respectively.

Additionally, quarterly and annual performance measure reports as published on the DCA website for BPM are provided for review as requested by Question 6 under Section 2 and labeled as Exhibits H through W.

EXHIBIT A

California Board of Podiatric Medicine
Board Administrative Manual

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Chapter 1. Introduction

The California Legislature has established 25 California Department of Consumer Affairs (DCA) regulatory boards and other additional programs and committees to protect public health and safety through licensing and oversight of various professions.

Collectively, board members are the leaders of the state's licensing agencies. Board members make important decisions on agency policies in addition to disciplinary actions to be taken against professionals who violate state consumer protection laws. In an effort to protect the public, members also approve regulations and help guide licensing, enforcement, public education and consumer protection activities.

Some board members are licensed professionals themselves, while many others are public members. The governor appoints many board members, but the Legislature also makes appointments as well.

Each health care licensing board is created though legislative passage of an enabling statute signed by the Governor. This statute often not only sets forth the agency's mission but also the boundaries of permissible practice for licensees. California law is explicit in its licensing and regulatory mandates that the primary overriding responsibility for all health care boards is to protect the public; not protection of an industry or a profession.

Boards are solemnly charged with preventing harm to patients and ascribed with regulating the profession they are charged with overseeing in order to protect Californians from unqualified, impaired, dishonest or otherwise incompetent providers. These objectives are achieved through the joint efforts of board staff—who execute board directives—and the politically appointed members of the board—who make policy—through execution of various functions including:

- Establishment and enforcement of licensure requirements;
- Promulgation of regulations interpreting scope of practice laws by which licensees are expected to follow and abide;
- Investigation of possible violations of quality and community standards of care in addition to other statutory or regulatory requirements;
- Disciplinary and enforcement decisions to revoke, suspend or restrict a license found to have violated the medical practice act or other laws; and
- Activities intended to educate and protect the public through information sharing, public outreach and engagement.

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Overview

The Board of Podiatric Medicine (the "Board") has historical roots that can be traced back to as early as 1957 with state licensure of Doctors of Podiatric Medicine ("DPMs") being separately handled by a legislatively created podiatric examining committee under the auspices of the California Board of Medical Examiners. To this day, functioning semi-autonomously as one of 36 regulatory entities under the aegis of the Department of Consumer Affairs, the Board continues to independently carry out its primary mission of public protection through its close statutory association with the Medical Board of California.

The Board is composed of seven members serving four-year terms with no more than a maximum of two consecutive terms permitted. The Board is overseen by a majority of professional members. Five appointments are made by the Governor who appoints four professional and one public member. The Senate Rules Committee and the Assembly Speaker each appoint one of the two remaining public members of the body, respectively.

Existing solely to serve to the public, the Board's mission is accomplished through exclusive reliance on fees set by state statute and collected from licensees and applicants. As public servants attending to the people's business and serving Californians as non-salaried guardians of the public health, welfare and safety, members are remunerated $100 per day for each meeting day and are reimbursed for travel expenses.

The Board is under the organizational umbrella of the Department of Consumer Affairs (Department) which is part of the Executive Branch of California State Government, and ensures that the public's health, safety, and welfare are protected while ensuring fair trade within the marketplace.

The Board administrative manual has been created to provide a solid reference framework for carrying out the public protection mission of the Board by fostering enhanced knowledge, stability and continuity within the body. As a ready reference of applicable law, regulations, Department of Consumer Affairs and Board policies, the manual will assist to guide the actions of members of the Board toward greater policy-making efficiency and effectiveness.

Board Mission & Vision (Board Strategic Plan adopted March 6, 2015)
It is the mission of the Board of Podiatric Medicine to protect and educate consumers of California through the licensing, enforcement and regulation of Doctors of Podiatric Medicine. It is the Board's vision that all licensed California podiatric physicians will provide safe and competent foot and ankle care for the benefit of the citizens and residents of the state.

Executive Office and Staff
The Board appoints the executive officer (EO) to serve as its chief executive, administrative and operational officer, as well as its official custodian of records. By regulation, the Board delegates to the EO to act on its behalf in all enforcement issues and to investigate and

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evaluate all applicants for licensure prior to the issuance of a license. Other staff members are civil service employees who operate under the direction of the EO.

The Board's executive office is located at 2005 Evergreen Street, Suite 1300, Sacramento, California 95815. Telephone (916) 263-2647, fax (916) 263-2651. The Board's web address is:

http://www.bpm.ca.gov/

Executive Officer (Board Policy adopted Dec. 6, 1991)
The chief executive officer reports and is accountable to the full Board. He/she accepts responsibility for the success or failure of all Board operations. The Executive Officer's specific contributions include the following:

- Lead staff planning to achieve Board goals and ensure that implementation adheres to Board policies, and is effective, prudent, ethical, and timely.
- Ensure that the Board is properly informed on the condition of the agency and major factors influencing it, without bogging it down in detailed staff work or with unorganized information.
- Annually evaluate the agency's performance.
- Manage allocated funds to ensure that there is adequate funding to achieve the Board's policies.
- Manage agency's enforcement program so as to ensure both (a) vigorous prosecution of Medical Practice Act violations and (b) fairness, due process, and proper administrative procedures as required under the Administrative Procedure Act.
- See that there is adequate, effective staffing. Motivate staff. Develop training, professional development, and career ladder opportunities. Build teamwork. Delegate responsibilities without abdicating accountability.
- Develop an office climate and organizational culture that attracts and keeps quality people.
- Provide for management succession.
- Develop annual goals and objectives and other appropriate staff policies.
- Serve as the agency's chief spokesperson and see that the Board is properly presented to its various publics.

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Board General Rules of Conduct (Proposed Policy)

Collectively, the Board is responsible for good governance of the agency. Appointed as representatives of the public, the Board presses for realization of opportunities for service and fulfillment of its obligations to all constituencies. The Board meets its public protection responsibilities, guards against the taking of undue risks, determines priorities and generally directs organizational activity. While the Board delegates administrative responsibilities to its executive officer as head of the agency, the body remains involved through oversight and policy-making. As a judicial body, the Board serves as a jury and members must be careful to avoid conduct which threatens to jeopardize the impartial and independent role as a neutral arbiter of fact in civil administrative matters involving disciplinary proceedings against a license.

Ultimately members are accountable for the actions of the agency and are expected to fulfill their responsibilities in a manner that is both honorable and above reproach. Accordingly, Board members shall:

- Serve to uphold the principle that the Board's primary mission is to protect the public.
- Act fairly, objectively and remain impartial and unbiased in their role of protecting the public.
- Not use their positions on the Board for personal, familial or financial gain.
- Treat all applicants and licensees fairly and impartially.
- Maintain the confidentiality of Board documents and information.
- Avoid ex parte communications with licensees, attorneys and staff regarding disciplinary actions.
- Recognize the equal role and responsibilities of all members both public lay members and professionals members alike.
- Commit the time to properly prepare for Board responsibilities.

Board Values (Board Strategic Plan adopted March 6, 2015)
In performing the people's business to serve Californians as servants protecting the public health welfare and safety, the members of the body are guided by the adopted values of the Board:

- Consumer Protection
- Transparency
- Professionalism

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- Fairness
- Effectiveness
- Service

Board Members (Board policy adopted Dec. 6, 1991)
While the Board is responsible for good governance of the agency it is ultimately individual board members that are accountable for all agency actions in the end. To ensure

A Board member's specific contributions include the following:

- Articulate agency mission, values, and policies.

- Review and assure executive officer's performance in faithfully managing implementation of Board policies through achievement of staff goals and objectives.

- Ensure that staff implementation is prudent, ethical, effective, and timely.

- Assure that management succession is properly being provided.

- Punctuate ongoing review of executive officer performance with annual evaluation against written Board policies at a noticed public meeting.

- Ascertain that management effectively administers appropriate staff policies including a code of ethics and conflict of interest statements.

- Ensure staff compliance with all laws applicable to the Board.

- Maximize accountability to the public.

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Chapter 2. Board Meeting Procedures

Purpose
Public agencies exist to conduct the "people's business." All board meetings are conducted in public under the provisions of the public meetings law, officially called the Bagley-Keene Open Meeting Act. Public agencies such as the Board have two duties under the Bagley-Keene Open Meeting Act:

- To give adequate notice of the meetings to be held; and
- to conduct its meetings in open session except where a closed session is specifically authorized.

Frequency of Meetings (Calif. Business and Professions Code §§ 101.7, 2467 and Board Policy)
For the purposes of transacting business, the Board may convene from time to time as it deems necessary but is required by statute to hold three meetings per year with at least one meeting in Northern California, and one in Southern California. The Board may seek an exemption from the Director of the Department of Consumer Affairs upon a showing of good cause that it is unable to meet at least three times in a calendar year.

- The Board and each of its standing Committees shall meet quarterly.
- Board Meetings shall be generally held on the first Friday in the third month of each quarter.
- Committee meetings shall convene on a Wednesday at least three weeks preceding the regularly scheduled meeting of the Board.
- The President may call a meeting of the Board or of any duly appointed committee including their specified time and place.
- Special meetings may be held by the Board as permitted by law and may also be called by the Director of the Department of Consumer Affairs as required.

Member Attendance at Board Meetings (Proposed Policy)
Board members shall attend each meeting of the Board. If a member is unable to attend then he or she must contact the Board President and the Executive Officer to advise of the inability to attend the meeting for a specific reason.

Public Attendance at Board Meetings (Government Code § 11120 et seq.)
As mentioned above, meetings of the Board are subject to all provision of the Bagley-Keene Open Meeting Act. The Open Meeting Act governs the meetings of all state regulatory boards and the meetings of the individual committees of those boards. The Open Meeting Act specifies the notice and agenda requirements in addition to prohibiting discussion or action by members on matters not included in the agenda.

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If the agenda contains matters which are appropriate for closed session, the agenda shall so state and cite the particular statutory section and subdivision providing authority for meeting in closed session.

Quorum (California Business and Professions Code § 2467)
Four members of the Board constitute a quorum for the purposes of transacting business. The concurrence of a majority of those members present and voting at a meeting is necessary to constitute an act, resolution, decision or measure of the Board.

Agenda Items (Proposed Policy)
Any Board member may submit items for a Board meeting agenda to the Executive Officer at least 20 days prior to the meeting. Committee members may submit items for a Committee meeting agenda related to the jurisdiction of their respective committees at least 20 days in advance of the meeting. Suggestions for agenda items may also be raised at board and committee meetings during the agenda item designated for that purpose.

Notice of Meetings (Government Code § 11120 et seq.)
In according with the Bagley-Keene Open Meeting Act, meeting notices—including agendas for Board and/or Committee Meetings—shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The notice shall include a staff person's name, work address and telephone contact for providing further information if needed prior to the meeting.

Notice of Meetings Posted on Internet (Government Code § 11125 et seq.)
Notice shall be given and also made available on the internet at least 10 days in advance of the meeting and shall include a staff person's name, work address and telephone contact for providing further information if needed prior to the meeting.

Board Packets *(Proposed Policy)*
Board and Committee materials will be distributed to members in both electronic and hard copy 10 days before a scheduled meeting.

Record of Meetings (Government Code § 11123 and Proposed policy)
The minutes of Board meetings are a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review and approval to the Board at the next regularly scheduled Board meeting. The minutes shall contain a record of how each member voted on item of business. When approved, the minutes shall serve as the official record of the meeting and shall be posted on the Internet.

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Audio/Video Recording (Proposed policy)
Meetings may be audio and/or video recorded and/or broadcast live via the Internet as Board and DCA resources allow. Recordings may be disposed of upon an affirmative vote of the Board after the corresponding minutes of the meeting have been approved. Broadcasts of meetings may be available in perpetuity.

Meeting Rules (Proposed policy)
The Board will use Robert's Rules of Order as a guide to conduct meetings of the Board and Committees to the extent that they do not conflict with state law such as the Bagley-Keene Open Meetings Act, other statutory provisions or advisory opinions of the Attorney General.

Public Comment (Proposed policy)
Due to the important need of preserving the neutrality and maintaining the fairness of the Board when performing its adjudicative functions, the Board shall not receive any information or communication from a member of the public regarding matters that are currently under or subject to investigation or that involve a pending civil administrative action or criminal proceeding.

1. If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or civil administrative action or criminal proceeding, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person shall be instructed to refrain from making such comments. The Board may ask or direct staff to speak with the person directly outside the confines of the meeting room.

2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or that involve a pending civil administrative action or criminal proceeding, the Board will address the matter as follows:

    a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Executive Officer or staff member to review whether the proper procedure or protocol was followed and to report back to the Board.

    b. Where the allegation involves significant staff misconduct, the Board may designate one of its members to review the allegation and to report back to the Board.

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3. Should a person wishing to provide substantive information regarding matters that are currently under or subject to investigation or civil administrative action or criminal proceeding become disruptive at the Board meeting, the Board in its discretion may deny the person the right to address the Board and have the person removed.

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Chapter 3. Travel and Salary Policies and Procedures

Travel Approval (Proposed policy)
Board members shall have the Board President approval for all travel except regularly scheduled Board and Committee meetings to which the Board member is assigned.

Travel Arrangements (Proposed policy)
Board members should coordinate with the Board's program support assistant for assistance with travel and lodging accommodations when necessary.

Out of State Travel
When approved, out-state-travel for Board members will be reimbursed for actual lodging expenses, supported by vouchers and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office.

Travel Claims
Rules governing reimbursement of travel expenses for Board members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Executive Officer's program support staff maintains these forms and completes them as needed. It is advisable for Board members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

For expenses to be reimbursed, Board members shall follow procedures contained in DCA Departmental Memoranda, which are periodically disseminated by the Director and provided to Board members.

Salary Per Diem (Business & Professions Code §§ 103, 2016 & 2469) (Proposed Policy)
While all members of the Board are expected to contribute to the functions of the Board and the work of each member is absolutely vital for advancing consumer protection for the benefit of all Californians, board members are not employees of the board or of the State of California. Board service is essentially public sector volunteerism and therefore no member receives salary or benefits for services rendered.

Notwithstanding, compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board members is provided as regulated by California Business and Professions Code section 103. Members desiring automatic deposits of all net reimbursements into a member designated financial institution may elect to participate in the

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Department's Direct Deposit Program. Members may apply by completing the appropriate enrollment form and submitting the completed and signed document to the Board's program support assistant.

Section 103 provides in pertinent part for the payment of Board member salary per diem ***"for each day actually spent in the discharge of official duties,"*** and provides that Board members ***"shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties,"*** and ***"shall be subject to the availability of money."***

Accordingly, the following general policy guidelines shall be followed in the payment of salary per diem or reimbursement for travel.

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members except for attendance at official Board or Committee meetings, unless a substantial official service is performed by the Board member.

2. The term "day actually spent in the discharge of official duties" shall mean:
    a. Such time as is expended from the commencement of a Board meeting to the conclusion of the meeting; or
    b. A cumulative of 8 hours of actual time spent performing Board-specific work authorized by the Board President including:
        i. Preparation time for Board and Committee meetings;
        ii. Review of materials and disciplinary matters such as mail votes as issued by Board staff; and
        iii. Training

3. Where it is necessary for a Board member to leave early from a meeting or in situations where a member arrives to a meeting late, the Board President shall determine if the member has provided a substantial service during the meeting and if so shall authorize payment of salary per diem and reimbursement for travel expenses. Committee service shall also be reimbursed equally as attendance of an official meeting of the Board.

4. Substantial service at a meeting of the Board shall mean that amount of time provided in the fulfillment of obligations, responsibilities, duties and requirements of attendance or participation such that any identified deficiency did not materially shortchange the objective, purpose or process that it would be unreasonable to deny remuneration for service rendered in spite of all the formal requirements of service not being met.

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5. Attendance at gatherings, events, hearings, conferences or meetings other than official Board or Committee meetings in which a substantial official service is performed shall be approved in advance by the Board President according to availability of funds. The Executive Officer shall be notified of the event and approval shall be obtained from the Board President on the appropriate form and prior to the Board member's attendance.

6. Board members may be compensated for actual time spent performing Board-specific work authorized by the Board President subject to the availability of funds. This work includes preparation time for Board or Committee meetings. Board members cannot claim salary per diem for time spent traveling to and from Board or Committee meetings.

7. For the purposes of recording actual time spent performing official Board-specific work authorized by the Board President that is not considered attendance at an official meeting of the Board, members shall complete forms provided for accounting the actual amount of time spent performing official duties in 15 minute increments on a form authorized to account for time. Said time includes:

    a. Review of materials and disciplinary matters such as mail votes as issued by Board staff.

    b. Board work that is authorized and assigned by the Board President.

    c. Preparation time for Board and Committee meetings; and

    d. Training.

8. As required by Business & Professions Code section 103, if a member is a pubic officer or employee, the member may not receive per diem salary on any day when he or she also receives compensation from his or her regular public employment.

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Chapter 4. Selection of Officers and Committees

Officers of the Board

The Board shall elect from its members a President and Vice-President to hold office at the pleasure of the Board for one year or until their successors are duly elected and qualified. The President and Vice-President shall serve as members of the Executive Committee.

President (Board Policy adopted Dec. 6, 1991) (Business & Professions Code § 2467)
The President is responsible for the effective functioning of the Board, the integrity of Board process, and assuring that the Board fulfills its responsibilities for governance. The President instills vision, values, and strategic thinking in Board policy making. She/he sets an example reflecting the Board's mission as a state licensing and law enforcement agency. She/he optimizes the Board's relationship with its executive officer and the public.
The Board President's specific contributions include the following:

- Chair meetings to ensure fairness, public input, and due process.
- Appoint Board committees.
- Support the development and assist performance of Board colleagues.
- Obtain the best thinking and involvement of each Board member. Stimulate each one to give their best.
- Coordinate evaluation of the executive officer.
- Continually focus the Board's attention on policy making, governance, and monitoring of staff adherence to and implementation of written Board policies.
- Facilitate the Board's development and monitoring of sound policies that are sufficiently discussed and considered and that have majority Board support.
- Serve as a spokesperson.
- Be open and available to all, remaining careful to support and uphold proper management and administrative procedure.

The President may call meetings of the Board and any duly appointed Committee at a specified time and place.

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Vice-President

The Vice-President of the Board is responsible for familiarity with the responsibilities of the President and shall be ready to preside when called upon. The Vice-President works in cooperation with the President to assist and/or to preside at meetings when the President is absent or if the office becomes vacant. The Vice- President shall also perform other such duties as may be called to fulfill from time to time at the request and discretion of the President.

Nomination of Officers

The Board President shall appoint a Nominations Committee prior to the last meeting of the calendar year and shall give consideration to appointing a public and a professional member of the Board to the Committee. The Committee will be charged with recommending a slate of officers for the following year. The Committee's recommendation will be based on the qualifications, recommendations and interest expressed by Board members. A Nominations Committee member is not precluded from running for an officer position. If more than one Board member is interest in an officer position, the Nominations Committee will make a recommendation to the Board and others will be included on the ballot for a runoff if they desire. The results of the Nominations Committee's findings and recommendations will be forwarded to the Board. Notwithstanding the Nominations Committee's recommendations, Board members may be nominated from the floor at the meeting of the Board.

Election of Officers

The Board shall elect the officers at the last meeting of the year for the following calendar year. Officers shall serve a term of one year, beginning January 1. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve for more than one term.

Officer Vacancies

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the Vice-President shall assume the office of the President. Elected officer shall then serve the remainder of the term.

Committees & Committee Appointments

The Board President assigns individual Board members to committees or task forces to research issues, develop preliminary policy plans, and to provide the foundation information necessary to discuss issues during the public meetings of the full Board. Committees are generally composed of two Board Members each. The Board has five standing Committees and they include: 1) the Executive Management Committee; 2) the Enforcement Committee; 3) the Licensing Committee; 4) the Legislative Committee; and 5) the Public Education/Outreach

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Committee. These committees also serve as a means to address succession planning as new members are often assigned to serve on committees that are chaired by more senior members who are able to share their knowledge and expertise. All committees shall be advisory in nature with the exception of the executive management committee which may exercise the authority of the board delegated to it by the body.

As previously discussed under Board meeting procedures, meetings of the Board are subject to all provisions of the Bagley-Keene Open Meeting Act. In keeping with the Board's value of transparency, it is the policy of the Board to also apply all notice requirements of the Open Meeting Act to its two member committees and advisory bodies. Where a committee is comprised of three or more members however all notice requirements of the Open Meeting Act must be followed.

Executive Management Committee

Members of the Executive Committee include the Board's president and vice-president (elected annually.) As determined by the Board president, the committee may also include the ranking member of the Board or another member appointed by the Board president for a total of three members. Where the committee is comprised of three or more members all notice requirements of the Open Meeting Act shall be followed. When specifically authorized by a vote of the full board, the committee may in between board meetings be authorized to make interim decisions as directed, as long as notice requirements are met where necessary. The Committee also provides guidance to administrative staff for the budgeting and organizational components of the Board and is responsible for directing the fulfillment of recommendations made by legislative oversight committees.

Enforcement Committee

Members of the Enforcement Committee are responsible for the development and review of Board-adopted policies, positions and disciplinary guidelines. Although members of the Enforcement Committee do not review individual enforcement cases they are responsible for policy development of the enforcement program, pursuant to the provisions of the Administrative Procedure Act (APA).

Licensing Committee

Members of the Licensing Committee are responsible for the review and development of regulations regarding educational and professional ethics course requirements for initial licensure and continuing education programs. Essentially, they monitor various education criteria and requirements for licensure, taking into consideration new developments in technology, podiatric medicine and current activity in the health care industry.

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Legislative Committee

Members of the Legislative Committee are responsible for monitoring and making recommendations to the Board with respect to legislation impacting the Board's mandate. They may also recommend pursuit of specific legislation to advance the mandate of the Board or propose amendments or revisions to existing statutes for advancing same.

Public Education/Outreach Committee

Members of the Public Education/Outreach Committee are responsible for the development of consumer outreach projects, including the Board's newsletter, web site, e-government initiatives and outside organization presentations on public positions of the Board. These members may act as good will ambassadors and represent the Board at the invitation of outside organizations and programs. In all instances, members must only present positions of the Board and members do not express or opine on matters unless explicitly discussed and decided upon by the Board.

Attendance at Committee Meetings

If a Board member wishes to attend a committee meeting of which he or she is not a member, the Board member shall obtain permission to attend from the Board President and shall notify the Committee Chair and staff. Board members who are not members of the Committee that is meeting cannot vote during the Committee meeting. If there is a quorum of the Board at a Committee Meeting, the Board members who are not members of the Committee must sit in the audience and cannot participate in Committee deliberations. Two consecutive absences or three absences within a 12-month period is cause for a discussion with the Board President regarding a Committee member's future obligations in serving on a Committee.

Participation at Committee Meetings

When a majority of the members of the Board are in attendance before a meeting of a standing Committee, members of the Board who are not members of the standing Committee may attend only as observers. Board members who are not members of a committee where a majority of the members of the Board are present, cannot ask questions, speak or sit at the dais with the members of the Committee at the meeting.

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Chapter 5. Board Administration and Staff

Board Administration

Board members should be concerned primarily with the formulation of decisions enacting and affecting Board policies rather than decisions concerning the means or methods for carrying out a specific course of action. For members of the Board of Podiatric Medicine this specifically translates into policies geared toward maintaining and advancing protection of the public relating to the practice of podiatric medicine. No other interest ranks higher in priority and any matter inconsistent with protection of the public is strictly subordinate. Board members therefore are to advance policies to safeguard the public health, welfare and safety of Californians and not the agendas of any special interest group, personal or private agenda. To assist members in this important endeavor there are a number of critical principles that may be referenced as guideposts for carrying out their duties effectively:

- Members are responsible for developing and setting policy and procedures as a State licensing and law enforcement agency.
- Consumers expect that licensees will be qualified to perform at an entry level of competence. They expect a fair method of settling disputes that may arise between a licensed practitioner or business and a consumer.
- Persons wishing to earn a living in an occupation should not be kept out unreasonably. They should have easy access to all information about entering the profession, including testing and/or transferring a license to or from another state.
- Board actions often affect competition within an industry. Public authority should enhance competition whenever possible, and avoid favoring one industry segment over others. Licensees have a right to expect good administrative practices and the elimination of unnecessary and burdensome requirements.
- Members have a responsibility to other board members to listen to them and to consider their views and contributions, to help determine good policy and helpful procedures, to contribute to fair determination of problems, and to help the board operate most effectively and efficiently.
- An effective board member:
    - is able to work with a group to make decisions
    - understands and follows democratic processes
    - is willing to devote time and effort to the work of the board
    - works to find alternative solutions to problems whenever necessary
    - able to communicate effectively
    - recognizes that the goal of the board is the service and protection of the public

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    - is aware that authority is granted by the law to the board as a whole, not to any member individually, and can only be used by vote of the majority of board members
    - avoids becoming involved in the daily functions of staff
    - delays making judgments until adequate evidence is in and has been fully discussed
    - doesn't let personal feelings toward others affect decisions
- Public members are not expected to be, indeed are not supposed to be, technically expert or experienced in the licensed occupation. They provide a unique public perspective on licensing and enforcement.
- An effective board member does not disclose details of board activity unless and until they become part of the public record. The investigation procedure, which includes informal hearings or conferences, may not be part of the public record. Any disclosure of such information should be made only after consultation with legal counsel.
- Effective board members remember that they are seen as representatives of the board and the Department when they appear at industry or professional gatherings and must not appear to speak for the board or the Department unless specifically authorized by the board or the Department to do so.

Board Budget

The Board's mission is accomplished without reliance on taxpayer monies from the State's General Fund. Funding for the Board is driven primarily through license, renewal and service fees collected from licensees and applicants. The Legislature establishes the limits of what may be charged for licenses and services and the board may then set specifics through regulation.

Board budget reports shall be presented to the Executive Committee and to the Board at quarterly meetings and shall contain that information determined necessary for the effective oversight and monitoring. The Executive Officer or the Executive Officer's designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature as required.

Strategic Planning

The Board shall have overall responsibility for the Board's Strategic Planning Process and shall adopt a Strategic Plan quadrennially. Update reports regarding progress on Board strategic goals and objectives will be made quarterly and may be heard in Executive Committee. The President will serve as the Board's strategic planning liaison with staff and may assist with monitoring and reporting of the strategic plan to the Board. The Board will conduct a quadrennial strategic planning session and may utilize a facilitator to conduct the planning

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process. The Board in its discretion may revise and amend the adopted strategic plan if necessary at any time during the four year period from adoption.

Legislation

Recognizing that time constraints can often preclude Board action, the Board may delegate to the Executive Officer and/or the Chair of the Legislative Committee, through adoption of a Program Consensus Document or Policy Compendium that explicitly provides the issue areas that may be addressed or the authority to take action on legislation that would otherwise impact previously established Board policy or affect the Board's mandate to protect the health, welfare and safety of the public. Prior to taking a position on legislation or issues as specifically enumerated in a Policy Compendium, the Executive Officer will consult with the Board President. The Board shall be notified of such action as soon as is practicably possible.

Communication, Other Organizations & Individuals

All communication relating to any Board action or policy to any individual or organization, including but not limited to private medical associations, shall only be made by the President of the Board, his or her designee or the Executive Officer. The Board in its discretion may grant specific authority to any member from time to time as may be necessary in order to speak on behalf of the Board on Board business or other issues. Such authority granted by a vote of the full Board, shall be cautiously exercised and care taken to discuss only those final public positions taken by the Board as a body and shall not be the subject of personal member opinion or position. Any Board member who is contacted by any association should immediately inform the Board President or Executive Officer of the contact and said contact shall be reported at the next regularly scheduled meeting of the Board. All correspondence shall be issued on standard Board letterhead and will be created and disseminated by the Executive office.

Public or News Media Inquiries

All technical, licensing or disciplinary inquiries to a BPM Board or Committee member from applicants, licensees or members of the public should be referred to the Executive office. Contact of a Board or Committee member by a member of the news media should be referred to the Executive Officer and/or the Chief of Public Affairs or Deputy Director of Communications for DCA.

Stationary

- **Business Cards**
  Business cards will be provided to each Board member with the Board's name, address,

telephone and fax number and website. A Board member's business address, telephone and fax number and e-mail may be listed on the card at the member's request.

- **Letterhead**
  Only correspondent that is transmitted directly by the BPM office may be printed or written on BPM letterhead stationery. Any correspondence from a Board or Committee member requiring the use of BPM stationery or the BPM logo should be transmitted to the BPM office for finalization and distribution.

Executive Officer Evaluation (DCA Policy)
Board members shall evaluate the performance of the Executive Office on an annual basis.

Board Staff (DCA Reference Manual)
Employees of the Board with the exception of the Executive Officer are civil service employees. Their employment, pay, benefits, advancement, discipline, termination and conditions of employment are governed by the civil service laws, regulations and collective bargaining labor agreements. Because of this complexity, it is appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Board members shall not intervene or become involved in specific day-to-day personnel transactions or matters.

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Chapter 6. Other Policies and Procedures

Board Member Orientation (California Business and Professions Code § 453)
As discussed above, the work of the Board is vital to the continued health, well-being, safety and protection of the public. All members of the Board are expected to contribute to the consensus decision-making process of the body to help advance the Board's mission of public protection.

To ensure that Board Members are well-equipped with the knowledge and information necessary to carry out the responsibilities, obligations and functions of membership, each member shall attend and complete a training and orientation program offered by the Department of Consumer Affairs within one year of appointment and again after each successive reappointment.

Additionally, the new appointee will be required to attend a Meet & Greet with the Board President and Executive Officer for a personal introduction and overview of the Board mission, operations, and member duties and responsibilities.

Board Member Oath of Office (California Constitution & Business and Professions Code § 105)
State law requires members of boards in the Department of Consumer Affairs to take an oath of office as provided in the California Constitution and the Government Code. Any member not rendering an oath prior to service on a Board or committee will not be authorized to perform any official function.

The oath shall read in pertinent part:

"I, _____, do solemnly swear *(or affirm)* that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter...."

Unless otherwise provided, the oath may be taken before any officer authorized to administer oaths including the Board's Executive Officer. The oath, certified by the officer administering the oath, must then be filed with the Secretary of State. Board members should contact the board's Executive Officer to arrange taking the oath of office.

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Board Member Ethics Training (AB 2179)
As a result of passage of AB 2179 (1998 Chapter 364), state appointees and employees in exempt positions are required to receive an ethics orientation within the first six months of their appointment and every two years thereafter. The training includes important information on activities or actions that are inappropriate or illegal. For example, generally public officials—like members of consumer protection board—cannot take part in decisions that directly affect their own economic interests. Members are prohibited from misusing public funds, accepting free travel and accepting honoraria. In addition, there are limits on gifts that may be accepted.

To comply with the ethics training directive, Board or Committee members may take the interactive course provided by the Office of the Attorney General which can be found at:

http://oag.ca.gov/ethics

Once the training course is completed, a copy of the certificate of completion is to be sent to:

Department of Consumer Affairs
SOLID Training Solutions
1747 N. Market Blvd, Ste. 270
Sacramento, CA 95834

Board Member Disciplinary Actions (Proposed Policy)
A member may be censured by the Board if it is determined that the member has acted in an inappropriate manner. In accordance with the Bagley-Keene Open Meetings Act, the censure shall be conducted in open session.

Removal of Board Members (Business and Professions Code §§ 106 & 106.5)
The Governor has the power to remove from office at any time any member of any board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor also may remove from office a Board member who directly or indirectly discloses examination questions to an applicant for examination for licensure.

Resignation of Board Members (Proposed policy)
In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules or Speaker of the Assembly) with the effective date of the resignation as soon as is practicable after it is known that a member be unable to fulfill his or her responsibilities to the Board in the conduct of the people's business

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A copy of this letter shall also be sent to the Director of the DCA, the Board President and the Executive Officer.

Conflicts of Interest (Government Code § 87100 and Business and Professions Code § 2465)
No Board member may make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which he or she know or has reason to know that he or she has a financial interest. Any Board member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision. Any Board member who feel he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer of Legal Counsel for the Board. At no time may a member of the Board either directly or indirectly own any interest in any college, school or other institution engaged in podiatric medical instruction, nor shall any member of the Board acquire any said interest while serving as a member of the Board.

Incompatible Activities (DCA Policy)
The following is a summary of the employment, activities or enterprises that may result in or create the appearance of being inconsistent, incompatible or in conflict with the duties of state officers:

- Using the prestige or influence of a state office or employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.

- Using state time, facilities, equipment or supplies for the officer's or employee's private gain or advantage, or the private gain or advantage of another.

- Using confidential information acquired by virtue of state employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.

- Receiving or accepting money or any other consideration from anyone other than the state for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his or her state employment or as a part of his or her duties as a state officer or employee.
- Performance of an act other than in his or her capacity as a state officer or employee knowing that such an act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by such officer or employee of the agency by which he or she is employed. Notwithstanding, this would not preclude a "professional"

member of BPM from performing normal function of her or her medical practice profession.

- Receiving or accepting directly or indirectly any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is seeking to do business of any kind with the state or whose activities are regulated or controlled in any way by the state, under circumstances from which it reasonably could be inferred that the gift was intended to influence him or her in his or her official duties or was intended as a reward for any official action on his or her part.

The aforementioned limitation do not attempt to specify every possible limitation on employee or state officer activity that might be determined and prescribed under the authority of section 19990 of the Government Code. DCA's Incompatible Work Activities Policy Procedures handbook is included in Appendix A.

Contact with Applicants (Proposed policy)
Board members shall not intervene on behalf of any applicant for licensure for any reason. All contacts or inquiries shall be forwarded to the Executive Officer or board staff.

Gifts from Applicants (Proposed Policy)
Gifts of any kind to Board members or staff from license applicants shall not be permitted.

Requests for Records Access (Proposed Policy)
No Board member may access the file or a licensee or applicant without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the BPM's offices.

Ex Parte Communications (Government Code § 11430.10 et seq.)
The Government Code contains provisions prohibiting ex parte communications. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without the participation by the other party. While there are specific exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10 which provides in pertinent part:

> "While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity

for all parties to participate in the communication."

Board members are prohibited from ex parte communications with Board enforcement staff while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board members.

If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, he or she should reseal the documents and send them to the Enforcement Coordinator or to the Executive Officer.

If a Board member receives a telephone call from an applicant or licensee against who, an action is pending, he or she should immediately tell the person that discussion about the matter is not permitted; that the member will be required to recuse him or herself from any participation in the matter; and continued discussion is of no benefit to the applicant or licensee. The Board member should end the conversation in a firm and cordial manner.

If a Board member believes that he or she has received an unlawful ex parte communication, he or she should contact the Board's assigned legal counsel.

Sexual Harassment Prevention Training (Government Code § 12950.1)
Board members are required to undergo sexual harassment prevention training and education once every two years. Staff will coordinate the training with the Department of Consumer Affairs.

Defensive Driver Training (Government Code § 11290, 16378 & 16379)
Pursuant to state law, the State Administrative Manual requires that all State employees who frequently drive a vehicle on official State business successfully complete the DGS approved Defensive Driver Training (DDT) course at least once every four years. The Department of General Services (DGS), Office of Risk and Insurance Management (ORIM) requires all state departments to submit an Annual State Agency Defensive Driver Training Report for tracking and reporting purposes. Accordingly, Board members will complete the required driver training quadrennially. Staff will coordinate the training with the Department of General Services.

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Statement of Economic Interests – Form 700 (Government Code §§ 81000-91014)
The Political Reform Act requires most state government officials and employees to publicly disclose their personal assets and income. They also must disqualify themselves from participating in decisions that may affect their personal economic interests. The Fair Political Practices Commission (FPPC) is the state agency responsible for issuing Form 700, Statement of Economic Interests and for interpreting the law's provisions.

Board members shall comply with filing requirements annually as required by statute and regulation. Staff will coordinate with DCA for distribution of required forms to members annually.

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Chapter 7. Parliamentary Practice and Procedure

As previously indicated in Chapter 2, the Board uses Robert's Rules of Order as a guide for the conduct of its Board and Committee meetings to the extent that they do not conflict with state law such as the Bagley-Keene Open Meetings Act, other statutory provisions or advisory opinions of the Attorney General.

Rules of parliamentary practice are based on the regard for the rights of participating members or groups within the organization's total membership. This right to be heard is premised on the underlying value that each individual has the right to express his or her opinion to the extent that it can be tolerated in the interests of the whole.

The following chapter is an extremely brief summary of parliamentary practice and procedure and is designed to be a compact overview of reference for the conduct of the Board's deliberative assembly which should enable the body to both establish and empower effective leadership and retain that degree of control over Board business as it chooses to reserve to itself. Members are encouraged toward further individual study in the subject in addition to learning from each other for the benefit of the membership as a whole as it has been said by Gen. Robert himself that "[i]t is difficult to find another branch of knowledge where a small amount of study produces such great results in increased efficiency […]"

Calling a Meeting

When the meeting date and start time has arrived, the President will open the meeting. After beginning the meeting, it is determined whether a quorum is present by a calling of the roll. When a quorum is determined to exist, the President will *call the meeting to order*.

If a quorum is determined not to be present, the President may wait until there is a quorum or if there is no prospect for a quorum to develop after a reasonable time period, the President may call the meeting to order and announce the lack of a quorum. Thereafter, the President may fix the time to adjourn, adjourn, recess or take measures to obtain a quorum. In a committee where a quorum has not been met, the Committee Chair may—in addition to the motions just discussed—may forward the business of the Committee to the full Board without recommendation.

The call to order may be followed by opening ceremonies or patriotic exercises. As a state Board mandated with protection of the health, welfare and safety of Californians, it would be wholly appropriate for the Board of Podiatric Medicine to take a moment to briefly reflect on

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valued precepts of consumer protection and the mission, vision and values of the Board before the introduction of business.

Following the Call to Order

A Board or Committee may follow the order of business set in the agenda, or it may follow any particular order of business in the agenda at the discretion of the President or Chair presiding over the meeting. However, if agendas contain published estimations of time for the handling of business, then matters should be handled in the order indicated on the agenda in order to allow the public the opportunity to engage in the matter within the planned and estimated time frames.

Generally speaking, however, the following order has traditionally been regarded as the usual order of business: 1) Reading and approval of Minutes; 2) Reports of Officers and Committees; 3) Reports of Special Committees; 4) Special Orders or matters assigned special priority; 5) Unfinished Business; and finally 6) New Business. It is also important to note that the Board or Committee cannot discuss or take action on an item of business not on the agenda, except to decide whether to place the matter on the agenda of a future meeting.

Introduction of Business

Business is brought before the deliberative body through the motions of its individual members. A motion is a formal proposal in a meeting that the body undertake a specified action. The proposed action may be substantive in nature, may express a particular viewpoint, direct the Executive Officer to action or performance, or the like. A motion's most basic form is the main or principal motion which brings business before the body. It should be noted that a motion is for action and is not a suggestion for when carried or approved, presuming it is a valid motion and not null and void, it will be implemented.

Generally, four steps are required to bring a motion before the Board or Committee. First, a member must obtain the floor. That is, the member must be recognized by the President or Chair (presiding officer) as having the right to be heard. The presiding officer must then recognize any member seeking the floor. Second, the member makes the motion. Third, another member must second the motion. Finally, the presiding officer places the motion before the Board or Committee for deliberation. This is termed "stating the question." The action of stating the question by the presiding officer is critical so that all members are clear on exactly what is and what is not under discussion.

After the presiding officer has stated the question, the motion is pending and is on the floor open for debate. Motions or resolutions that are long or technically complex should be

prepared in advance of the meeting and should be put in writing before it is offered. This is ideally done by providing a copy of the motion to the presiding officer for placement on the agenda sufficiently in advance of the meeting in order for staff to appropriately prepare in addition to ensuring compliance with Open Meeting Act notice requirements.

It is the responsibility of the presiding officer to ensure that the motion is put in suitable form that preserves its substance to the satisfaction of its maker before the question is stated.

Modification of Motions

Until the presiding officer states the question, the maker of the motion has the right to modify his or her motion as he or she pleases or may withdraw the matter entirely. Accordingly, all principal motions may be modified. Similarly, all principal motions may also be divided so long as the component parts are not interdependent.

For example: A motion to hire a speedy yellow taxi can be divided into a motion to hire a taxi and a motion to choose the color. A motion to hire a slow limousine instead of a speedy taxi must be in the form of an amendment to the "taxi" motion.

Once on the floor and open for debate, however, the maker of the motion cannot modify the motion until prior to disposition of the motion by the deliberative body. For example, the motion to hire a speedy yellow taxi must be voted on and presuming a failure to carry, before a motion to hire a speedy red taxi can be moved; seconded; stated; and voted on.

Basic Motion Classifications

Apart from the Main or Principal motion briefly discussed above that is used to bring business before the Board on all subjects under its jurisdiction, there are various other secondary motions which may be introduced to dispatch the business of the Board.

Secondary motions may be viewed as sustaining devices used to preserve two underlying principles of parliamentary law:

- Only one question is to be considered before the body at a time; and
- Once a motion is stated before the body, it must either be adopted, rejected, or disposed of in some fashion before other business may be introduced

Accordingly, secondary motions are procedural in nature and applied to main or principal motions for purposes of disposition. They also help clarify their order of precedence. Descriptions of secondary motion are provided below for convenient reference.

1) Subsidiary Motions

2) Incidental Motions
3) Privileged Motions

Subsidiary Motions

Subsidiary motions are applied to main or principal motions for the purpose of treating or disposing of them. Types of subsidiary motions include:

1) Postpone (Indefinitely)
2) Postpone (to Certain Time)
3) Amend
4) Refer to Committee
5) Limit or Extend Limits of Debate
6) Previous Question
7) Lay on the Table

Incidental Motions

Incidental motions are motions that are said to arise out of the main motion being debated and are related to the matter in such a way that they must be decided before further business may proceed. They are often un-debatable. Types of incidental motions include:

1) Point of Order
2) Appeal
3) Objection to Consideration of the Question
4) Division of a Question
5) Withdrawal of Motion
6) Reading of Papers

Privileged Motions

Finally, unlike the above two classification discussed above, privileged motions are unrelated to pending business but rather deal with especially important matters that must be dealt with immediately without debate. Types of privileged motions include:

1) Call for Orders of the Day
2) Question of Privilege
3) Motion to Recess
4) Motion to Adjourn
5) Motion to Fix the Time to Adjourn

Order of Precedence

The order of precedence among motions has evolved over years of parliamentary practice and procedure but is directly related to the motion classifications briefly reviewed above. Each of

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the 7 subsidiary and 5 privileged motions possesses a rank and position of order which all motions below must yield and those above take precedence. Incidental motions, on the other hand, do not rank and cannot be assigned a position as they each have a relationship which can only be defined in relation to the rules governing individual motions. When in order, they take precedence over main motions and any other pending motions. A basic ordinal summary is provided purely as a guideline and listed below for convenient reference. Members are however encouraged toward further individual study in the subject.

<u>Privileged Motions</u>

Setting Adjournment Time

- Takes precedent over all other motions
- Not subject to debate when another motion is on the floor
- Debatable when presented as a principal motion with no other motion on the floor

Motion to Adjourn

- Takes precedent over all other motions except motion to set adjournment time
- Cannot be made when another member has the floor
- Can be made after a vote has been taken but before results announced
- Not subject to debate

Question of Privilege

- Takes precedent over all other motions except motion to adjourn and motion to set adjournment time
- Generally pertain to immediate member needs such as open/close windows, water, etc.
- Not to be confused with Privileged Motions as a whole

Orders of the Day

- Takes precedent over all other motions except the above listed motions
- Moved for reminding the body of the business which was scheduled to be discussed when meetings get of track or "out-of-order" motions or discussion has intervened
- Can be overridden by a majority vote in situations where pending motion before the body is felt to take precedence over orders

<u>Incidental Motions</u>

Motion to Appeal

- Takes precedent over the motion to which it refers
- Raises question concerning a point of order within a motion

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- Decided by the presiding officer without debate
- Can only be made at the time of decision by presiding officer

Objection to Question Consideration

- Can only made when a matter is first introduced
- Cannot be debated or amended
- Commonly used to curtail unproductive or irrelevant discussion
- Cannot be used to close debate of relevant issues

Reading Papers

- Single use motion used for the reading of relevant papers requested for informational purposes
- Cannot be used as a delaying technique

Withdrawal of Motion

- Granted without debate if moved by maker of motion unless debate is called for

<u>Subsidiary Motions</u>

Motion to Table

- Takes precedent all other subsidiary motions
- Does not supersede Incidental or Privileged Motions
- Temporary postponement of further action on a pending motion

Move to the Previous Question

- Ends debate and calls for a vote on pending matter
- Cannot be amended
- Can be applied to Questions of Privilege or other Debatable Motions
- If approved then the main motion in addition to subsidiary motions and amendments are voted on in reverse order of proposal

Move to Postpone (to Certain Time)

- Takes precedent over Motion to Postpone (Indefinitely), Motion to Refer to Committee, and Amendments but yields to all others
- Postpones all aspects of motions and debate until the specified time
- If several motions are postponed and their time for discussion has passed, then all motions are considered in the order postponed

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Motion to Refer to Committee

- Takes precedent over Amendments and Motion to Postpone (Indefinitely) but yields to all motions above.

Amendments

- Takes precedent only over the motion to be amended
- May include various forms including:
    - To add certain words
    - To strike certain words
    - To strike certain words and insert other words
    - To substitute one resolution for another that is pending
    - To divide the question into two or more parts for separate votes
    - To Fill in the Blanks – (Member A says 5 days while Member B says 6 days) These are treated as separate amendments that are voted on independently

Indefinite Postponement

- Applies to Principal Motions or Questions of Privilege
- Used to remove from consideration a motion which may not have sufficient votes to kill

Committees

Traditional parliamentary law defines a committee as a body of one or more persons elected or appointed by the main assembly in order to consider, investigate or take action on a specific subject. Standing committees are created to perform a continuing function and to give a task more detailed attention than would be ordinarily possible by the larger assembly. Standing committees also exist perpetually during the existence of the main deliberative body.

Generally speaking a committee entity does not have delegated authority to act independently of the body and functions solely to thoroughly vet and explore a specific project or topic with the intent of submitting a fully informed finding and recommendation to the larger body. In some instances, a standing committee may be granted delegated authority to act independently based on specific instruction given by the body.

In either case, the committee system is a matter of efficiency where the great majority of preliminary work and preparation on a specific task or subject is accomplished. This is especially true for boards where a large volume of business must be completed where it is advisable to have all issues routed to committee before final action is taken on the matter by the Board. Alternately, it also serves as a mechanism to engage membership according to their respective specialties or interests.

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The Board of Podiatric Medicine has five standing committees and each is constituted by name. As mentioned in Chapter 4, they are: 1) Executive Management; 2) Enforcement; 3) Licensing; 4) Legislative; and 5) Public Education/Outreach. Each committee, with the exception of Executive Management, is advisory in nature.

Presentation & Reception of Committee Reports/Recommendations

A report or recommendation of a committee is the official statement formally adopted by and submitted to the Board in the name of the committee advising the larger body of its decision on an issue or the information obtained.

Immediately, after receiving a committee recommendation/report, the Board will consider the action that is appropriate to be taken. A motion to adopt, accept or agree to a report (all terms interchangeable) accepts the report as presented. Reports/recommendations that contain strictly factual detail or that are placed on the consent calendar in the interest of time and efficiency and that contain relatively non-controversial matters are unproblematic. Conversely, members of the body may wish to discuss recommendations made by a committee.

In most circumstances, recommendations of committee are presented by a member of the committee by making an appropriate motion to implement the recommendation of the committee at the conclusion of his/her presentation on the matter. A second to the motion is not required in these circumstances as the motion is made on behalf of the committee. If for any reason, the recommendation is presented by a member who is not a member of the committee then the motion must be seconded.

Once the report or recommendation is received and the question to adopt, accept or agree has been stated by the presiding officer, the matter is open for debate and amendment and subject to any subsidiary motions that may be applied to it.

Debates & Decorum

After a motion has been made on an item of business, the floor is opened for debate. The member making the motion has the right of speaking first unless the motion is from a committee, then the committee chair is considered the maker of the motion. Each speaker must be recognized by the presiding officer and is given a time to present his or her views. If desired members may agree to set a time limits for the presentation of views if thought necessary. The maker of the motion calls for closure of debate only after all who wish to have been heard have spoken. Of course, a motion for the Previous Question closes the discussion. It is important to remember that it is the issues that are debated and not individual personalities. Further, improper or inappropriate language is never used.

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Chapter 8. Board Functions and Responsibilities

Licensing Function

The broad scope of podiatric licensure requirements has been established by the Legislature. These statutory requirements are codified under Article 22 of the Medical Practice Act or what may be specifically termed as the Podiatric Medical Practice Act. As discussed above, the board may adopt additional detailed requirements for licensure under its licensing function. These licensing requirements are generally reflected in areas of education, experience and examination. The Board of Podiatric Medicine accomplishes its licensing function objectives through the setting of standards and requirements in each area have included:

- Requiring candidates for licensure to possess two years of pre-professional postsecondary education and study in subjects of chemistry, biology or other biological science and physics or mathematics.

- Requiring candidates for licensure to possess a Certificate of Podiatric Medical Education, representing a minimum of 4,000 hours of academic instruction from a Board-approved school.

- Requiring applicants to pass Parts I, II, and III of the national board exam for assessing a candidate's knowledge, competency, and skills.

- Requiring applicants to complete two years of graduate medical education residency for licensure as a podiatric physician rather than just merely one year as is standard for other physicians.

- Performing an annual review of California-based podiatric graduate medical education residency programs.

- Requiring licensed Doctors of Podiatric Medicine (DPMs) to complete 50 hours of approved continuing medical education every two years.

- Requiring DPMs to demonstrate compliance with Board-mandated continuing competency requirements; the only doctor-licensing board in the country to implement such a program over and above continuing education alone.

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These requirements are based on sound policy rationales designed to ensure that licensed podiatric physicians and surgeons are competent in their profession before they offer medical services to the public in order to prevent irreparable harm that may often occur if not qualified.

Enforcement & Quasi-Judicial Function

In addition to licensing prospective California podiatric physician and surgeons, the Board is also charged with enforcement of the Medical Practice Act and taking disciplinary action against licensees in appropriate cases in order to prevent future harm to the public.

The Board of Podiatric Medicine contracts with the larger Medical Board of California for enforcement services, including those from Central Complaints and regional offices of investigators. The Board also contracts with the Attorney General's office for prosecution, uses independent Administrative Law Judges (ALJs) from the Office of Administrative Hearings, and follows the State Administrative Procedure Act (APA) just like all other state licensing boards and is intended to ensure that an accused licensee is afforded a fair proceeding and an opportunity to be heard or what is termed due process.

The enforcement process involves several steps including many stages where board members are prohibited from participating. The accompanying diagram in Appendix A maps out the individual steps in the disciplinary process.

Administrative discipline results from the Board's review of complaints submitted by patients, providers, facilities, insurers, and other law enforcement agencies. Approximately 150 complaints a year are received in Central Complaints. If a quality-of-care case is assigned to an investigator, it is reviewed by one of the Board’s medical consultants, and then, if they recommend, to one of BPM's approved experts.

If the investigator, after a review, recommends a case be referred to the Attorney General, the board's enforcement coordinator in consultation with the Executive Officer authorizes the transmittal. A Deputy Attorney General (DAG) then reviews the case and, if appropriate, prepares an Accusation. The Accusation is the formal written complaint against the accused licensee. Once signed by the board's Executive Officer, the licensee is notified of the filing of the document, the Accusation becomes a public document, and a hearing is then scheduled before an Administrative Law Judge (ALJ).

Frequently, "the Board" and doctor settle out of court by entering into a Stipulated Agreement. If the case goes to hearing, the ALJ takes the testimony and prepares a proposed decision based on the official record of evidence. Both stipulated agreements and proposed decisions go to the seven board members appointed by the Governor and Legislature for mail ballot vote.

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Board Review and Adoption

Board members should review the ALJ's proposed decision thoroughly to determine whether to adopt it as a final decision of the Board. This is the first point in the multi-stage disciplinary process in which board members take an active and involved role in the agency's enforcement function. This stage of the disciplinary process can be time-consuming, but it is crucial to ensuring a fair and objective decision for both licensee and protection of the public alike.

Consideration Factors for Adoption or Non-Adoption of Proposed ALJ Decisions

Most decisions involving proposed disciplinary orders are both significant and complex. In addition, underlying the decision evaluation is no less than the paramount interest sought to be achieved which is protection of the public. In order to assist members to objectively and fairly decide whether or not to adopt a proposed ALJ decision, a number of helpful factors to consider follow below.

CONSIDER ADOPTION OF PROPOSED ALJ DECISION WHERE:

1) The summary of the evidence supports the findings of fact and the findings support the conclusions of law.
2) The law and standards of practice are interpreted correctly.
3) In those cases in which witness credibility is crucial to the decision (such as in sexual misconduct cases), the findings of fact include a determination based substantially on a witness' credibility, and the determination identifies specific evidence of the observed demeanor, manner, or attitude of the witness that supports the credibility determination.
4) The penalty fits within the disciplinary guidelines or any deviation from those guidelines has been adequately explained.
5) If probation is granted, the terms and conditions of probation provide the necessary public protection and are supported by the facts of the case.

CONSIDER NON-ADOPTION OF PROPOSED ALJ DECISION WHERE:

1) The proposed decision reflects the ALJ clearly abused his/her discretion in that the action is not supported by the evidence.
2) The ALJ made an error in applying the relevant standard of practice for the issues in controversy at the hearing.
3) Witness credibility is crucial to the decision (such as in sexual misconduct cases), the findings of fact include a determination based substantially on a witness' credibility, but the determination <u>does not identify</u> specific evidence of the observed demeanor, manner, or attitude of the witness that supports the credibility determination.
4) The ALJ made an error in interpreting the licensing law and/or regulations.

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5) The ALJ made correct conclusions of law and properly applied the standards of practice but the penalty is substantially more or less than is appropriate to protect the public.

Helpful Suggestions for Review and Discussion after Non-Adoption

When the factual or legal findings of the ALJ are called into question and the members of the Board determine to non-adopt the proposed ALJ decision, staff will then begin preparations for obtaining the complete administrative record including the transcript of testimony and all documentary evidence presented in the case. Although this function may be time-consuming, it is essential that Board members review all materials in order to ensure that a licensee is provided due process and that the objectives of consumer protection are met.

The role of each board member in the enforcement process is crucial to fulfilling the Board's mandate of public protection. During enforcement proceedings—where members serve as judges with final Board decision-making power—board members must always remain cognizant that their decision must be based solely on the evidence admitted by the ALJ and must not and cannot be based on personal experience or knowledge, hearsay or ex parte or off the record communications.

The following suggestions are offered to assist members reviewing a case record in an efficient and effective manner.

READ THE FULL ADMINSTRATIVE RECORD – In the following order:

THE ACCUSATION

Review the written notes of the code sections charged and brief description of what they cover. (B&P Section 2234(b) - gross negligence; B&P Section 2242 - prescribing w/o medical exam.)

Review the facts that are alleged to prove the code violations. The burden to prove the violations by "clear and convincing evidence to a reasonable certainty" is on the Board.

THE PROPOSED DECISION

If "gross negligence,""repeated negligent acts," or "substantially-related" conduct is alleged, expert testimony is necessary to prove the violations. It is important to focus on the three particular areas below.

1. Factual findings
   - Did the ALJ find the facts were proven by clear & convincing evidence? If not, why not?
   - Was sufficient evidence introduced to prove the facts?
   - Did the witnesses'testimony prove the facts?
   - Did the ALJ find some witnesses more credible than others? If so, why?

- To which expert's testimony did the ALJ give the most weight?
- Was any evidence of mitigation introduced by the respondent?

Close attention to the ALJ's factual findings should be paid as board members will need to evaluate them when the transcript is reviewed.

2. Legal Conclusions (determination of issues)
   - Do the facts proven constitute a violation of the code section?

3. Order
   - Does the Order contain the appropriate penalty given the violations found?
   - Is the Order consistent with the Disciplinary Guidelines and, if not, is there a basis in the record for deviating from the guidelines?

THE TRANSCRIPT

Frequent notes should be taken – "Is the evidence introduced proving the facts and the violations alleged?"

1. Sufficiency of the Evidence
   Has "clear and convincing evidence to a reasonable certainty" been introduced to prove each factual allegation? You must be able to identify clear and convincing evidence in the record to support a finding.

2. Lay Witnesses
   - Does the witness testimony prove the facts? (It is important to keep the ALJ's credibility findings in mind when evaluating testimony.)
   - If not, what evidence supports your conclusion as to who is more credible?

3. Expert Witnesses
   - Which expert's testimony was given the most weight by the ALJ? Why?
   - If you do not agree, what evidence in the record supports your conclusion?

PREPARATION BEFORE THE ORAL ARGUMENT HEARING

WRITTEN ARGUMENTS

The DAG's argument will contend the facts are clearly proven and constitute a violation of the law. The burden of proof is on the Board. Has that burden (clear and convincing evidence) been met?

The Respondent's argument will likely focus on the weaknesses of the Board's case and the strength of the respondent's case. It will force members to answer hard questions including whether:

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1) the facts were proven;
2) the law was violated; and
3) the penalty is appropriate.

ADDITIONAL REVIEW OF THE PROPOSED DECISION

You should now have a complete picture of the case. Make notes on the proposed decision where you agree and disagree with the ALJ as to the factual findings, the legal conclusion, and the proposed penalty.

If you disagree, note the specific evidence in the record that supports your conclusion. *You should also note the volume and page number of the transcript*. You must cite "clear and convincing evidence to a reasonable certainty" to make a finding.

ORAL ARGUMENT

The oral arguments made by respondent's attorney and DAG typically highlight points made in the written argument. Board members may ask questions to clarify matters that may be confusing.

Questions that seek information that is not part of the existing record may not be asked, and an answer that results in new information may not be considered.

SUMMARY AND CONCLUSION

During your review, keep in mind the code sections alleged to have been violated and the facts alleged to have occurred. If you keep this as your focus, your evaluation of all the elements of the case should make your decision much easier. This will also help your decision withstand judicial scrutiny.

Court Review of Board Decision

It may not be unusual for a licensee to challenge a final decision of the board on a disciplinary decision on appeal to the courts. There is no additional role for Board members to play on appeal unless a court is to reverse and remand a decision for further proceedings in accord with the decision of the tribunal. Additionally, members are generally not asked to appear in proceedings before a court regarding board decisions.

Office of Administrative Hearing Processes and Procedures

For additional information and guidance with Administrative Hearings, OAH training materials are provided in the Appendix of the Board Administrative Manual for member reference.

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Quasi-Legislative Function

Under sections 101.6, 2460 and 2460.1 of the California Business and Professions Code (B&P), the Board of Podiatric Medicine has been charged by the Legislature with the responsibility for regulating the profession of podiatric medicine within the State of California. Additionally, the Board has been delegated the authority by the Legislature under section 2470 B&P to adopt, amend or repeal any regulations necessary to enable the board to execute the laws related to the practice of podiatric medicine.

A regulation is defined in Government Code section 11342.600:

> "Regulation means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure."

This exclusive charge for the regulation of podiatric medicine is considered the Board's quasi-legislative function. However, not every statute requires the adoption of an implementing regulation. In this regard, it is useful to think about three types of statutory provisions:

1) Self-executing;
2) Wholly enabling; and
3) Susceptible to interpretation.

<u>Self-Executing Statutes</u>

A self-executing provision is so specific that no implementing or interpreting regulation is necessary to give it effect.

An example is a statutory provision that provides: "The annual licensing fee is $900."

<u>Wholly Enabling Statutes</u>

A wholly-enabling statutory provision is one that has no legal effect without the enactment of a regulation.

An example is a statute that provides: "The department may set an annual licensing fee up to $900." This type of statute cannot be legally enforced without a regulation setting the fee.

<u>Statutes Susceptible to Interpretation</u>

A statutory provision that is susceptible to interpretation, may be enforced without a regulation, but may need a regulation for its efficient enforcement.

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An example is a statute that provides: “Surgery is permitted at the level of the ankle.” This type of statute would leave open the question as to what the term ankle is defined to mean or include.

This is not to say that the example above is impossible to administer, but only that such a strategy requires that no rule or standard of general application be used that should have been adopted pursuant to the APA. Conceptually, the statute could be enforced on a case-by-case basis, but such an enforcement posture presents significant difficulties, not the least of which includes the untenable inability to provide accurate and concise guidance to members of the public and/or licensees interested in strict compliance with the law.

Mandatory Rulemaking Procedures of the APA

Accordingly, section 11346 of the California Government Code (GC) provides that every regulation must be subject to the rulemaking procedures contained in the APA. That compliance with the rulemaking requirements of the APA was not optional was made abundantly clear by the 1978 California Supreme Court case *Armistead v. State Personnel Board.* The court noted that "[t]he manner of [noncompliance] takes many forms, depending on the size of the agency and the type of law being administered, but they can all be briefly described as 'house rules' of the agency.” Quoting a 1955 legislative report noted the finding that noncompliance with APA rulemaking requirements was common.

> "[Underground regulations] consist of rules of the agency, denominated variedly as 'policies,' 'interpretations,' 'instructions,' 'guides,' 'standards,' or the like, and are contained in internal organs of the agency such as manuals, memoranda, bulletins, or are directed to the public in the form of circulars or bulletins." [First Report of the Senate Interim Committee on Administrative Regulations (1955) as cited in *Armistead,* p. 205.]

Plainly stated, if a state agency issues, enforces, interprets or attempts to enforce a statute without following the APA when it is required to, the rule is called an "underground regulation." State agencies are prohibited from enforcing underground regulations under section 11340.5 of the Government Code.

Underground Regulations & Three Step Analysis

In order to determine whether a particular Board policy, procedure or interpretation of law should be adopted pursuant to the APA, it is necessary to first ascertain whether the particular policy or procedure is already set out in an applicable statute or duly adopted regulation.

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The adoption of a policy or procedure as a "regulation" pursuant to the APA is not required if the specific policy or procedure is found contained in an applicable statute or duly adopted regulation. Conversely, if it is determined that the policy or procedure (i.e., rule) is not set out in an applicable statute or duly adopted regulation, then the following three-step analysis must be used to determine whether the policy or procedure must be adopted as a regulation pursuant to the requirements and procedures of the APA:

Step One

Is the policy or procedure either:

- a rule or standard of general application, *or*

- a modification or supplement to such a rule?

Step Two

Has the policy or procedure been adopted by the agency to either:

- implement, interpret, or make specific the law?

If the policy or procedure answers the first two steps above affirmatively, then it is a "regulation" as defined in the APA and must be adopted as a regulation pursuant to the APA unless it falls within an express statutory exemption from the requirements of the APA. Generally, all "regulations" issued by state agencies are required to be adopted pursuant to the APA, unless *expressly* exempted by statute. (Government Code section 11346.)

Step Three

Has the policy or procedure been:

- expressly exempted by statute from the requirement that it be adopted as a "regulation" pursuant to the APA?

If the policy or procedure does not fall within an express statutory exemption, then it is subject to the rulemaking requirements of the APA.

The Rulemaking Process

Every board or commission in the executive branch of state government must follow the rulemaking procedures codified in the Administrative Procedures Act ("APA") found in California Government Code section 11340 et seq. and adopted regulations propounded by the Office of Administrative Law (OAL). This is generally the case unless expressly exempted from these requirements by statute. The APA requirements are specifically created to provide the public with a meaningful opportunity to participate in the adoption of rules that have the force of law by California state agencies in addition to ensuring the creation of an adequate record for the public, OAL and judicial review.

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Generally, there are two types of rulemaking procedures that a state agency can pursue: **regular** or **emergency**. The regular rulemaking process requires that a state agency meet certain public hearing and notice requirements. The emergency rulemaking process has different requirements, which generally include a brief public notice period, a finding of emergency, a brief public comment period, review by OAL and an OAL decision. In addition, some agencies have requirements related to regular or emergency rulemakings that are unique to that particular agency. (Please also see either OAL's Regular Rulemaking Checklist or Emergency Rulemaking Checklist.)

For the regular rulemaking process, once a state agency decides to conduct a regular rulemaking action, it develops the documents required to conduct a formal APA rulemaking proceeding. Some agencies involve the public during this stage, while others do not. Government Code section 11346.45 requires an agency to engage in pre-notice public discussions (also called "workshopping") if the proposal is large or complex. The agency develops four documents during the preliminary activity stage which are needed to initiate the formal rulemaking process: (1) the proposed text; (2) the Initial Statement of Reasons; (3) the STD Form 399 Economic and Fiscal Impact Statement; and (4) the Notice of Proposed Regulatory Action (notice).

To initiate a rulemaking action, proposed language or amendments are presented to the board for approval and for authority to commence the rulemaking process. The staff then issues a notice by having it published in the California Regulatory Notice Register, by mailing the notice to those persons who have filed a request for notice of regulatory action, and by posting the notice, text, and Initial Statement of Reasons on the agency's website. See Government Code section 11346.5. Once the notice is published in the California Regulatory Notice Register, the APA rulemaking process is officially started and the agency has one year within which to complete the rulemaking and submit the rulemaking file to OAL.

The APA requires at a minimum a 45-day opportunity to comment to the agency in writing on the proposed regulation. The notice specifies where the comments must be directed and the date this opportunity to comment in writing on the proposal closes. Under the APA, an agency has an option as to whether it will hold a public hearing on a proposed rulemaking action. However, if an agency does not schedule a public hearing, any interested person can submit a written request for one to be held. The written request for a hearing must be submitted at least 15 days prior to the close of the written public comment period, and the agency must give notice of and hold a public hearing. See Government Code section 11346.8.

After the initial public comment period, a rulemaking agency may decide to change its initial

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proposal either in response to public comments received or on its own initiative. The agency must then decide whether a change is (1) nonsubstantial; (2) substantial and sufficiently related; or (3) substantial and not sufficiently related. See Government Code section 11346.8(c). A rulemaking agency must make each substantial, sufficiently related change to its initial proposal available for public comment for at least 15 days before adopting such a change. Thus, before a rulemaking agency adopts such a change, it must mail a notice of opportunity to comment on proposed modifications along with a copy of the text of the new proposed changes to each person who has submitted written comments on the proposal, testified at the public hearing, or asked to receive a notice of proposed modifications. The agency must also post the notice on its website. No public hearing is required. The public may comment on the proposed modifications in writing.

The agency must then consider comments received during the 15-day comment period which are specifically directed to the proposed modifications. An agency may conduct more than one 15-day opportunity to comment on modifications.

A rulemaking agency must summarize and respond on the record to timely comments that are directed at the proposal or at the procedures followed by the agency during the regulatory action. With each comment, the agency must either (1) explain how it has amended the proposal to accommodate the comment, or (2) explain the reasons for making no change to the proposal. The summary and response to comments is included as part of the rulemaking file in a document called a Final Statement of Reasons. See Government Code section 11346.9.

A rulemaking agency must transmit a rulemaking action to OAL for review within one year from the date that the notice was published in the California Regulatory Notice Register.

OAL then has 30 working days to conduct its review. OAL must review the rulemaking record to determine whether it demonstrates that the rulemaking agency satisfied the procedural requirements of the APA and to review the proposed regulations for compliance with the six legal standards set forth in the APA: Authority, Reference, Consistency, Clarity, Nonduplication and Necessity. OAL may not substitute its judgment for that of the rulemaking agency with regard to the substantive content of the regulations. See Government Code section 11349.1.

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Outreach Function

Another important function of the Board that cannot be overlooked is the responsibility to conduct outreach and education to the general public through the development of consumer outreach projects. These frontline efforts seek to bring the mission of the Board of Podiatric Medicine directly to consumers that not only inform of the existence of the agency, its jurisdiction and authority but also how to access its critical services.

This function is accomplished through a variety of programs including the Board's newsletter, web site, pamphlets brochures and publications, e-government initiatives and outside organization presentations on public positions of the Board. Members of the public outreach committee may be charged to act as good will ambassadors and represent the Board at the invitation of outside organizations and programs for personal speaking engagements.

In all instances regardless of venue, forum or methodology employed to connect with the people of the State, the basic underlying drive is designed to promote BPM's mission and mandate to consumers while sharing its reputation as an advocate of consumer protection that will educate and empower toward a safer, fairer and competitive marketplace.

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Abbreviations and Acronyms Glossary

Abuse of Discretion – of the three main standards of review in California jurisprudence, the abuse of discretion standard is the most deferential to an arbiter's decision. While many Courts have provided varying definition of the standard, thus making it difficult to define, the California Supreme Court has sometimes described it as "whether the trial court exceeded the bounds of reason." See Shamblin v. Brittain, 44 Cal.3d 474, 478 (1988). Other courts have offered similar definitions; as one appellate court phrased it, an abuse of discretion occurs only when "it can fairly be said that no judge would reasonably make the same order under the same circumstances." In re Marriage of Lopez, 38 Cal.App.3d 93, 114 (1974).

ALJ Administrative Law Judge - a judge from OAH who presides over license denial and discipline cases (the trier of fact) and makes a Proposed Decision to the board that includes findings of fact, conclusions of law, and a recommended penalty. APA Administrative Procedure Act - the law that sets out the procedure for license denial and license discipline, to meet constitutional requirements for due process of law. Bagley-Keene Name of the law that requires public meetings and Open Meeting Act distribution of meeting notices and agendas.

APA Administrative Procedure Act - the law that sets out the procedure for license denial and license discipline, to meet constitutional requirements for due process of law.

Bagley-Keene - Name of the law that requires public meetings and Open Meeting Act distribution of meeting notices and agendas.

Conflict of Interest Laws - Refers to a number of laws which relate to a person's personal interest which conflicts with the public interest.

DAG- Deputy Attorney General - an attorney from the Office of the Attorney General who prosecutes license denial and discipline cases.

Gross negligence - An extreme departure from the standard of practice.

Hearsay – A statement that is made out of court that is offered in court as evidence to prove the truth of the matter asserted.

Incompetence - Lack of knowledge or skills in discharging professional duties.

Negligence - A departure from the standard of practice.

OAH-Office of Administrative Hearings - the state agency that provides neutral (unaffiliated with either party) judges to preside over administrative cases.

OAL-Office of Administrative Law - the state agency that reviews regulation changes for compliance with the process and standards set out in law and either approves or disapproves those regulation changes.

Petition for Writ Of Mandate - The name for the type of appeal filed in Superior Court that a licensee files when the licensee wishes to challenge a license disciplinary decision.

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Pro Rata Share - Usually, a board's share of costs for certain services, usually determined by a proportional, mathematical formula.

Regulation - A standard that implements, interprets or makes specific a statute enacted by a state agency. It is enforceable the same way as a statute.

Stipulation - A form of plea bargaining in which a disciplinary case is settled by negotiated agreement prior to a hearing.

Statute - A law passed by the Legislature.

TRO-Temporary Restraining Order - an order issued by a Superior Court judge to immediately halt practice.

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Appendix A

Oath of Office

Board Member Activity Log

Direct Deposit Authorization

OAH training Materials for New Board Member Orientation

California Board of Podiatric Medicine Organizational Chart

State of California Organizational Chart

Legislation Life Cycle

Regulation Process

Enforcement Process Overview

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OATH

for the Office of _____

_____

I, _____ *, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.*

Signature _____

Term Expires _____

Subscribed and sworn to before me,
this _____ *day of* _____
A. D. _____

_____

_____

STD. 688 (REV. 11-99)

OATH OF OFFICE

of

STD. 688 (REV. 11-99) (REVERSE)

Board Member: **BOARD MEMBER ACTIVITY LOG**

FY: 15/16
Month:

PODIATRIC MEDICINE

TOTAL MONTHLY HOURS: 0:00

Time to be recorded in 15 minute increments.

Activity Date	Begin Time	End Time	Activity	Subject	Time Spent
					0:00
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A cumulative of 8 hours of actual time spent performing Board-specific work authorized by the President shall be equal to one day spent in the discharge of official duties for per diem reimbursement purposes.

Signature:______________________________ Date:

BUSINESS AND
PROFESSIONS CODE § 103

Board Member: **BOARD MEMBER ACTIVITY LOG**

FY: 15/16
Month: SEPTEMBER

PODIATRIC MEDICINE

TOTAL MONTHLY HOURS: 8:00

Time to be recorded in 15 minute increments.

Activity Date	Begin Time	End Time	Activity	Subject	Time Spent
9/13/15	8:00	11:00	Committee Preperation - Reading	LICENSING	3:00
9/18/15	10:30	11:30	BPM Committee Meeting - Attendance	LICENSING	1:00
9/25/15	6:00	9:00	BPM Mail Vote - Mail Vote Package - Review	Proposed Decision	3:00
9/30/15	2:00	3:00	Agenda Planning with E.O.	Board Meeting	1:00
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EXAMPLE

****A cumulative of 8 hours of actual time spent performing Board-specific work authorized by the President shall be equal to one day spent in the discharge of official duties for per diem reimbursement purposes.***

Signature:______________________ Date:______________

STATE OF CALIFORNIA - CONTROLLER'S OFFICE

Print Form | Reset Form

DIRECT DEPOSIT
ENROLLMENT AUTHORIZATION

STD. 699 (REV. 12/2011)

COMPLETION INSTRUCTIONS AND PRIVACY NOTICE ARE ON THE REVERSE OF THE EMPLOYEE COPY. PLEASE TYPE OR USE BALL POINT PEN–PRINT CLEARLY.

This authorization remains in full force and effect until the State Controller's Office receives written notification from the employee of its termination, or until the State Controller's Office or appointing authority deems it necessary to terminate the agreement.

SECTION A *(To be completed by employee)*

1. TYPE OF ENROLLMENT ACTION
   - 1. ☐ NEW — SECTIONS A, B, AND C MUST BE COMPLETED
   - 2. ☐ CHANGE — SECTIONS A, B, AND C MUST BE COMPLETED
   - 3. ☐ CANCEL — SECTIONS A AND D MUST BE COMPLETED

2. SOCIAL SECURITY NUMBER

3. NAME (First Middle Last)

SECTION B *(To be completed by employee if **NEW** or **CHANGE** box in Section A is checked)*

1. TYPE OF ACCOUNT- MUST BE CHECKED. IF LEFT BLANK, WILL BE PROCESSED AS **CHECKING**

☐ **C** (Checking) ☐ **S** (Savings)

Verify Routing/Depositor Numbers with Financial Institution

2. ROUTING NUMBER

3. DEPOSITOR ACCOUNT NUMBER

4. FINANCIAL INSTITUTION NAME

5. FINANCIAL INSTITUTION ADDRESS (Number and Street City / State ZIP)

SECTION C *(To be completed by employee if **NEW** or **CHANGE** box in Section A is checked)*

I hereby authorize the State Controller's Office to provide for direct deposit of any salary or wages due me, less any mandatory or authorized withholding or deductions therefrom, in the above designated account.

If at any time the amount of salary or wages so deposited exceeds the amount of salary or wages actually due and payable to me, I hereby authorize the State Controller's Office to either:

(a) Withhold a sum equal to the overpayment from future salary or wages; or

(b) Recover such overpayment from the above-designated account.

If the State is legally obligated to withhold any part of my wage or salary payment for any reason, or if I no longer meet eligibility requirements for the Direct Deposit program, I understand the State Controller's Office may terminate my enrollment in the program. If any action taken by me results in nonacceptance of a direct deposit by the designated financial institution, I understand that the State assumes no responsibility for processing a supplemental salary or wage payment until the amount of the nonacceptance deposit is returned to the State by the financial institution.

☐ 100% of the net deposit will not be sent to a financial institution outside the jurisdiction of the United States.

SIGNATURE | DATE

SECTION D *(To be completed by employee if **CANCEL** box in Section A is checked)*

I hereby cancel my Direct Deposit authorization.

SIGNATURE | DATE

SECTION E *(To be completed by state agency or campus personnel/payroll office only)*

1. AGENCY/CAMPUS NAME

2. AGENCY CODE

3. UNIT

FOR SCO ONLY

1. EFFECTIVE DATE MO. DAY YR.

4. REMARKS

☐ CHECK BOX IF SEMI-MONTHLY EMPLOYEE

5. AUTHORIZED AGENCY/CAMPUS SIGNATURE

I HEREBY CERTIFY THAT I AM THE DULY APPOINTED, QUALIFIED AND ACTING OFFICER OF THE HEREIN NAMED AGENCY/CAMPUS AND THAT, BEING SO AUTHORIZED, DO CERTIFY THAT THIS EMPLOYEE IS ELIGIBLE FOR DIRECT DEPOSIT.

TELEPHONE NUMBER

☐ CHECK IF CALNET

DATE RECEIVED IN EMPLOYING OFFICE MO. DAY YR.

DISTRIBUTION: WHITE–TO STATE CONTROLLER'S OFFICE
CANARY–TO AGENCY
PINK–TO EMPLOYEE

OAH

TRAINING MATERIALS FOR

NEW BOARD MEMBER ORIENTATION

DEPARTMENT OF CONSUMER AFFAIRS

Prepared by
Administrative Law Judges
David Rosenman &
Janis Rovner
March 2005

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1. Introduction: Most administrative proceedings before the Office of Administrative Hearings are governed by the Administrative Procedure Act, Government Code sections 11370 through 11529, and California Code of Regulations, title 1. [Found at the website for the Office of Administrative Hearings: www.oah.dgs.ca.gov; click the link for "Laws and Programs."] These Training Materials include summaries and excerpts from these code sections and regulations. (§ = section number)

2. Office of Administrative Hearings: The Office of Administrative Hearings (OAH) functions as the state's internal "court system." Over forty Administrative Law Judges (ALJ) staff four regional offices—Sacramento, Oakland, Los Angeles and San Diego. OAH conducts hearings for over 100 state agencies and over 500 local agencies and school districts. For the fiscal year July 2003 through June 2004, OAH opened 8,616 cases and held hearings in 4,511 cases.

3. Pleadings:

A. Accusation: A written statement of charges against the holder of a license or privilege, to revoke, suspend or limit the license, specifying the statutes and rules allegedly violated and the acts or omissions comprising the alleged violations. Government Code section 11503.

B. Statement of Issues: A written statement of the reasons for denial of an application for a license or privilege, specifying the statutes and rules allegedly violated and the acts or omissions comprising the alleged violations. Government Code section 11504.

C. Petition for reinstatement or reduction of penalty: A person whose license was revoked, suspended or placed on probation can petition for that license to be reinstated, to have the penalty reduced, or for the probation to be terminated. Many boards have specific statutes or regulations relating to these petitions. Hearings on these petitions usually take place before the board itself at a scheduled board meeting, with an ALJ presiding. The board usually goes into closed session after the hearing to deliberate and decide the outcome. The ALJ usually prepares the Decision, for signature of the board chairperson. Some Boards have the authority to permit the ALJ sitting alone to hear petitions and render a proposed decision to the Board. This may also happen when the board does not have a quorum at a board meeting. Government Code sections 11517, 11522.

4. Proposed Decision:

A. ALJ's action: After the hearing, the ALJ will issue a Proposed Decision that includes the factual and legal basis for the decision. The factual basis for the decision must be based exclusively on the evidence in the hearing record, that is, the testimony and all exhibits received into evidence. The proposed decision will also include a recommended order that will (1) uphold the discipline or license denial the Board's attorney and/or staff have advocated, (2) modify the

discipline or denial to include something less or more than Board staff and/or attorney advocated, or (3) dismiss the case in its entirety. Penalties in the decision's order may not be based on any guidelines or policy memos that have not been adopted as regulations.Government Code section 11425.50.

B. Board's action: OAH will forward the Proposed Decision (PD) and the exhibits from the hearing to the board. The board has several options upon receipt of the PD: adopt all of the PD; reduce the penalty and adopt the rest of the PD; make technical or minor corrections and adopt the PD; reject the PD, order a transcript, and remand the matter back to the ALJ to take further evidence and write a new PD; or reject the PD, order a transcript (or not, if the parties agree), and decide the case itself based on the record. Government Code section 11517.

5. Settlements: The licensee/applicant and agency may decide to settle at any time during the administrative process. Usually, settlements are entered into before an administrative hearing is held to avoid the expense of the hearing. The settlement is reduced to a written stipulation and order which sets forth the settlement terms and proposed disciplinary order. The written stipulation and order is forwarded to the Board for its consideration. During the settlement process the Deputy Attorney General has been advised by the agency's executive officer or head of enforcement regarding acceptable terms. The Deputy Attorney General may advocate before the Board for approval of the settlement. The Board may accept the settlement and issue its decision and order based on the settlement. If the Board rejects the settlement, the case will return to the disciplinary process. A new settlement may be submitted to the Board at a later time or the case may proceed to an administrative hearing before an ALJ. Government Code section 11415.60.

6. Disqualification: With some limited exceptions, a board member cannot decide a case if that board member investigated, prosecuted or advocated in the case or is subject to the authority of someone who investigated, prosecuted or advocated in the case. A board member may be disqualified for bias, prejudice or interest in the case. Government Code sections 11425.30, 11425.40.

7. Ex Parte Communications: "Ex parte" technically means "by or for one party only." In practice, it is a limitation on the types of information and contacts that board members may receive or make when considering a case. While a case is pending, there are only limited types of communications with board members that are allowed if all parties are not aware of the communication and do not have a chance to reply. For example, a board member can accept advice from a staff member who has not been an investigator, prosecutor or advocate in the case; but that person/staff cannot add to, subtract from, alter or modify the evidence in the record. Or, a board member can accept information on a settlement proposal or on a procedural matter. Most other communications may need to be disclosed to all parties, and an opportunity will be provided to the parties make a record concerning the communication. Disclosure may also apply to communications about a case received by a person who later becomes a board member deciding the case. Receipt of some ex parte communications may be grounds to disqualify a board member.

Government Code section 11430.10:

"(a) While the proceeding is pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and opportunity for all parties to participate in the communication.
(b) Nothing in this section precludes a communication, including a communication from an employee or representative of an agency that is a party, made on the record at the hearing.
(c) For the purpose of this section, a proceeding is pending from the issuance of the agency's pleading, or from an application for an agency decision, whichever is earlier."

Government Code section 11430.20:

A communication otherwise prohibited by Section 11430.10 is permissible in any of the following circumstances:
(a) The communication is required for disposition of an ex parte matter specifically authorized by statute.
(b) The communication concerns a matter of procedure or practice, including a request for a continuance, that is not in controversy.

Government Code section 11430.30:

" A communication otherwise prohibited by Section 11430.10 from an employee or representative of an agency that is a party to the presiding officer is permissible in any of the following circumstances:
(a) The communication is for the purpose of assistance and advice to the presiding officer from a person who has not served as investigator, prosecutor, or advocate in the proceeding or its preadjudicative stage. An assistant or advisor may evaluate the evidence in the record but shall not furnish, augment, diminish, or modify the evidence in the record.
(b) The communication is for the purpose of advising the presiding officer concerning a settlement proposal advocated by the advisor.
(c) The communication is for the purpose of advising the presiding officer concerning any of the following matters in an adjudicative proceeding that is nonprosecutorial in character:

(1) The advice involves a technical issue in the proceeding and the advice is necessary for, and is not otherwise reasonably available to, the presiding officer, provided the content of the advice is disclosed on the record and all parties are given an opportunity to address it in the manner provided in Section 11430.50.

(2) The advice involves an issue in a proceeding of the San Francisco Bay Conservation and Development Commission, California Tahoe Regional Planning Agency, Delta Protection Commission, Water Resources Control Board, or a regional water quality control board."

Government Code section 11430.40:

"If, while the proceeding is pending but before serving as presiding officer, a person receives a communication of a type that would be in violation of this article if received while serving as presiding officer, the person, promptly after starting to serve, shall disclose the content of the communication on the record and give all parties an opportunity to address it in the manner provided in Section 11430.50."

Government Code section 11430.50:

"(a) If a presiding officer receives a communication in violation of this article, the presiding officer shall make all of the following a part of the record in the proceeding:

(1) If the communication is written, the writing and any written response of the presiding officer to the communication.

(2) If the communication is oral, a memorandum stating the substance of the communication, any response made by the presiding officer, and the identity of each person from whom the presiding officer received the communication.

(b) The presiding officer shall notify all parties that a communication described in this section has been made a part of the record.

(c) If a party requests an opportunity to address the communication within 10 days after receipt of notice of the communication:

(1) The party shall be allowed to comment on the communication.

(2) The presiding officer has discretion to allow the party to present evidence concerning the subject of the communication, including discretion to reopen a hearing that has been concluded."

Government Code section 11430.60:

> "*Receipt by the presiding officer of a communication in violation of this article may be grounds for disqualification of the presiding officer. If the presiding officer is disqualified, the portion of the record pertaining to the ex parte communication may be sealed by protective order of the disqualified presiding officer.*

Government Code section 11430.80:

> "*(a) There shall be no communication, direct or indirect, while a proceeding is pending regarding the merits of any issue in the proceeding, between the presiding officer and the agency head or other person or body to which the power to hear or decide in the proceeding is delegated.*
> *(b) This section does not apply where the agency head or other person or body to which the power to hear or decide in the proceeding is delegated serves as both presiding officer and agency head, or where the presiding officer does not issue a decision in the proceeding."*

8. **Additional Hypotheticals/Issues**

The responses to these hypothetical questions are not intended to be definitive. Rather, they are intended to sensitize Board members to the variety of situations they may face, and suggest the process Board members should follow in formulating a response when they find themselves in similar situations.

A. A Board member discovers during the Board's consideration of a case that his/her spouse served as the Board's expert witness during the administrative hearing before the ALJ. The Board member was not appointed to the Board until after the administrative hearing took place and the proposed decision was issued. What should the Board member do? Do other members of the Board have any obligations?

- The Board member whose spouse served as the expert should disqualify (recuse) himself/herself from the case and should not be privy to any further Board deliberations regarding the case. Nor should the member discuss the case with any other member.

- The reason for the Board member's recusal should probably be disclosed to the parties in the case, reduced to writing, and sealed as part of the record in the case in the event the decision is appealed (although technically there may not be a legal requirement to take these steps).

- Other Board members may continue to serve as long as they are unbiased with respect to the case.

B. An ALJ is sitting with the entire Board during a hearing on a licensee's petition to have his license reinstated. As the licensee is testifying, a Board member's cell phone rings, the Board member answers the call, gets up from the table, and goes to another room to talk to the caller. Later, when the Board is considering whether or not to grant the petition, the Board member takes part in deliberations and seeks to have his/her vote counted when voting on whether or not to grant the petition. Should the Board member participate and vote on the petition?

- No. The Board member should disqualify him/herself from further participating and voting in this case. The Board member must be present when evidence in the form of the licensee's testimony is presented.

C. A Board is considering whether or not to adopt a proposed decision that recommends revocation of a license on the basis of evidence establishing that the licensee has been convicted five times in the recent past of driving under the influence of alcohol. The proposed decision finds that the licensee has admitted to being an alcoholic with a serious drinking problem, but has been receiving treatment for his alcoholism in a residential facility for one year. Two years earlier, a participating Board member announced at a news conference that he would ensure that licensees with substance abuse problems were not allowed to practice the licensed activity. Should this Board member participate in the consideration of this case?

- Probably Not. This is a gray area. On the one hand, if the Board member can decide this case in an unbiased manner based solely on the evidence in the case, he may not be required to disqualify himself. On the other hand, the Board member's previous statement may be evidence of an appearance of bias and it may provide a basis for challenging the Board's decision if the Board member does not recuse himself. It might be best if the Board member recuses himself.

D. A Board member is told by a close friend that the friend has been called to be a witness for the respondent in a disciplinary proceeding against a Board licensee. The best friend tells the Board member that she had nothing but good things to say about the licensee. What should the Board member do?

- The Board member should disclose to the executive officer or an appropriate enforcement staff person the conversation with the friend as an *ex parte* communication. The name of the friend, the substance of the communication, any response by the Board member and the date and time of the communication must be written in a memorandum and made a part of the record. All parties in the case must be given notice and an opportunity to be heard regarding the communication.

- The Board member should consider whether he/she can be unbiased in considering the case should it come before the Board for consideration. If not, the Board member would be subject to disqualification.

E. The Board of Taxidermy is hearing a petition for reinstatement. A former licensee whose license was revoked is seeking reinstatement. After taking evidence about the original charges against, and the rehabilitation of, the petitioner, one of the Board members asks about an unrelated incident. The member had read in the papers that the petitioner had been arrested, but later released, after some local high school students told police that the petitioner had tried to sell them drugs and was saying "creepy things" to them about dead animals. No charges were brought. The Board member becomes persistent and angry in questioning the petitioner about the incident. Should the Board member be permitted to ask the question in the first instance and should the continued persistent and angry questioning continue?

- While asking the first question may be appropriate, the primary purpose of the hearing is to determine the petitioner's rehabilitation from the charges that resulted in his license revocation. The petitioner's arrest, without charges being brought or any conviction, is not part of the record in the case and it would not necessarily be a basis to deny the petition. This is also a situation in which Board members should look to the overriding rule of fairness. After a reasonable inquiry has been made, care needs to be taken so as not to appear biased or unable to review and vote upon the petition in a fair and neutral way. Petition hearings are also a forum where Board members must comport themselves as judges, and they must <u>be</u> fair and <u>appear</u> fair.

- The holdings in two recent cases are also illustrative on the subject of Board hearings: In *Lacy Street Hospitality Services v. City of Los Angeles* (2004) 125 Cal.App.4th 526, the court held that failure of city council members to pay attention during a quasi-judicial hearing on proposed modifications to zoning conditions for an adult cabaret, was a violation of due process and an abuse of discretion. In *Nasha L.L.C. v. City of Los Angeles*(2004) 125 Cal.App.4th 470, a city planning commission's rejection of a real estate project was set aside because a commissioner authored an article attacking the project while it was under consideration, thereby establishing "an unacceptable probability of actual bias" of the commissioner that was sufficient to disqualify him.

Board of Podiatric Medicine

Manual

Of

Disciplinary Guidelines

With

Model Disciplinary Orders

Department of Consumer Affairs
State of California

STATE OF CALIFORNIA

BOARD OF PODIATRIC MEDICINE

MANUAL
OF
DISCIPLINARY GUIDELINES
WITH
MODEL DISCIPLINARY ORDERS

(Effective September 23, 2011)

These Disciplinary Guidelines were originally adopted by the BPM on September 5, 1984, and revised September 23, 2011. They are for use by administrative law judges, attorneys, and licensees.

Additional copies may be obtained from:

Board of Podiatric Medicine
2005 Evergreen Street, Suite 1300
Sacramento, CA 95815-3835

(916) 263-2647

DISCIPLINARY GUIDELINES WITH
MODEL DISCIPLINARY ORDERS

Business and Professions Code section 2460.1 mandates that protection of the public shall be the highest priority for the Board of Podiatric Medicine (BPM).

The BPM expects that, absent mitigating or other appropriate circumstances, Administrative Law Judges hearing cases on behalf of the BPM and proposed settlements submitted to the BPM will follow these Guidelines, including those imposing suspensions. Any proposed decision or settlement that departs from the disciplinary guidelines shall identify the departures and the facts supporting the departure.

The Model Disciplinary Orders contain three sections: three (3) Disciplinary Orders; twenty-six (26) Optional Conditions whose use depends on the nature and circumstances of the particular case; and sixteen (16) Standard Conditions that generally appear in all probation cases. All orders should place the Order(s) first, optional condition(s) second, and standard conditions third.

The Model Disciplinary Guidelines list proposed terms and conditions for more than twenty-four (24) sections of the Business and Professions Code.

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MODEL DISCIPLINARY ORDERS

1. Revocation - Single Cause

Certificate No. (Ex: E-1035) issued to respondent (Ex: John Doe, DPM) is revoked.

2. Revocation - Multiple Causes

Certificate No. _____ issued to respondent _____ is revoked pursuant to Determination of Issues (Ex: I, II, and III) separately and for all of them.

3. Standard Stay Order

However, revocation is stayed and respondent is placed on probation for _____ (Ex: e.g., ten) years upon the following terms and conditions.

OPTIONAL CONDITIONS

4. Actual Suspension

As part of probation, respondent is suspended from the practice of podiatric medicine for (Ex: 90 days) beginning the sixteenth (16th) day after the effective date of this decision. Respondent shall prominently post a notice of the Board's Order of Suspension, in a place clearly visible to the public. Said notice, provided by the Board, shall remain so posted during the entire period of suspension.

4a. Provisions for Cessation of Practice

In settlements or orders which provide for a cessation of practice, respondent shall comply with procedures provided by the BPM regarding notification and management of patients.

5. Controlled Substances - Total Restriction

Respondent shall not order, prescribe, dispense, administer, or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

6. Controlled Substances - Surrender of DEA Permit

Respondent is prohibited from practicing podiatric medicine until respondent provides documentary proof to the Board or its designee that respondent's DEA permit has been surrendered to the Drug Enforcement Administration for cancellation, together with any *state* prescription forms and all controlled substances order forms. Thereafter, respondent shall not reapply for a new DEA permit without the prior written consent of the Board or its designee.

7. Controlled Substances - Partial Restriction

Respondent shall not order, prescribe, dispense, administer or possess any controlled substances as defined by the California Uniform Controlled Substances Act, except for those drugs listed in Schedule(s) (e.g., IV and V) of the Act.

NOTE: Also use Condition 8 which requires that separate records be maintained for all controlled substances prescribed.

(Option)
Respondent shall immediately surrender respondent's current DEA permit to the Drug Enforcement Administration for cancellation and reapply for a new DEA permit limited to those Schedules authorized by this order. Within 15 calendar days after the effective date of this Decision, respondent shall submit proof that respondent has surrendered respondent's DEA permit to the Drug Enforcement Administration for cancellation and reissuance.

Within 15 calendar days after the effective date of the issuance of a new DEA permit, the respondent shall submit a true copy of the permit to the Board or its designee.

8. Controlled Substances- Maintain Records *and Access to Records and Inventories*

Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered *or* possessed by respondent, during probation, showing all the following: 1) the name and address of the patient; 2) the date, 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substance was furnished.

Respondent shall keep these records in a separate file or ledger in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

Failure to maintain all records, to provide immediate access to the inventory, or to make all records available for immediate inspection and copying on the premises, is a violation of probation.

9. Controlled Substances- Abstain from Use

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription.

This prohibition does not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of such a request, the notification to cease practice shall be dissolved.

10. Alcohol - Abstain from Use

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If respondent has a confirmed positive biological fluid test for alcohol, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay.

The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of such a request, the notification to cease

practice shall be dissolved.

11. Biological Fluid Testing

Respondent shall immediately submit to biological fluid testing, at respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test results may be received in evidence in any proceedings between the Board and respondent.

If respondent fails to cooperate in a random biological fluid testing program within the specified time frame, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of such a request, the notification to cease practice shall be dissolved.

12. Rehabilitation Program - Alcohol or Drug

Within 30 days of the effective date of this decision, respondent shall submit to the BPM for its prior approval a rehabilitation monitoring program. When evaluating programs for approval, the following will be taken into consideration: Unless specifically noted in the decision, the minimum length of the program shall be no less than three years. All plans must include face to face monitoring, random biological fluid testing, and an educational program that addresses disease concepts, recovery process and recovery oriented lifestyle changes.

Within 30 days of approval of said program respondent shall enroll and participate until the BPM or its designee determines that further monitoring and rehabilitation is no longer necessary. If it is determined by both the rehabilitation program and a BPM designated physician that respondent cannot practice podiatric medicine safely, the respondent shall immediately cease practice upon notification. Respondent may not resume practice until it has been determined by both the rehabilitation program and a BPM designated physician that respondent can safely practice podiatric medicine and has been notified in writing by the board's designee. Failure to cooperate or comply with the Rehabilitation Program requirements and recommendations, quitting the program without permission, or being expelled for cause is a violation of probation.

13. Community Service - Free Services

Within 60 days of the effective date of this Decision, respondent shall submit to the Board or its designee for its prior approval a community service plan in which respondent shall within the first 2 years of probation, provide_____hours of free services (e.g., medical or non-medical) to a community or non-profit organization. If the term of probation is designated for 2 years or less, the community service hours must be completed not later than 6 months prior to the completion of probation.

Prior to engaging in any community service respondent shall provide a true copy of the Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

NOTE: In quality of care cases, only non-medical community service is allowed unless respondent passes the National Board of Podiatric Medical Examiners Part III Exam or otherwise demonstrates competency prior to providing community service.

14. Education Course

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified or Board approved and limited to classroom, conference, or seminar settings. The educational program(s) or course(s) shall be at the respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements,_which must be scientific in nature, for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test respondent's knowledge of the

course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

15. Prescribing Practices Course

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in prescribing practices, at respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first 6 months of probation is a violation of probation.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

16. Medical Record Keeping Course

Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in medical record keeping, at respondent's expense, approved in advance by the Board or its designee.

Failure to successfully complete the course during the first 6 months of probation is a violation of probation.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

17. Ethics Course

Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first year is a violation of probation.

An ethics course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision

may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision. Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after the effective date of the Decision.

18. Professional Boundaries Program

Within 60 calendar days from the effective date of this Decision, respondent shall enroll in a professional boundaries program, at respondent's expense, equivalent to the Professional Boundaries Program, Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine ("Program"). Respondent, at the Program's discretion, shall undergo and complete the Program's assessment of respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the Board or its designee deems_relevant. The Program shall evaluate respondent at the end of the training and the Program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire Program not later than six months after respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on respondent's performance and evaluations from the assessment, education, and training, the Program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that respondent can practice medicine safely. Respondent shall comply with Program recommendations. At the completion of the Program, respondent shall submit to a final evaluation. The Program shall provide the results of the evaluation to the Board or its designee.

The Program's determination whether or not respondent successfully completed the Program shall be binding. Failure to participate in and complete successfully all phases of the Program, as outlined above, is a violation of probation.

(Option # 1: Condition Precedent)
Respondent shall not practice medicine until respondent has successfully completed the Program and has been so notified by the Board or its designee in writing.

(Option # 2: Condition Subsequent)
If respondent fails to complete the Program within the designated time period, respondent shall cease the practice of podiatric medicine within 72 hours after being notified by the Board or its designee that respondent failed to complete the Program.

19. Clinical Training Program

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a clinical training or educational

program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine ("Program").

The Program shall consist of a Comprehensive Assessment program comprised of a two-day assessment of respondent's physical and mental health; basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to respondent's specialty or sub-specialty, and at minimum, a 40 hour program of clinical education in the area of practice in which respondent was alleged to be deficient and which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. Respondent shall pay all expenses associated with the clinical training program.

Based on respondent's performance and test results in the assessment and clinical education, the Program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, treatment for any medical condition, treatment for any psychological condition, or anything else affecting respondent's practice of podiatric medicine. Respondent shall comply with Program recommendations.

At the completion of any additional educational or clinical training, respondent shall submit to and pass an examination. The Program's determination whether or not respondent passed the examination or successfully completed the Program shall be binding.

Respondent shall complete the Program not later than six months after respondent's initial enrollment unless the Board or its designee agrees in writing to a later time for completion. Failure to participate in and complete successfully all phases of the clinical training program outlined above is a violation of probation.

(Option #1: Condition Precedent)
Respondent shall not practice podiatric medicine until respondent has successfully completed the Program and has been so notified by the Board or its designee in writing, except that respondent may practice in a clinical training program approved by the Board or its designee. Respondent's practice
of podiatric medicine shall be restricted only to that which is required by the approved training program.

(Option#2: Condition Subsequent)
If respondent fails to complete the clinical training program within the designated time period, respondent shall cease the practice of medicine within 72 hours after being notified by the Board or its designee that respondent failed to complete the clinical training program.

(Option#3)
After respondent has successfully completed the clinical training program, respondent shall participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, which shall include quarterly chart

review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation, or until the Board or its designee determines that further participation is no longer necessary. Failure to participate in and complete successfully the professional enhancement program outlined above is a violation of probation.

20. Examination

Within 60 calendar days of the effective date of this Decision, respondent shall arrange to take and pass a written examination, approved by the Board. Failure to pass the examination within one year of the effective date of this Decision is a violation of probation. Respondent shall pay the costs of all examinations. For purposes of this condition, the exam shall be a passing score of the National Board of Podiatric Medical Examiners Part III examination consistent with B&P code section 2493.

(Continue with either one of these two options.)

(OPTION 1: Condition Precedent)
Respondent shall not practice podiatry until respondent has passed the required examination and has been so notified by the Board or its designee in writing. This prohibition shall not bar respondent from practicing in a clinical training program approved by the Board or its designee. Respondent's practice of podiatric medicine shall be restricted only to that which is required by the approved training program.

NOTE: The condition precedent option is particularly recommended in cases where respondent has been found to be incompetent, repeatedly negligent, or grossly negligent.

(**OPTION 2: Condition Subsequent)**
If the respondent fails to pass the first examination, respondent shall be suspended from the practice of podiatric medicine. Respondent shall cease the practice of podiatric medicine within 72 hours after being notified by the Board or its designee that respondent has failed the examination. Respondent shall remain suspended from the practice of medicine until respondent successfully passes a follow-up examination, as evidenced by written notice to respondent from the Board or its designee.

21. Psychiatric Evaluation

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, respondent shall undergo a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of the

requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee. Failure to undergo and complete a psychiatric evaluation and psychological testing, or comply with the required additional conditions or restrictions, is a violation of probation.

(Option: Condition Precedent)
Respondent shall not engage in the practice of podiatric medicine until notified by the Board or its designee that respondent is mentally fit to practice podiatric medicine safely. The period of time that respondent is not practicing medicine shall not be counted toward completion of the term of probation.

22. Psychotherapy

Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval the name and qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years or postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the
Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist.

If, prior to the completion of probation, respondent is found to be mentally unfit to resume the practice of podiatric medicine without restrictions, the Board shall retain continuing jurisdiction over the respondent’s license and the period of probation shall be extended until the Board determines that the respondent is mentally fit to resume the practice of podiatric medicine without restrictions. Respondent shall pay the cost of *all* psychotherapy and psychiatric evaluations.

Failure to undergo and continue psychotherapy treatment, or comply with any required modification in the frequency or psychotherapy is a violation of probation.

NOTE: This condition is for those cases where the evidence demonstrates that the respondent has had impairment (impairment

by mental illness, alcohol abuse and/or drug self—abuse) related to the violations but is not at present a danger to respondent's patients.

23. Medical Evaluation and Treatment

Within 30 calendar days of the effective date of this Decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a medical evaluation by a Board-appointed physician who shall consider any information provided by the Board or designee and any other information the evaluating physician deems relevant and shall furnish a medical report to the Board or its designee.

If respondent is required by the Board or its designee to undergo medical treatment, respondent shall within 30 calendar days of the requirement notice, submit to the Board or its designee for its prior approval the name and qualifications of a treating physician of respondent's choice. Upon approval of the treating physician, respondent shall within 15 calendar days undertake and shall continue such treatment until further notice from the Board or its designee. The treating physician shall consider any information provided by the Board or its designee or any other information the treating physician may deem pertinent prior to commencement of treatment. Respondent shall have the treating physician submit quarterly reports to the Board or its designee indicating whether or not the respondent is capable of practicing medicine safely. Respondent shall provide the Board or its designee with any and all medical records pertaining to treatment that the Board or its designee deems necessary.

If, prior to the completion of probation, respondent is found to be physically incapable of resuming the practice of podiatric medicine without restrictions, the Board shall retain continuing jurisdiction over respondent's license and the period of probation shall be extended until the Board determines that respondent is physically capable of resuming the practice of podiatric medicine without restrictions. Respondent shall pay the cost of the medical evaluation(*s)* and treatment.

Failure to undergo and continue medical treatment or comply with the required additional conditions or restrictions is a violation of probation.

(OPTION – Condition Precedent)
Respondent shall not engage in the practice of podiatric medicine until notified in writing by the Board or its designee of its determination that respondent is medically fit to practice safely.

NOTE: This condition is for those cases where the evidence demonstrates that medical illness or disability was a contributing cause of the violations.

24. Monitoring – Practice/Billing

Within 30 days of the effective date of this decision, the entire practice shall be monitored, including, but not limited to the

following: medical records, charting, pre and postoperative evaluations, and all surgical procedures, and billing records.

The Board shall immediately, within the exercise of reasonable discretion, appoint a doctor of podiatric medicine from its panel of medical consultants or panel of expert reviewers as the monitor.

The monitor shall provide quarterly reports to the Board or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the standards of practice of podiatric medicine or billing, or both, and whether respondent is practicing podiatric medicine safely.

The Board or its designee shall determine the frequency and practice areas to be monitored. Such monitoring shall be required during the entire period of probation. The Board or its designee may at its sole discretion also require prior approval by the monitor of any medical or surgical procedures engaged in by the respondent. The respondent shall pay all costs of such monitoring and shall otherwise comply with all requirements of his or her contract with the monitor, a copy of which is attached as "Appendix A – Agreement to Monitor Practice and/or Billing" (revised April 2004). If the monitor terminates the contract, or is no longer available, the Board or its designee shall appoint a new monitor immediately. Respondent shall not practice at any time during the probation until the respondent provides a copy of the contract with the current monitor to the probation investigator and such contract is approved by the Board.

Respondent shall provide access to the practice monitor of respondent's patient records and such monitor shall be permitted to make direct contact with any patients treated or cared for by respondent and to discuss any matters related to respondent's care and treatment of those patients. Respondent shall obtain any necessary patient releases to enable the monitor to review records and to make direct contact with patients. Respondent shall execute a release authorizing the monitor to provide to the Board or its designee any relevant information. If the practice monitor deems it necessary to directly contact any patient, and thus require the disclosure of such patient's identity, respondent shall notify the patient that the patient's identity has been requested pursuant to the Decision. This notification shall be signed and dated by each patient prior to the commencement or continuation of any examination or treatment of each patient by respondent and a copy of such notification shall be maintained in each patient's file. The notifications signed by respondent's patients shall be subject to inspection and copying by the Board or its designee at any time during the period of probation that respondent is required to comply with this condition. The practice monitor will sign a confidentiality agreement, requiring him or her to keep all patient information regarding respondent's patients in complete confidence, except as otherwise required by the Board or its designee.

Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above is a violation of probation.

In lieu of a monitor, respondent may participate in the professional enhancement program offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation.

25. Solo Practice

Respondent is prohibited from engaging in the solo practice of podiatric medicine.

26. Third Party Chaperone

During probation, respondent shall have a third party present while consulting, examining or treating patients. Respondent shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval name(s) of persons who will act as the third party chaperone.

Each third party chaperone shall initial and date each patient medical record at the time the chaperone's services are provided. Each third party chaperone shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party chaperone.

Respondent shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain the:

1) patient name, address and telephone number; 2) medical record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation. Failure to maintain a log of all patients requiring a third party chaperone, or to make the log available for immediate inspection and copying on the premises, is a violation of probation.

(Option)
Respondent shall provide written notification to respondent's patients that a third party chaperone shall be present during all consultations, examination, or treatment with _____ patients. Respondent shall maintain in the patient's file a copy of the written notification, shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and

shall retain the notification for the entire term of probation.

Note: Sexual offenders should normally be placed in a monitored environment.

27. Prohibited Practice

During probation, respondent is prohibited from (e.g., practicing, performing, or treating) (e.g., a specific medical procedure; surgery; on a specific patient population). After the effective date of this Decision, the first time that a patient seeking the prohibited services makes an appointment respondent shall orally notify the patient that respondent does not (e.g., practice, perform or treat) (e.g., a specific medical procedure; surgery; on a specific patient population). Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address, and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation. Failure to maintain a log as defined in the section, or to make the log available for immediate inspection and copying on the premises during business hours is a violation of probation.

In addition *to the required* oral notification, after the effective date of this Decision, the first time that a patient who seeks the prohibited services presents to respondent, respondent shall provide a written notification to the patient stating that respondent does not _____(e.g., practice, perform or treat)_____(e.g., a specific medical procedure; surgery; on a specific patient population). Respondent shall maintain a copy of the written notification in the patient's file, shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the notification for the entire term of probation. Failure to maintain the written notification as defined in the section, or to make the notification available for immediate inspection and copying on the premises during business hours is a violation of probation.

27a. Restitution

Within 90 days of the effective date of this Decision, respondent shall provide proof to the BPM or its designee of restitution in the amount $_____ paid to _____. Failure to pay restitution shall be considered a violation of probation.

NOTE: In offenses involving economic exploitation, restitution is a necessary term of probation. For example, restitution would be a standard term in any case involving Medi-Cal or other insurance fraud. The amount of restitution shall be no less than the amount of money that was fraudulently obtained by the licensee. Evidence relating to the amount of restitution would

have to be introduced at the administrative hearing.

STANDARD CONDITIONS

28. Notification

Prior to engaging in the practice of medicine the respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of podiatric medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Division or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

29. Physician Assistants

Prior to receiving assistance from a physician assistant, respondent must notify the supervising physician of the terms and conditions of his/her probation.

30. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of podiatric medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

31. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

32. Probation Unit Compliance

Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b). Respondent shall not engage in the practice of podiatric medicine in respondent's place of residence. Respondent shall, maintain a current and renewed California doctor of podiatric medicine's license. Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

33. Interview with the Board or its Designee

Respondent shall be available in person for interviews either at respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without notice throughout the term of probation.

34. Residing or Practicing Out-of-State

In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in section 2472 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside, will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Law; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California totals two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing podiatric medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

(OPTIONAL)
Any respondent disciplined under B&P Code sections 141(a) or 2305 may petition for modification or termination of penalty: 1) if the other state's discipline terms are modified, terminated or reduced; and 2) if at least one year has elapsed from the effective date of the California discipline.

35. Failure to Practice Podiatric Medicine - California Resident

In the event the respondent resides in the State of California and for any reason respondent stops practicing podiatric medicine in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in section 2472 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code section 2472.

36. Completion of Probation

Respondent shall comply with all financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate will be fully restored.

37. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

38. Cost Recovery

Within 90 calendar days from the effective date of the Decision or other period agreed to by the Board or its designee, respondent shall reimburse the Board the amount of $_____ for its investigative and prosecution costs. The filing of bankruptcy or period of non-practice by respondent shall not relieve the respondent of his/her obligation to reimburse the Board for its costs.

39. License Surrender

Following the effective date of this Decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of respondent's license. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice podiatric medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action.

If respondent re-applies for a podiatric medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

40. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Board of Podiatric Medicine and delivered to the Board or its designee within 60 days after the start of the new fiscal year. Failure to pay costs within 30 calendar days of this date is a violation of probation.

41. Notice to Employees

Respondent shall, upon or before the effective date of this Decision, post or circulate a notice which actually recites the offenses for which respondent has been disciplined and the terms and conditions of probation, to all employees involved in his/her practice. Within fifteen (15) days of the effective date of this Decision, respondent shall cause his/her employees to report to the BPM in writing, acknowledging the employees have read the Accusation and Decision in the case and understand respondent's terms and conditions of probation.

42. Changes of Employment

Respondent shall notify the BPM in writing, through the assigned probation officer, of any and all changes of employment, location, and address within thirty (30) days of such change.

43. Compliance with Required Continuing Medical Education

Respondent shall submit satisfactory proof biennially to the BPM of compliance with the requirement to complete fifty hours of approved continuing medical education, and meet continuing competence requirements for re-licensure during each two (2) year renewal period.

DISCIPLINARY GUIDELINES

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DISCIPLINE BY ANOTHER STATE [B&P 141(a)&2305]

Minimum penalty: Same for similar offense in California
Maximum penalty: Revocation

1. Examination as a condition precedent to practice in California [20]

MISLEADING ADVERTISING [B&P 651, 2271]

Minimum penalty: Stayed Revocation, 5 years probation
Maximum penalty: Revocation

1. Ethics course [17]
2. Suspension of 60 days or more [4]
3. Education Course [14]
4. Monitoring-Practice/Billing [24]
5. Prohibited Practice [27]

EXCESSIVE PRESCRIBING [B&P 725] or
PRESCRIBING WITHOUT A PRIOR EXAMINATION [B&P 2242]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Controlled Substances - Total DEA restriction [5]
   Surrender DEA permit [6] or Partial DEA restriction [7]
2. Clinical Training Program [19] or Examination [20]
3. Maintain records and Access to Records and inventories [8]
4. Prescribing Practices Course [15]
5. Suspension of 60 days or more [4]
6. Monitoring – Practice/Billing [24]
7. Education course [14]
8. Ethics course [17]
9. Medical Record Keeping Course [16]

EXCESSIVE TREATMENTS [B&P 725]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Clinical Training Program [19] or Examination [20}
2. Education course [14]
3. Suspension of 60 days or more [4]
4. Monitoring – Practice/Billing [24]
5. Ethics course [17]
6. Prohibited Practice [27]
7. Medical Record Keeping Course[16]

SEXUAL MISCONDUCT [B&P 726]

Minimum penalty: Stayed revocation, 7 years probation
Maximum penalty: Revocation

1. Psychiatric evaluation and/or psychotherapy [21] [22]
2. Education course [14]
3. Ethics course [17]
4. Third Party Chaperone [26]
5. Suspension of 60 days or more [4]
6. Monitoring - Practice/Billing [24]
7. Professional Boundaries Program [18]
   1. Prohibited Practice[27]

SEXUAL EXPLOITATION [B&P 729]

Effective January 1, 2003, Business and Professions Code 2246 was added to read, "Any proposed decision or decision issued under this article that contains any finding of fact that the licensee engaged in any act of sexual exploitation, as described in paragraphs (3) to (5), inclusive, of subdivision (b) of Section 729, with a patient shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge."

INSURANCE FRAUD [B&P 810]

Minimum penalty: Stayed revocation, 5 years probation
Maximum Penalty: Revocation

1. Ethics course [17]
2. Restitution to victim [27a]
3. Suspension of 60 days or more [4]
4. Community service program [13]

MENTAL OR PHYSICAL ILLNESS (B&P 820)

Minimum penalty: Stayed Revocation, 5 years probation
Maximum penalty: Revocation

1. Rehabilitation Program - Alcohol or Drug [12]
2. Examination [20]
3. Psychiatric Evaluation [21]
4. Psychotherapy [22]
5. Medical Evaluation and Treatment [23]
6. Monitoring-Practice/Billing [24]
7. Solo Practice [25]
8. Prohibited Practice [27]

GENERAL UNPROFESSIONAL CONDUCT [B&P 2234], or
GROSS NEGLIGENCE [B&P 2234(b)] or
REPEATED NEGLIGENT ACTS [B&P 2234(c)] or
INCOMPETENCE [B&P 2234(d)] or
FAILURE TO MAINTAIN ADEQUATE MEDICAL RECORDS [B&P 2266]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Examination [20](preferably Condition Precedent)
2. Education course [14]

3. Clinical training program [19]
4. Monitoring-Practice/billing [24]
5. Prohibited Practice [27]
6. Suspension of 60 days or more [4]
7. Ethics course [17]
8. Prescribing Practices Course [15]
9. Medical Record Keeping Course [16]
10. Solo Practice [25]

DISHONESTY- Substantially related to the qualifications, functions or duties of a doctor of podiatric medicine and arising from or occurring during patient care, treatment, management or billing [B&P 2234(e)]

Minimum penalty: Stayed revocation, one year suspension, at least 7 years probation
Maximum penalty: Revocation

1. Ethics course [17]
2. Examination [20]
3. Community service [13]
4. Restitution [27a]
3. Psychiatric Evaluation [21]
4. Medical Evaluation [23]
5. Monitoring-Practice/Billing [24]
6. Solo Practice [25]
7. Prohibited Practice [27]

DISHONESTY- Substantially related to the qualifications, functions or duties of a doctor of podiatric medicine but not arising from or occurring during patient care, treatment, management or billing [B&P 2234(e)]

Minimum penalty: Stayed Revocation, 5 years probation
Maximum penalty: Revocation

1. Suspension of 60 days or more [4]
2. Ethics Course [17]
3. Psychiatric Evaluation [21]
4. Medical Evaluation [23]
5. Monitoring-Practice/Billing (if financial dishonesty or conviction of financial crime) [24]
6. Restitution to Victim [27a]

PROCURING LICENSE BY FRAUD [B&P 2235]
Revocation [1] [2]

CONVICTION OF CRIME – Substantially related to the qualifications, functions or duties of a doctor of podiatric medicine and arising from or occurring during patient care treatment, management or billing (B&P 2236)

Minimum penalty: Stayed revocation, one year suspension, at least 7 years probation
Maximum penalty: Revocation

1. Ethics Course [17]
2. Examination [20]
3. Psychiatric Evaluation [21]

4. Medical Evaluation and Treatment [23]
5. Monitoring-Practice/Billing [24]
6. Solo Practice [25]
7. Prohibited Practice [27]

CONVICTION OF CRIME - Felony conviction substantially related to the qualifications, functions or duties of a doctor of podiatric medicine but not arising from or occurring during patient care treatment, management or billing (B&P 2236)

Minimum penalty: Stayed revocation, 7 years probation
Maximum penalty: Revocation

1. Suspension of 30 days or more [4]
2. Ethics Course [17]
3. Psychiatric Evaluation [21]
4. Medical Evaluation and Treatment [23]
5. Monitoring- Practice/Billing (if dishonesty or conviction of a financial crime) [24]
6. Victim Restitution [27a]

CONVICTION OF CRIME - Misdemeanor conviction substantially related to the qualifications, functions or duties of a doctor of podiatric medicine but not arising from or occurring during patient care treatment, management or billing (B&P 2236)

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Ethics Course [17]
2. Psychiatric Evaluation [21]
3. Medical Evaluation and Treatment [23]
4. Victim Restitution [27a]

CONVICTION OF DRUG VIOLATION [B&P 2237], or
VIOLATION OF DRUG STATUTES [B&P 2238],or
EXCESSIVE USE OF CONTROLLED SUBSTANCES [B&P 2239], or
PRACTICE UNDER THE INFLUENCE OF NARCOTIC [B&P 2280]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Examination [20]
2. Controlled Substances - Total DEA restriction [5], Surrender DEA permit [6], or Partial DEA restriction [7]
3. Maintain Drug Records and Access to Records and Inventories [8]
4. Prescribing Practices Course [15]
5. Education course [14]
6. Suspension of 60 days or more [4]
7. Rehabilitation Program [12]
8. Biological Fluid Testing [11]
9. Monitoring - Practice/Billing [24]
10. Ethics course [17]
11. Clinical Training Program [19]
12. Controlled Substances - Abstain From Use [9]

13. Medical Record Keeping Course [16]
14. Psychiatric Evaluation [21]
15. Psychotherapy [22]
16. Medical Evaluation and Treatment [23]
17. Prohibited Practice [27]

ILLEGAL SALES OF CONTROLLED SUBSTANCES (B&P 2238)

Revocation [1] [2]

EXCESSIVE USE OF ALCOHOL [B&P 2239] or
PRACTICE UNDER THE INFLUENCE OF ALCOHOL [B&P 2280]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Rehabilitation Program [12]
2. Examination [20]
3. Biological Fluid Testing [11]
4. Suspension of 60 days or more [4]
5. Monitoring – Practice/Billing [24]
6. Ethics Course [17]
7. Controlled Substances – Abstain From Use [9]
8. Alcohol- Abstain From Use [10]
9. Psychiatric Evaluation [21]
10. Psychotherapy [22]
11. Medical Evaluation and Treatment [23]

PRESCRIBING TO ADDICTS [B&P 2241]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Controlled Substances - Total DEA restriction [5]
   Surrender DEA permit [6] or Partial restriction [7]
2. Maintain Drug Records and Access to Records and Inventories [8]
3. Prescribing practices course [15]
4. Examination [20]
5. Education course [14]
6. Clinical Training Program [19]
7. Monitoring- Practice/Billing [24]
8. Ethics Course [17]
9. Medical Record Keeping Course [16]
10. Suspension of 60 days or more [4]
11. Prohibited Practice [27]

MAKING OR SIGNING FALSE DOCUMENTS [B&P 2261], or
ALTERATION OF MEDICAL RECORDS [B&P 2262]

Minimum penalty: Stayed revocation, ~~3~~ 5 years probation
Maximum penalty: Revocation

1. Ethics course [17}

2. Suspension of 60 days or more [4]
3. Medical Record Keeping Course [16]
4. If fraud involved, see "Dishonesty" guidelines

AIDING AND ABETTING UNLICENSED PRACTICE [B&P 2264]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Suspension of 60 days or more [4]
2. Education Course [14]
3. Ethics Course [17]
4. Examination [20]
5. Monitoring - Practice/Billing [24]
6. Prohibited Practice [27]

FICTITIOUS NAME VIOLATION [B&P 2285]

Minimum penalty: Stayed revocation, one year probation
Maximum penalty: Revocation

IMPERSONATION OF APPLICANT IN EXAMINATION [B&P 2288]

1. Revocation [1] [2]

PRACTICE DURING SUSPENSION [B&P 2306]

1. Revocation [1] [2]

VIOLATION OF PROBATION

Minimum penalty: 30 day suspension
Maximum penalty: Revocation

The maximum penalty should be given for repeated similar offenses or for probation violations revealing a cavalier or recalcitrant attitude. A violation of any of the following conditions of probation should result in, at minimum, a 60 day suspension:

1. Controlled Substances - Maintain Records and Access to Records and Inventories [8]
2. Biological Fluid Testing [11]
3. Professional Boundaries Program [18]
4. Psychiatric Evaluation [21]
5. Psychotherapy [22]
6. Medical Evaluation and Treatment [23]
7. Third Party Chaperone [26]

It is the expectation of the Board of Podiatric Medicine that the appropriate penalty for a doctor of podiatric medicine who did not successfully complete a clinical training program ordered as part of his or her probation is revocation.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
MEDICAL BOARD OF CALIFORNIA
BOARD OF PODIATRIC MEDICINE
2005 Evergreen Street, Suite 1300, Sacramento, CA 95815
P (916) 263-2647 F (916) 263-2651 WWW.BPM.CA.GOV

AGREEMENT TO MONITOR PRACTICE AND/OR BILLING

Introduction

The role of the practice and/or billing monitor (Monitor) is to ensure, to the extent possible, that the Probationer will conduct his/her practice with safety to the public and in a competent manner. The Monitor is responsible for reporting to the Board of Podiatric Medicine (Board) any identified problems or deficiencies in the quality of the Probationer's patient care, billing practices, medical record keeping, and/or professional conduct. The Monitor also fulfills the role of an educator and advisor to the Probationer, with the goal of assisting the Probationer to improve clinical skills and gain insight into practices that led to disciplinary action, so that learning and rehabilitation will occur. In order to provide this type of objective oversight, the Monitor must not have any prior or current business, personal, or other relationship with the Probationer that could reasonably be expected to compromise the ability of the Monitor to render fair and unbiased reports to the Board.

AGREEMENT

I, _____, D.P.M., "Monitor", hereby agree to monitor the medical and/or billing practice of _____, D.P.M., "Probationer."

•I have received and have read a copy of the Accusation and Decision regarding the Probationer.
•I clearly understand the role of a Monitor and what is expected of me.
•I have no prior or current business, personal or other relationship with the Probationer that could reasonably be expected to compromise my ability to render fair and unbiased reports to the Board.
•I understand that the Probationer is responsible for all costs associated with the monitoring of his/her practice, and that the Board does not set these costs. I am not being compensated for my services by any form of bartering arrangement with the Probationer.
•I have reviewed the Monitoring Plan and (check one):

Agree to monitor the Probationer as specified in the Plan.

I am submitting a revised Monitoring Plan for approval by the assigned Investigator. I understand that the Investigator may reject my proposed revisions, in which case I may either decline to monitor the Probationer's practice, or submit a new proposed Monitoring Plan that is acceptable to the assigned Investigator.

•I agree to regularly submit written reports to the assigned Investigator regarding my review of the Probationer's practice. The due dates and required content of these reports is detailed in the Monitoring Plan.
•If I am no longer able or willing to continue to monitor the Probationer's practice, I agree to immediately notify the assigned Investigator.

Executed on_____, 200_____, at

_____ _____, California.

(City) (County)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____ _____

Monitor (Print Name) Signature

I have no prior or current business, personal or other relationship with (*insert Monitor's name*) that could reasonably be expected to compromise the (*insert Monitor's name*) ability to render fair and unbiased reports to the Board. I have agreed to compensate the monitor at the rate of $_____ per hour for all work performed in executing the duties of monitor.

Executed on_____, 200_____,

at _____ _____,California.

(City) (County)

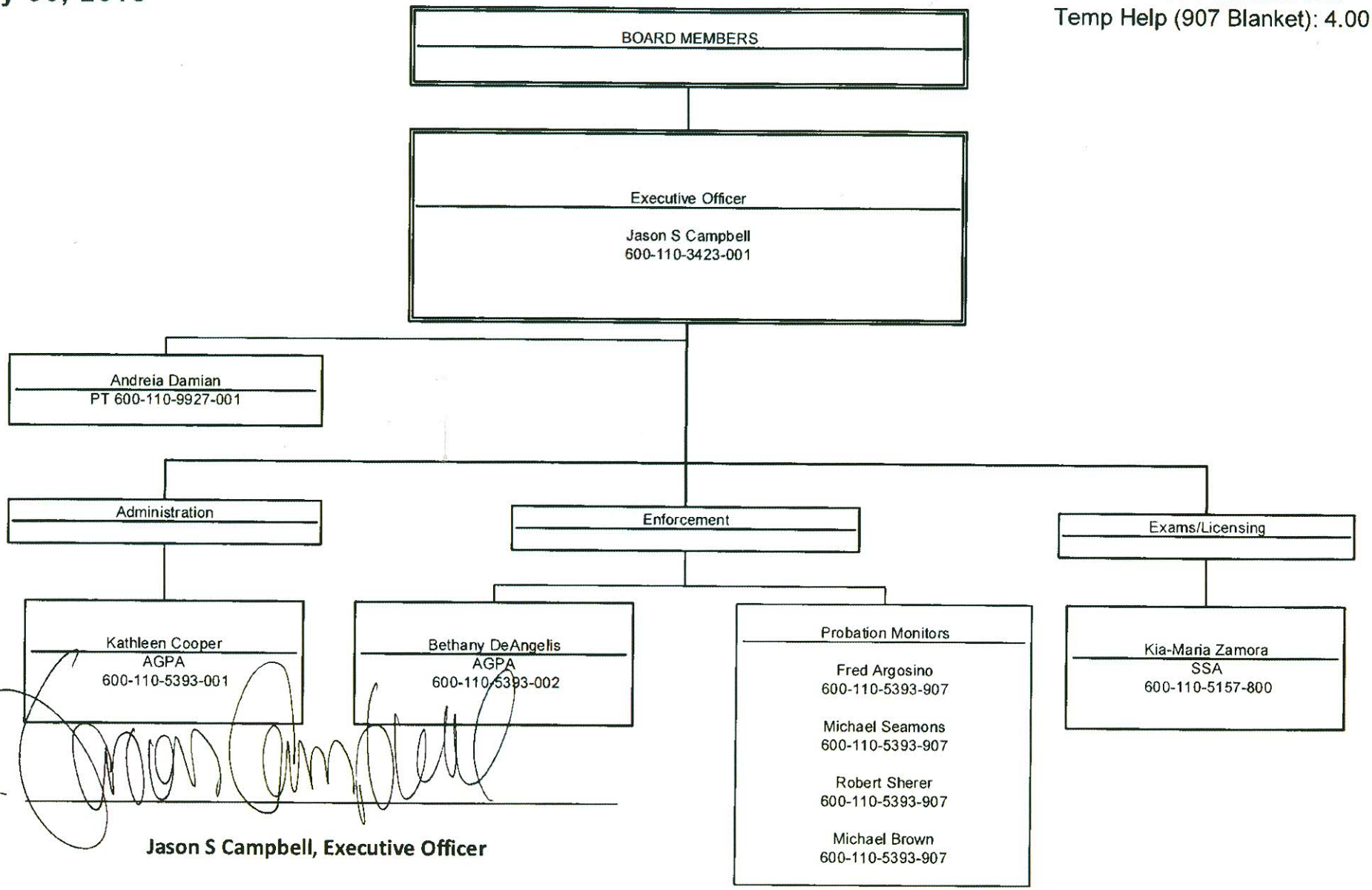
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____ _____

Probationer (Print Name) Signature

Department of Consumer Affairs
Board of Podiatric Medicine
July 30, 2015

CURRENT
FY 2015-16
Authorized Positions: 5.00
Temp Help (907 Blanket): 4.00

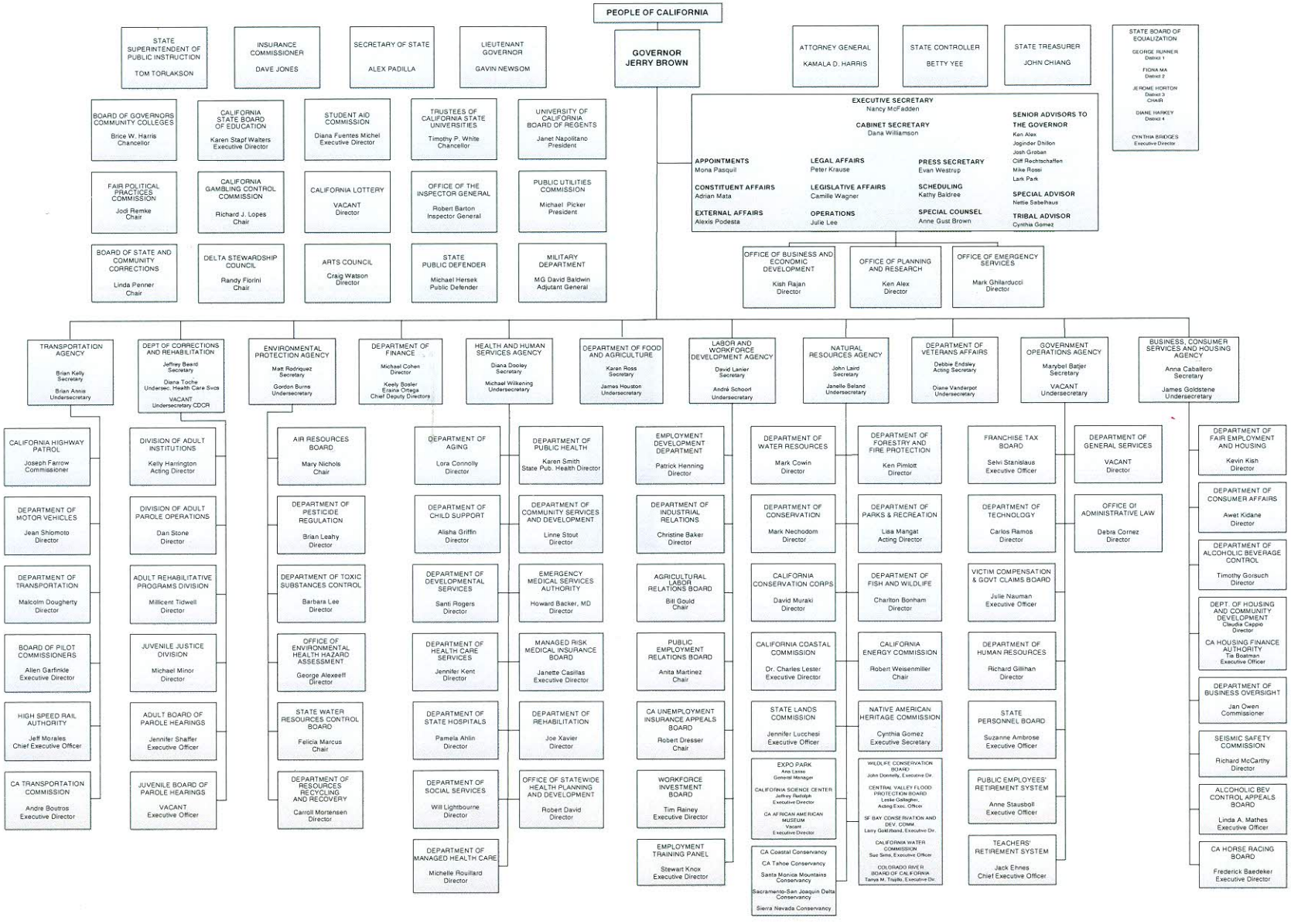


Jason S Campbell, Executive Officer

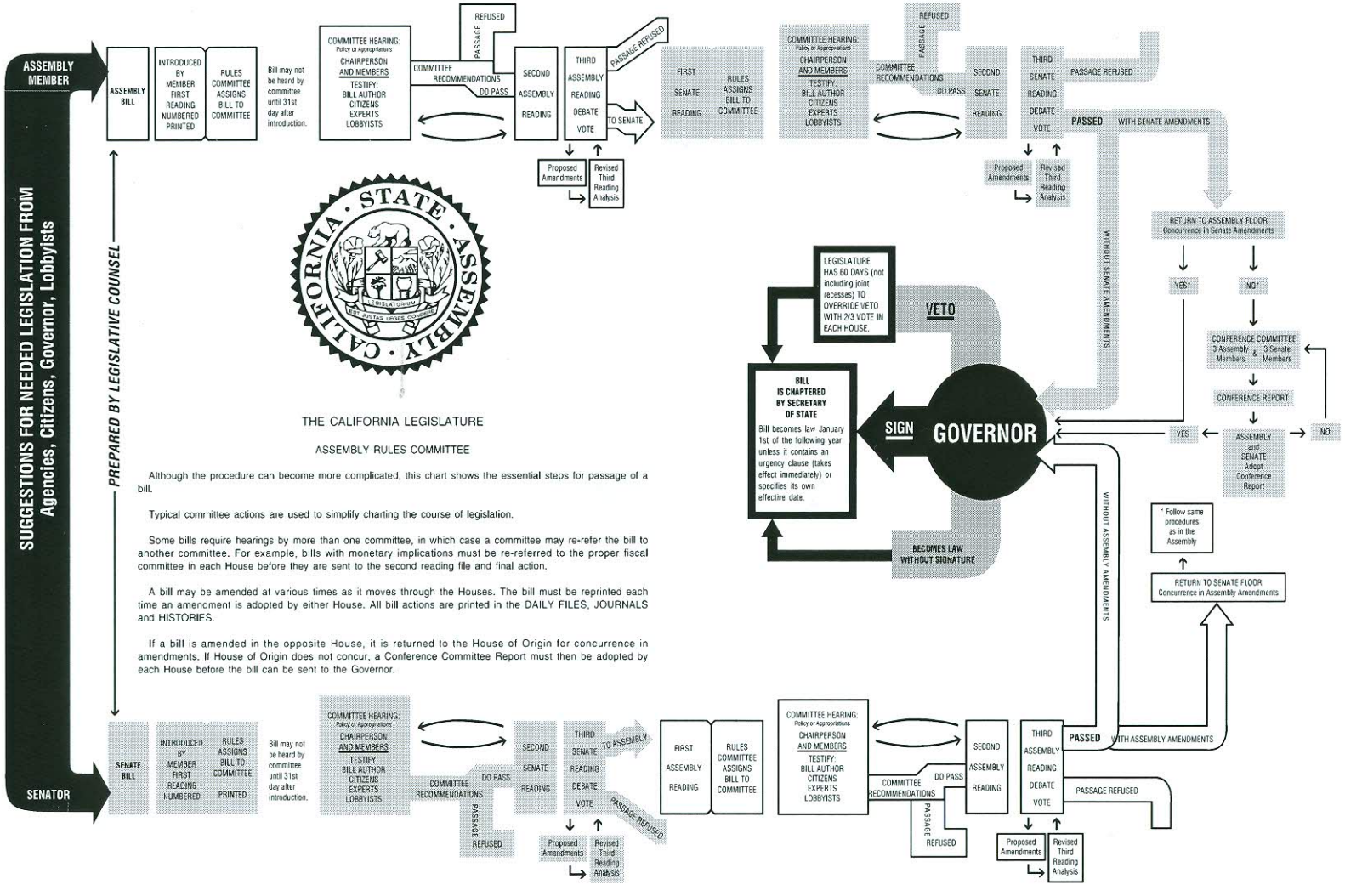
Korey Landry, Personnel Analyst

3.2.15

CALIFORNIA STATE GOVERNMENT – THE EXECUTIVE BRANCH



THE LIFE CYCLE OF LEGISLATION —From Idea into Law



THE CALIFORNIA LEGISLATURE

ASSEMBLY RULES COMMITTEE

Although the procedure can become more complicated, this chart shows the essential steps for passage of a bill.

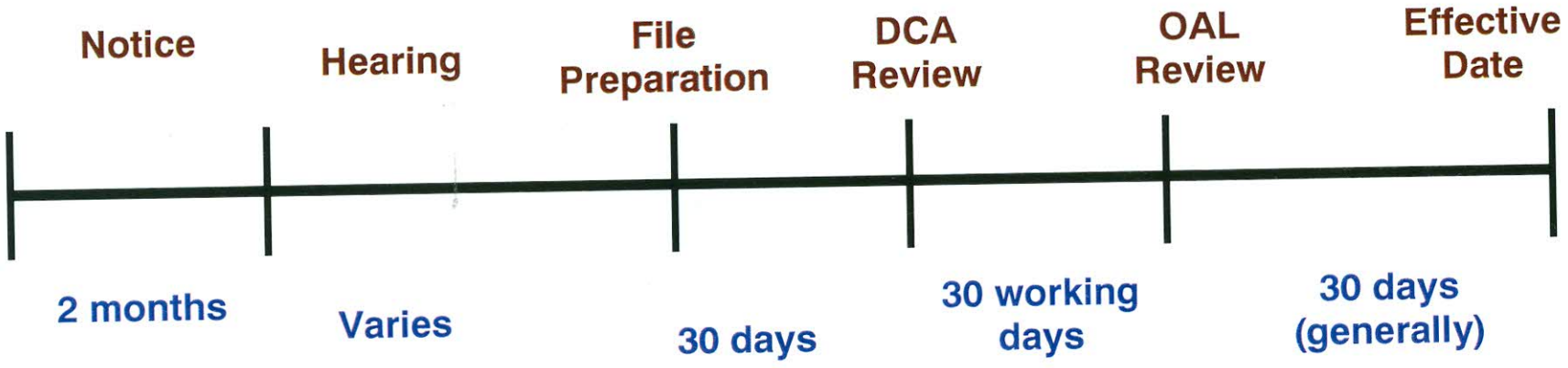
Typical committee actions are used to simplify charting the course of legislation.

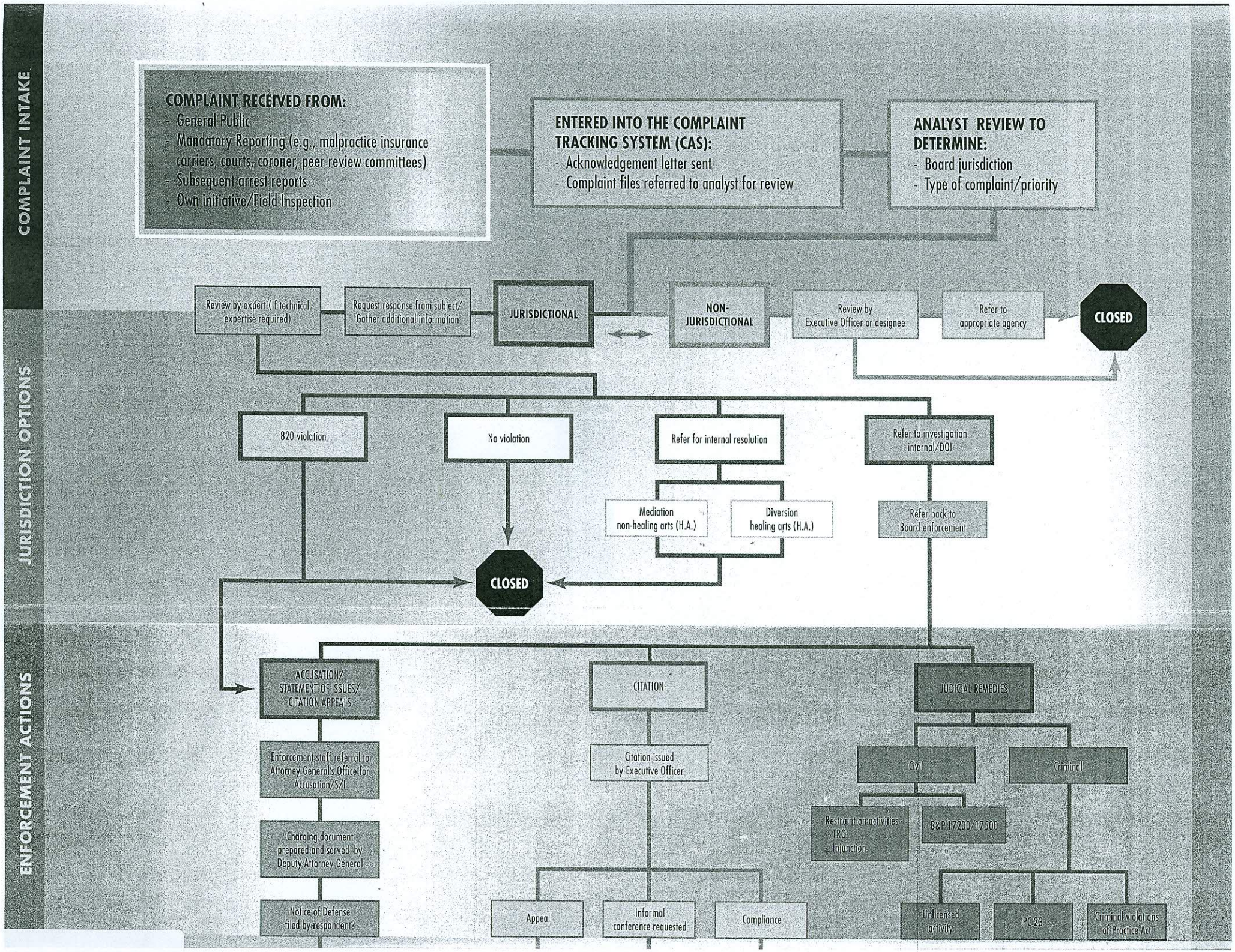
Some bills require hearings by more than one committee, in which case a committee may re-refer the bill to another committee. For example, bills with monetary implications must be re-referred to the proper fiscal committee in each House before they are sent to the second reading file and final action.

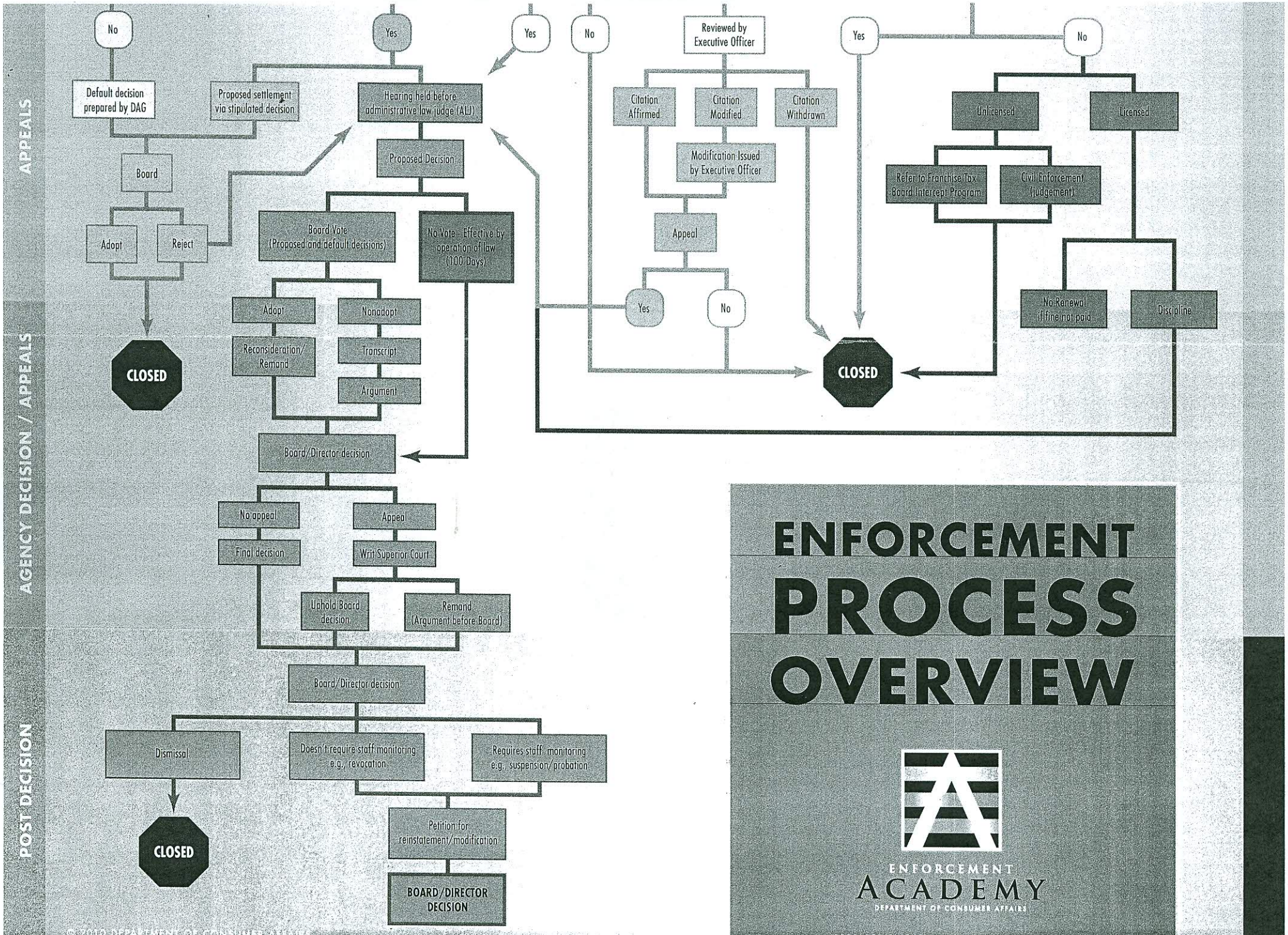
A bill may be amended at various times as it moves through the Houses. The bill must be reprinted each time an amendment is adopted by either House. All bill actions are printed in the DAILY FILES, JOURNALS and HISTORIES.

If a bill is amended in the opposite House, it is returned to the House of Origin for concurrence in amendments. If House of Origin does not concur, a Conference Committee Report must then be adopted by each House before the bill can be sent to the Governor.

Formal Regulatory Process




COMPLAINT INTAKE
JURISDICTION OPTIONS
ENFORCEMENT ACTIONS
COMPLAINT RECEIVED FROM:
- General Public
- Mandatory Reporting (e.g., malpractice insurance carriers, courts, coroner, peer review committees)
- Subsequent arrest reports
- Own initiative/Field Inspection
ENTERED INTO THE COMPLAINT TRACKING SYSTEM (CAS):
- Acknowledgement letter sent
- Complaint files referred to analyst for review
ANALYST REVIEW TO DETERMINE:
- Board jurisdiction
- Type of complaint/priority
Review by expert (If technical expertise required)
Request response from subject/ Gather additional information
JURISDICTIONAL
NON-JURISDICTIONAL
Review by Executive Officer or designee
Refer to appropriate agency
CLOSED
820 violation
No violation
Refer for internal resolution
Refer to investigation internal/DOI
Mediation non-healing arts (H.A.)
Diversion healing arts (H.A.)
Refer back to Board enforcement
CLOSED
ACCUSATION/ STATEMENT OF ISSUES/ CITATION APPEALS
Enforcement staff referral to Attorney General's Office for Accusation/S/I
Charging document prepared and served by Deputy Attorney General
Notice of Defense filed by respondent?
CITATION
Citation issued by Executive Officer
Appeal
Informal conference requested
Compliance
JUDICIAL REMEDIES
Civil
Criminal
Restraint on activities - TRO Injunction
B&P 17200/17500
Unlicensed activity
PC 23
Criminal violations of Practice Act



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ENFORCEMENT PROCESS OVERVIEW

ENFORCEMENT ACADEMY
DEPARTMENT OF CONSUMER AFFAIRS

PREPARED BY THE DIVISION OF LEGAL AFFAIRS

Department of Consumer Affairs
Board of Podiatric Medicine

November 1, 2015

FY 15/16

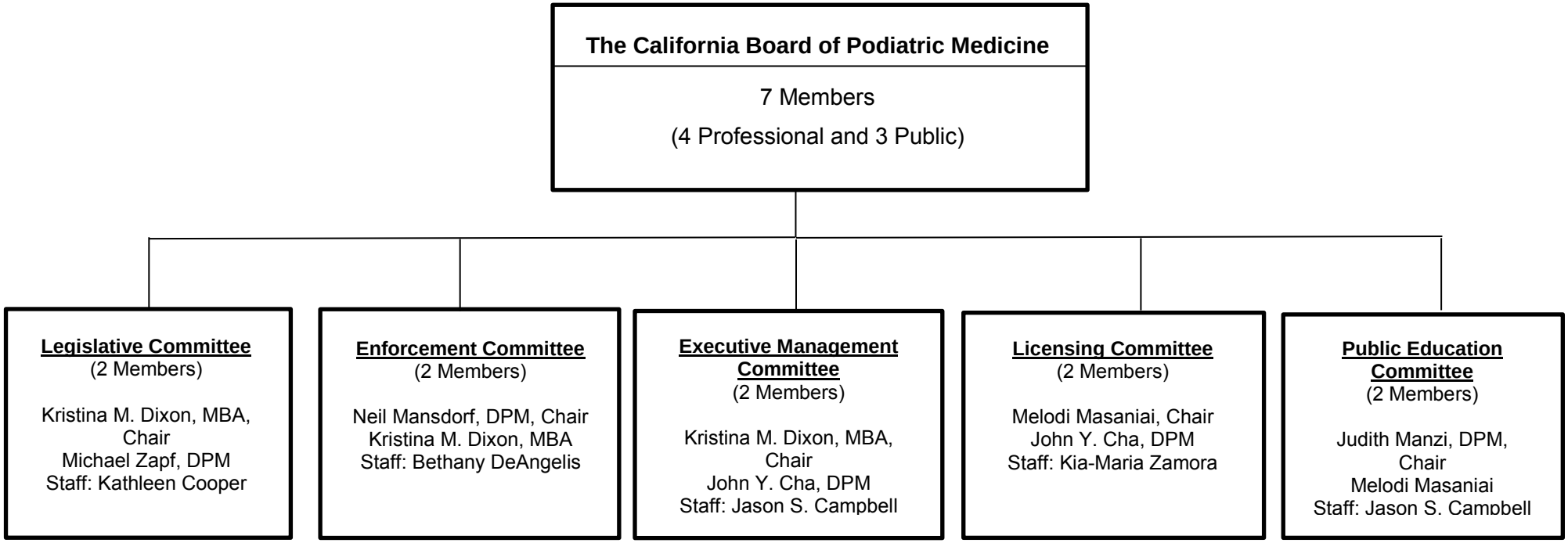

EXHIBIT B

EXHIBIT C

CPS HR CONSULTING

FINAL REPORT

CA Board of Podiatric Medicine

Fee Audit

October 1, 2015

SUBMITTED BY:

Jeff Mikles, PMP

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Your Path to Performance

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Executive Summary

The mission of the California Board of Podiatric Medicine (Board) is to protect and educate consumers of California through licensing, enforcement and regulation of Doctors of Podiatric Medicine. The Board is one of 39 regulatory entities functioning semi-autonomously under the guidance of the California Department of Consumer Affairs (DCA).

A specific function of the Board is to review/set fees levied on applicants for initial licensure, renewal fees for licenses and permits, as well as any modifications thereof. These licensure fees are intended to be sufficient to cover the cost of the Board's regulatory services.

In July 2015, the Board engaged CPS HR Consulting (CPS) to review and analyze the Board's fee structure to:

- Determine if fees are properly aligned and appropriate for recovery of the actual cost of conducting its programs;
- Determine if any of the programs are subsidizing other programs; and to
- Establish a cost basis to assess the services provided by the Board when a separate fee is not provided.

Summary of Findings and Recommendations

Based on the review, CPS found the following:

- The BPM raised the License Renewal fee to $900 in 2004, but the other service fees on the fee schedule have not been increased since 1989.
- Fee schedule revenue represents 98.2% of all BPM income. And at 92.2% of fee schedule revenue, combined Biennial Podiatrist Renewal licensing fees have sustained BPM and subsidized other programs over the years.
- At 43.7%, Personnel Services expenses (salaries, wages and benefits) are the Board's single largest recurring expense, followed by DCA Departmental expenses (26.4%), Enforcement expenses (20.7%), General Office expenses (9.0%), and Interagency expenses (0.1%).
- Conservative revenue and expense projections over the next five fiscal years indicate BPM will have insufficient revenue to cover operational costs and maintain a healthy 12-month operating reserve.

As a result, CPS recommends the following:

1. BPM management should consider adding resources (up to the remaining authorized 0.2 full-time equivalent) to provide support in the public outreach program.
2. BPM management should develop, approve and implement a revised fee schedule as soon as possible, and post it on the Board's website.

3. When appropriate, BPM should charge for schedule and unscheduled services based on a fully absorbed cost rate of $100 per hour. Services should be charged accordingly based on the actual time BPM consumes to provide the service.
4. BPM should increase specific fees for DPM resident license, fictitious name renewal, fictitious name permit delinquent renewal, duplicate license, letter of good standing, exam appeal and ankle certification based on the fully absorbed cost rate of $100 per hour.

Introduction

The mission of the California Board of Podiatric Medicine (Board or BPM) is to protect and educate consumers of California through licensing, enforcement and regulation of Doctors of Podiatric Medicine. The Board is one of 39 regulatory entities functioning semi-autonomously under the guidance of the California Department of Consumer Affairs (DCA).

Background

The following presents background information on the podiatric medicine industry; Board history, composition and governance structure; licensing requirements; Board functions and staffing.

Podiatric Medicine Industry Overview

According to the US Department of Labor's 2014-15 edition of the *Occupational Outlook Handbook* (covers data through 2012), the podiatric medicine industry is predicted to grow 23% from 2012 to 2022. This is considered much faster than the average for all occupations. Continued growth in the demand for this profession stems from an aging population with foot and ankle conditions caused by chronic conditions such as diabetes and obesity.

As of May 2012, there were about 10,700 podiatrists nationwide with about 14% self-employed. There are about 2,000 licensed podiatrists in California. The median annual wage was $116,440 with a range from $52,530 to $187,000.

Job prospects for trained podiatrists are considered good and are expected to increase as currently practicing podiatrists retire in the coming years.

There are only nine certified colleges of podiatry nationwide, with two in California. Collectively, these schools graduate about 680 doctors a year. California graduates approximately 98 (14.4% of the total) a year but according to Board staff, there is shortage of residencies in California so many graduates must leave the state to continue their training.

Board History, Composition and Governance Structure

Beginning in 1957, the state licensure of Doctors of Podiatric Medicine (DPMs) was handled by a Chiropody Examining Committee working under the auspices of the California Board of Medical Examiners. In the mid-1960's, the name was changed to Podiatry Examining Committee. In 1986, the organization was formally named the Board of Podiatric Medicine.

The Board is composed of seven members serving four-year terms with no more than a maximum of two consecutive terms. The Governor appoints four professional members and one public member. The Senate Rules Committee and the Assembly Speaker each appoint one public member. Board members are not allowed to own or acquire an interest in an institution engaged in podiatric medical instruction.

The five standing Board committees are:

- **Executive Committee:** Members of the Executive Committee include the Board's president and vice-president (elected annually), and the ranking Board member or members appointed by the Board president. As elected officers, this Committee makes interim (between Board meetings) decisions as necessary. This Committee also provides guidance to administrative staff for the budgeting and organizational components of the Board and is responsible for directing the fulfillment of recommendations made by legislative oversight committees.
- **Enforcement Committee:** Members of the Enforcement Committee are responsible for the development and review of Board-adopted policies, positions and disciplinary guidelines. Although members of the Enforcement Committee do not review individual enforcement cases they are responsible for policy development of the enforcement program, pursuant to the provisions of the Administrative Procedure Act (APA).
- **Licensing Committee:** Members of the Licensing Committee are responsible for the review and development of regulations regarding educational and professional ethics course requirements for initial licensure and continuing education programs. Essentially, they monitor various education criteria and requirements for licensure, taking into consideration new developments in technology, podiatric medicine and current activity in the health care industry.
- **Legislative Committee:** Members of the Legislative Committee are responsible for monitoring and making recommendations to the Board with respect to legislation impacting the Board's mandate. They may also recommend pursuit of specific legislation to advance the mandate of the Board or propose amendments or revisions to existing statutes for advancing same.
- **Public Education/Outreach Committee:** Members of the Public Education/Outreach Committee are responsible for the development of consumer outreach projects, including the Board's newsletter, website, e-government initiatives and outside organization presentations on public positions of the Board. These members may act as good will ambassadors and represent the Board at the invitation of outside organizations and programs. In all instances, members must only present positions of the Board and members do not express or opine on matters unless explicitly discussed and decided upon by the Board.

These committees meet only at publicly scheduled and noticed meetings and are subject to the Bagley-Keene Open Meetings Act.

The Board appoints an exempt Executive Officer (EO) to carry out the Board's mission and serves at its pleasure. The Board is funded entirely through license application, examination and biennial renewal fees, and receives no revenue from the State's General Fund.

Licensing Requirements

Candidates for licensure must meet the following requirements:

- Graduation from a Board-approved podiatric medical school and possession of a Certificate for Podiatric Medical Education representing a minimum of 4,000 hours of academic instruction.
- Satisfactory completion of two years of postgraduate medical and surgical training.
- Passage of Parts I, II and III of the national board exam for assessing candidate knowledge, competency and skills.
- Satisfactory completion of 50 hours of approved continuing medical education every two years.
- BPM is the only doctor-licensing Board in the US that requires DPMs to satisfactorily complete peer-reviewed performance-based continuing competency requirements over and above continuing medical education alone.

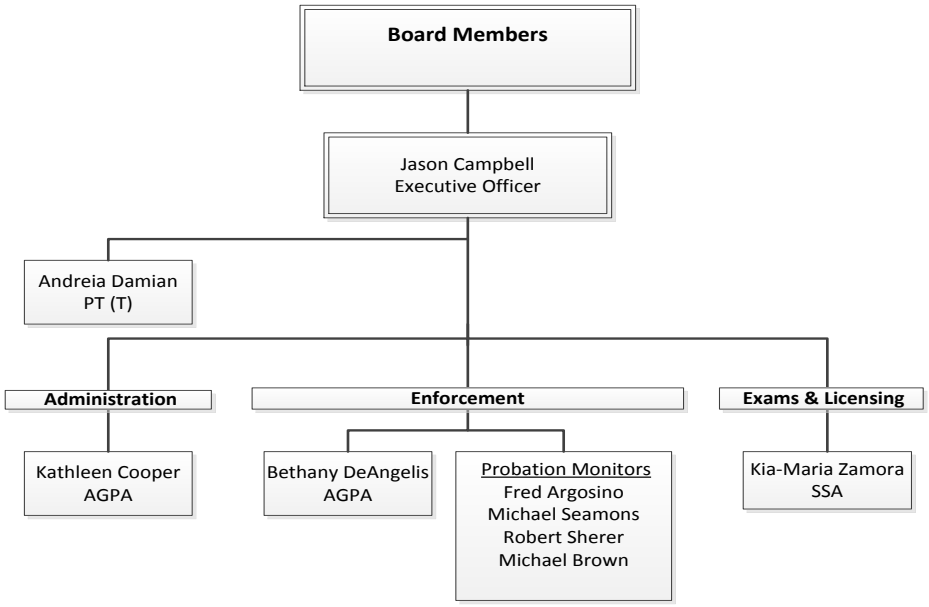
Board Functions and Staffing

The Board is authorized for 5.2 full-time positions and is currently staffed with the following five (5.0) positions displayed in Figure 1. The Board's exempt EO directs four civil service staff within the following functions:

- Executive Office: one Program Technician (PT)
- Administration: one Associate Governmental Program Analyst (AGPA)
- Enforcement: one AGPA Enforcement Coordinator oversees four temporary Probation Monitors (note: temporary positions are not funded as full-time positions)
- Exams & Licensing: one Staff Services Analyst (SSA) Exam & Licensing Coordinator

The organization chart shows the Board staff and functions as of September 2015.

Figure 1
Board of Podiatric Medicine



Scope, Objectives and Methodology

The scope of this engagement focused on a review of the Board's fee structure and staff workload that addressed the following project objectives:

- Perform an analysis of the Board's fee structure to determine if fee levels are sufficient for the recovery of the actual cost of conducting its programs.
- Determine a cost basis to assess other services provided by the Board when a separate fee is not provided.
- Assess and reveal any levels of subsidy or surplus existing between licensure groups such as individuals and facilities.
- Include the following elements in the fee audit analysis:
  - All fees and other revenues collected by the Board, as well as related expenditures and activities for a specific year.
    - Answer the following questions about rates of change and trends or predictions:

      1) DCA interagency charges

      2) Medical Board of California shared service agreement charges

      3) Attorney General's Office charges

      4) Office of Administrative Hearings

      5) Applicants per year

      6) Renewals per year

      7) Retirements per year
  - Project fees, revenues and associated costs and activities for the next five years. Review all aspects of the Board's fee structure, assessments of balancing fees collected, and program expenditure needs to prevent deficit funding for the Board.
  - Assess the activity and workloads for five employees at various time base and salary levels, correlating this data with work products (e.g., investigations, inspections, applications received and processed, licenses issued) to determine an hourly cost or cost per unit for the various Board activities and services.
- Prepare a written report of the findings and recommendations.

The study scope **did not** include developing a proposed revised revenue structure or justification.

The CPS methodology included:

- Conducted an on-site kickoff meeting;
- Conducted off-site document reviews of pertinent legislation, the Board strategic plan, fee schedule, online forms, multi-year Board financial information covering revenues and expenditures for five fiscal years FYs 2010-11 through 2014-15; organization chart and current staff duty statements.

- DCA policies, procedures, methodology, and rationale.
- Confirmed the completeness and accuracy of Board staff duty statements, including assigned work not being completed, and the business processes they are involved in.
- Analyzed revenues and expenditures for five fiscal years FYs 2010-11 through 2014-15 for various anomalies and trends to serve as the basis for projecting future revenues, expenses and fees required to recover the expenses.
- Prepared draft and final reports with recommendations for improvement.

Constraints and Data Qualifications

CPS relied on information received from Board and DCA management and staff, and reviews of unaudited information.

Acknowledgment

CPS wishes to thank all participants at the Board of Podiatric Medicine and the DCA Budget Office for their invaluable and timely contributions.

Study Results

The following presents the study findings and recommendations, including a discussion of licensee characteristics, staff tasks and workload by function, analysis of fee and non-fee schedule revenue, expense analysis, Board fund balance, and fee projections to cover estimated expenses.

Licensee Characteristics

An August 2015 analysis of licensee characteristics drawn from the BreEZe system shows there are currently 2,011 licensees, including 111 resident and 1,900 permanent. A resident license is issued to applicants during their residency training before a permanent license is issued. Resident and permanent licenses are issued to in and out-of-state applicants. Board licensees are from 34 states including California.

Of the licensees, 1,535 (76.3%) are male and 476 are female. The oldest licensee is 97 years old and the youngest is 25. There are 325 licensees (16.2%) age 65 or older. These records also show 130 retirees in the database (6.5% of total licensees).

More than 64% of the licensees are graduates of the California School of Podiatric Medicine at Samuel Merritt University, but there are licensees from all nine certified Podiatric Medicine colleges nationwide.

Staff Tasks and Workload

As the organization chart displays, Board staff tasks and workload is broken down into three areas: Administrative, Exams & Licensing, and Enforcement. The following work distribution charts display and discuss the work being performed and not getting completed by each staff member in these respective areas.

Board management claims all critical and essential function tasks are being performed in a timely manner and that only non-essential housekeeping tasks (e.g., filing, updating procedures, etc.) are pending. In addition, there are special projects such as the sunset report, this fee audit, and the BreEZe system implementation that reduce the amount of time available to address the non-essential tasks.

Administrative Staff Tasks and Workload

Work distribution chart (WDC) 1 shows the AGPA Administrative Analyst spends most of her time performing essential tasks concerning budget/fiscal control, administration, legislation and regulations, and minimal time for public relations.

Assigned work that is not getting completed in a timely manner are non-essential administrative tasks concerning inventorying contracts, updating personnel documents, and implementing records retention policies. Staff indicated the need for more public outreach resources.

WDC 1

AGPA Administrative Analyst

Critical duties are bolded		
Frequency: D = daily, W = weekly, M = monthly, Q = quarterly, A = annually, AS = as needed		
K. Cooper - AGPA Administrative Analyst		
Reports to: J. Campbell, EO	**# Auth Suprv**	**0**
Duties	**Freq**	**% Time**
Budget/Fiscal Control - prepares and presents various status reports, schedules, budget change proposals, deficiency requests, and major purchase justifications; oversight of revenues and expenditures; authorizes invoice payments and maintains revenue accounting and cashiering system; identifies budget deficiencies and cash flow problems; attends budget hearings.	D	25.0%
Administration - lead staff on administrative matters and oversees OT duties, coordinates on major contracts, responds to survey requests, directs office automation and other projects, serves as training coordinator and safety officer, assists EO with recruitment and personnel changes, attends EO quarterly meetings in absence of EO.	D	25.0%
Legislation - recommends amendments and language changes for EO approval, responds to legislative or departmental inquiries, monitors legislation on Board operations, attends legislative hearings in absence of EO, interprets board policies and promotes legislation.	D	20.0%
Regulations - drafts proposed regulatory language for review and approval, prepares regulatory notices and rulemaking packages, consults with legal on regulatory hearings, provides information on proposed regulatory changes to consumers and associations.	D	20.0%
Public Relations - maintains Board's web site, manages telephone information system, manages production of publications, staffs consumer advocacy	D	10.0%
Total Time %		100.0%
Work Not Getting Done		
Examine and inventory current and recent contract documents		
Assist EO with updating duty statements and personnel matters		
Implementing record retention policies on existing paper and electronic records		

Work distribution chart (WDC) 2 shows the Program Technician spends most of her time supporting the licensing and enforcement programs as well as performing key office and personnel support tasks.

Assigned work that is not getting completed in a timely manner are non-essential administrative tasks concerning system and file room cleanup and webcast research.

WDC 2
Program Technician

Critical duties are bolded		
Frequency: D = daily, W = weekly, M = monthly, Q = quarterly, A = annually, AS = as needed		
A. Damian - Program Technician		
Reports to: J. Campbell, EO	**# Auth**	**0**
Duties	**Freq**	**% Time**
Licensing Program Support - assists Licensing Coordinator with various tasks including reviewing license applications and renewals, responds to licensees and general public, maintains cashiering system to process license and exam fees, updates information in BreEZe system, tracks and files licensing files.	D	35.0%
Enforcement Program Support - assists Enforcement Coordinator with various tasks including assisting in the investigative process to gather reports, court documents and case exhibits, monitoring cost recovery and processing enforcement payments, and tracking cases sent to the AGO.	D	30.0%
Office Equipment & File Management/copying - maintain office management systems such interoffice memos & procedures, DCA personnel procedures, procurement & contracts and weekly correspondence to Board members and others; prepares purchasing documents; maintains office supply inventory.	D	20.0%
Reception - answers phones, transfers calls, takes messages.	D	5.0%
Mail Services - assembles and prepares materials for shipping, opens and distributes mail, copies and sorts documents.	D	5.0%
Personnel/Staff Support - prepares payroll documents and travel claims for EO review; processes HR transactions, arranges travel and hotel reservations for staff, board members and exam commissioners.	D	5.0%
Total Time %		100.0%
Work Not Getting Done		
G Drive Clean Up	5%	
Webcast Research	5%	
File Room Clean Up	5%	

Recommendation

1. BPM management should consider adding resources (up to the remaining authorized 0.2 full-time equivalent) to provide support in the public outreach program.

Exams & Licensing Staff Tasks and Workload

Work distribution chart (WDC) 3 shows the SSA Licensing Coordinator spends most of her time performing essential tasks concerning licensing and BreEZe production maintenance support, in addition to conducting the continuing competence and continuing education program, doing statistical analysis, research and reporting, providing administrative support to Board members.

Assigned work that is not getting completed in a timely manner are non-essential administrative tasks concerning records and file maintenance, updating forms, letters and manuals.

WDC 3

SSA Licensing Coordinator

Critical duties are bolded		
Frequency: D = daily, W = weekly, M = monthly, Q = quarterly, A = annually, AS = as needed		
K-M. Zamora – SSA Licensing Coordinator		
Reports to: J. Campbell, EO	**# Auth Suprv**	**0**
Duties	**Freq**	**% Time**
Licensing Program - *(General 35%)* responds to inquiries from applicants, medical professionals, and agencies to clarify licensing requirements and processes; provide analysis and recommendations on all licensing issues; monitor legislative and regulatory updates and recommend program modifications or amendments to laws and regulations; develop forms and publications; drafts and presents policy improvement recommendations. *(Application Review 25%)* reviews licensing applications and verifies requirements have been met, evaluates applications including criminal history and recommends for further review/investigation as warranted, recommends improvements to licensing committees, interprets regulations and analyzes impact of amendments for regulatory hearings. *(Exam Liaison 5%)* works with NBPME on exam administration and score transmittal, assists with exam validation studies and exam appeal process.	**D**	**50.0%**
BreEZe Production Maintenance Support - identify system production issues, create triage reports, reports issues to DCA OIS, provide system analysis and documentation to support the issues, propose solutions, work with operations and user groups to resolve issues; attend user group meetings; conduct user acceptance testing; and conduct regression testing as needed.	**D**	**20.0%**
Continuing Competence and Continuing Education Program - evaluates renewal forms for Continuing Competence requirements and guides DPMs with waivers, approves continuing medical education providers, conducts CME audits and recommends on cases of noncompliance.	**D**	**15.0%**
Statistical Analysis, Research and Reporting - compiles statistical reports of licensing and exam data for DCA, external agencies, and the Sunset Review Report; presents statistical reports to Board members.	**AS**	**10.0%**
Administrative Support - provides staff support to Board Members on licensing projects and represents the Board at medical events with outreach materials.	**AS**	**5.0%**
Total Time %		**100.0%**
Work Not Getting Done		
File Maintenance - such as filing Record Retention Schedule maintenance.		
Updating BPM forms revisions for in-house and public use.		
Updating BPM letters.		
Create new letters.		
Updating the Licensing Manual - including purging outdated licensing documents and information.		

Licensing Activity

Table 1 displays the applications received, initial licenses issued, licenses renewed and total licenses for FY's 2010-11 through 2014-15 for the license categories of Doctor of Podiatric Medicine (DPM), fee-exempt license, and resident status license. The table reveals licenses for DPMs comprise almost 81.2% of all active licenses with a five-year average of 66 initial licenses per year. The total number of initial licenses of all kinds has averaged 120 per year. Except for fee-exempt licenses, licensing applications received, issued and renewed have been relatively stable over the five fiscal-year period for DPMs and resident licenses. It is important to note the initial license is good for up to two years (renewals occur on birthdays) and renewal licenses are good for two years (biennial). This is typical as most DCA Boards, Bureaus and Commissions renew on a biennial basis.

Table 1
Board of Podiatric Medicine Licensing Activity

License Type	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	Total	5 Yr Avg	% Total	% Apps	% Issued	% Renewed
Doctor Podiatric Medicine											
Apps Received	61	64	69	60	69	323	**65**		53.7%		
Initial Licenses Issued	58	61	66	77	69	331	**66**			54.9%	
Licenses Renewed	894	948	881	1,027	1,081	4,831	**966**				85.2%
Active Licenses*	***1,919***	***1,945***	***1,955***	***1,687***	***1,945***	9,451	**1,890**	**81.2%**			
Fee Exempt											
Apps Received	15	12	16	3	12	58	**12**		9.7%		
Initial Licenses Issued	15	12	16	2	12	57	**11**			9.5%	
Licenses Renewed	76	96	75	124	81	452	**90**				8.0%
Active Licenses*	**206**	**199**	**200**	**479**	**504**	1,588	**318**	**13.7%**			
Resident Status License											
Apps Received	44	36	45	51	44	220	**44**		36.6%		
Initial Licenses Issued	44	36	45	47	43	215	**43**			35.7%	
Licenses Renewed	73	80	76	75	80	384	**77**				6.8%
Active Licenses*	**117**	**116**	**121**	**122**	**118**	594	**119**	**5.1%**			
Total Active Licenses	**2,242**	**2,260**	**2,276**	**2,288**	**2,567**	11,633	**2,327**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Source: Board of Podiatric Medicine

The Licensing Coordinator reports all application type processing times are the same and contingent upon receiving all the documents that meet the requirements in a timely manner. Processing a new application, including document review and BreEZe data entry, takes about one hour per application. Processing documents for an application already on file can take up to 30 minutes. Calls made to applicants for licensure information can range from up to 10 minutes. Therefore, total application unit processing time is approximately 75 minutes. The average completion time for the entire process is approximately 24 days. This is primarily driven by the applicant's ability to timely submit required documentation to BPM. After all requirements are met, BPM issues licenses on the same day. There is no backlog for any application type.

Licensing renewals can take from three to seven business days depending on all requirements being met and where they are received. Average processing time, including document review and BreEZe data entry, can take up to 30 minutes. Licensing renewals mailed directly to the BPM PO Box are processed through DCA Cashiering in three to five business days. If mailed directly to BPM, the process can take from five to seven business days because of the lost routing time to DCA Cashiering.

Effects of Retirees

The BPM licensing database shows 130 current retirees with an average age of almost 64 years old, but there are 325 licensees (16.2%) age 65 or older. An analysis of measures of central tendency shows the average age these licensees retired is 64, the mode age (age most retired at) is 62, and the median age (age in the middle of the distribution – 50% and 50% below) is 64.

The retirees were licensed an average of 44 years which represents an approximate licensee lifetime value of $20,064 (22 years x $912).

Table 2 shows over the last five fiscal years there have been 46 retirees, with almost half retiring in FY 2013-14, for a five-year average of about nine per fiscal year. Based on the current age distribution of retirees, CPS projects that over the next five fiscal years up to 367 licensees (or 73 per year) that turn age 65 may retire.

Table 2
Board of Podiatric Medicine Retirement Activity

	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	Total	5 yr Avg
Retirees	3	5	9	20	9	46	9.2

Source: Board of Podiatric Medicine

Enforcement Staff Tasks and Workload

Work distribution chart (WDC) 4 shows the AGPA Enforcement Coordinator spends most of her time performing essential tasks concerning disciplinary case review, enforcement consultation and coordination, and managing the probation program. The incumbent also conducts research, prepares reports, policies and procedures, attends committee and Board meetings, and oversees the complaint, citation and fine program.

Assigned work that is not getting completed in a timely manner are non-essential administrative tasks concerning records and file maintenance; updating logs, spreadsheets and manuals; and participating in special projects.

WDC 4

AGPA Enforcement Coordinator

Critical duties are bolded		
Frequency: D = daily, W = weekly, M = monthly, Q = quarterly, A = annually, AS = as needed		
B. DeAngelis - AGPA Enforcement Coordinator		
Reports to: J. Campbell, EO	**Auth Supr**	**0**
Duties	**Freq**	**% Time**
Disciplinary Case Review - reviews case activity reports and complaint referrals from the MBC, advises MBC on legal issues and Board policy; provides guidance to MBC investigators on Expert Consultant selection and case management procedures; consults with SMEs to develop disciplinary recommendations; makes recommendations to the Board and EO in the resolution of disciplinary case matters; maintains files and tracking system of enforcement cases being reviewed by the OAG.	**D**	**25.0%**
Enforcement Consultation and Coordination - coordinates case activities between the Board, DCA, and OAG, advises OAG legal staff on various disciplinary documents and decisions; tracks cases and advises OAG staff on investigative history, reviews final investigative reports to determine violations, assists MBC investigators with gathering court documents and case exhibits; advises MBC investigators and Expert Consultants on case reports, works with OAG to file accusations; advises legal staff on enforcement issues; conducts Expert Consultant training workshops, maintains BPM Enforcement Manual, conducts consultant meetings.	**D**	**25.0%**
Probation Program - manages probation program and assigns case files, assists with annual invoices to probationers, provides case data to Probation Monitors; assists in appointing Expert Consultants, monitors probation monitoring terms, advises Probation Monitors on cases, advises the Board and DAGs on probation terms/conditions; advises OAG on probation cases and serves as SME to Probation Monitors on investigations with recommendations for disciplinary actions and fines; initiates new probation case files for Probation Program Coordinator to prepare case file packages, monitors case status and reviews quarterly reports.	**D**	**25.0%**
Enforcement Research, Correspondence and System Development - prepares quarterly reports on enforcement data, reports disciplinary actions to national data banks and prepares reports for DCA and other agencies, oversees CAS enhancements and analyzies impact of system changes; recommends new policies, procedures and amendments to statutory and regulatory language.	**Q**	**10.0%**
Meetings and Hearings - attends Board and Committee meetings to obtain poicy decisions and provide information on enforcement program issues; attends administrative hearings and enforcement user meetings.	**AS**	**10.0%**
Citation and Fine Program - analyzes complaints, issues citation packages, conducts citation interviews, ensures deadline compliance, oversees appeal process, prepares recommendation reports.	**AS**	**5.0%**
Total Time %		**100.0%**
Work Not Getting Done		
Update and enhance Enforcement Program Desk Manual	5%	
Probation internal record-keeping, BreEze updates, tracking log/spreadsheet updates	5%	
File purging/email clean-up	5%	
Other special projects	5%	

Enforcement Activity

Table 3a shows the complaints received, closed without investigation, referred to investigation and pending for FY's 2010-11 through 2014-15. The table indicates complaints have been stable over the five fiscal-year period. There are three types of enforcement cases: 1) complaints received directly from the public; 2) complaints stewarded through the investigation process; and 3) formal discipline cases initiated by BPM as a result of an investigation recommendation. These tasks account for up to four to five hours (50 - 60%) a day of the Enforcement Coordinator's available time.

The Enforcement Coordinator reports BPM rarely receives a complaint directly from the public, but when it does, the incumbent's role is limited to up to 30 minutes a day. In most cases, the Medical Board of California Central Complaint Unit (MBC CCU) investigates complaints under a shared services agreement with BPM.

Table 3a
Board of Podiatric Medicine Complaint Intake Activity

Consumer Complaints	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Received	90	125	122	123	134
Closed without investigation	0	0	0	0	0
Referred for investigation	86	125	124	121	131
Pending	0	3	1	0	3

Source: Board of Podiatric Medicine

In complaints stewarded through the investigation process, the Enforcement Coordinator plays a variable role depending on case complexity that can range up to two hours per day. Tasks include, but are not limited to, obtaining consultants, consultant and investigator correspondence; preparing Letters of Reprimand, Citation & Fines, Statement of Issue Orders, and other documents.

In formal discipline cases, the Enforcement Coordinator may prepare Probation Violations for the Attorney General and perform other pertinent tasks that can range up to two hours a day.

The complaint processing standard of assigning complaints at intake is nine days as established by the DCA Performance Metrics as part of the Consumer Protection Enforcement Initiative. Currently, MBC CCU is assigning complaints on an average of 12 days. MBC reports a backlog at the complaint investigation stage but not at the intake and assignment stage.

The Board does not have an internal processing standard for C&Fs at this time. C&Fs are issued as soon as a recommendation for action is received and an executive decision is made to move forward with the citation based on the medical evaluation of the case. Once a citation is issued there are timelines for responses to the citations and arranging informal conferences or appeals. The Enforcement Coordinator reports there is not a citation backlog.

Table 3b shows the citations issued, with fines, withdrawn, dismissed and average days to issue for FY's 2010-11 through 2014-15. The table indicates low, stable activity over the last three fiscal years only and the average days to issue a citation have been reduced by more than 234% (from 827 to 364 days) since FY 2012-13.

Table 3b
Board of Podiatric Medicine Citations and Fines

Citations and Fines	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Issued	0	0	2	5	5
Issued with a fine	0	0	2	5	5
Withdrawn	0	0	0	3	1
Dismissed	0	0	0	1	0
Average days to issue	***0***	***0***	***827***	***608***	***354***

Source: Board of Podiatric Medicine

Revenue Analysis

Table 4 shows the Board's existing fee schedule displayed on BPM's website. The Biennial License Renewal fee was permanently increased to $900 in 2004, but the other scheduled service fees have not changed since 1989. As a result, most of the fees on the schedule do not reflect many years of inflation or cost of living increases that directly impact the cost of the services provided.

Table 4
Board of Podiatric Medicine Existing Fee Schedule

Fee Type	Fee
Application	$20
Fingerprint (DOJ)	$32
Fingerprint (FBI)	$17
Resident's License	$60
Resident's License Renewal	No Fee
Biennial Initial License/Certification	$900
Biennial License Renewal/CURES fee*	$912
Duplicate License	$40
Letter of Good Standing	$30
CME Course Approval	$100
Delinquent after 30 days	$150
Delinquent after 90 days	$450

* Controlled Substance Utilization Review and Evaluation System[1]

However, Table 4 does not accurately reflect all the fees a BPM applicant may be charged. This topic is addressed at the end of this report.

Based on the existing fee schedule, Table 5 summarizes the renewal licenses cycles and fee ranges of 36 DCA Boards/Bureaus, including BPM (see Appendix A for the complete list). The

[1] CURES 2.0 is an upgraded system for monitoring prescription drugs that went live on July 1, 2015.

table reveals 83% of DCA Boards/Bureaus renew on a biennial cycle (including BPM). Annual renewal fees range from $125 to $700. Biennial fees range from $50 to $900. The Structural Pest Board charges the lone triennial fee of $120.

Table 5
Summary of DCA Board/Bureau Renewal License Cycles and Fees

# of Boards/Bureaus	Renewal Cycle	Fee Range
5	Annual	$125 to $700
30 (including BPM)	Biennial	$50 to $900
1	Triennial	$120

Source: DCA Budget Office

Table 6 shows the Board's revenue sources include fee schedule income and non-fee schedule income for the last five fiscal years. Fee schedule income represents approximately 98.2% of all income. License renewal fees have consistently been the largest revenue source. Non-fee schedule revenues have accounted for 1.8% of income over this period.

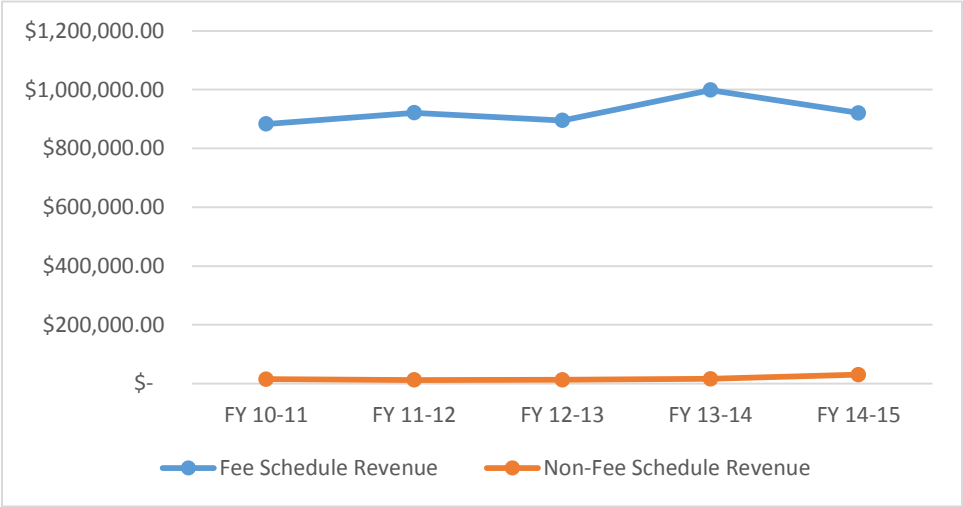
Table 6
Board of Podiatric Medicine Revenue Sources and Income
FY's 2010-11 through 2014-15

DESCRIPTION	2010-11	2011-12	2012-13	2013-14	2014-15	Totals	Avg	% Total
Fee Schedule Revenue	$ 883,615.90	$ 921,468.29	$ 895,215.90	$ 997,251.38	$ 921,154.18	$ 4,618,705.65	$ 923,741.13	98.2%
Non-Fee Schedule Revenue	$ 15,115.90	$ 12,088.29	$ 12,752.90	$ 16,105.38	$ 30,318.06	$ 86,380.53	$ 17,276.11	1.8%
Total Income	**$ 898,731.80**	**$ 933,556.58**	**$ 907,968.80**	**$ 1,013,356.76**	**$ 951,472.24**	**$ 4,705,086.18**	**$ 941,017.24**	**100.0%**

Source: Board of Podiatric Medicine

Figure 2 below graphically displays the Board's revenue sources and income trends from FY 2010-11 through FY 2014-15.

Figure 2
Board Revenue Sources and Income Trends and Analysis
FY's 2010/11 through 2014/15



Fee Schedule Revenue

Table 7 details and summarizes the Board Fee Schedule income for FY's 2010-11 through 2014-15. At 92.2%, the table shows the combined Biennial Podiatrist renewal fees (schedule 8 items) have consistently been the Board's primary revenue driver. The same holds true for combined initial Podiatry license and National Podiatry Board certificate fees (schedule 7 items), which at 6.3% of total income make up the Board's second largest revenue driver at 6.3%.

Table 7
Board of Podiatric Medicine Fee Schedule Income Summary
FY's 2010-11 through 2014-2015

Sched	DESCRIPTION	2010-11	2011-12	2012-13	2013-14	2014-15	Totals	Avg	% Total
8	BIENNIAL RENEWAL-PODIATRIST $900	$808,100.00	$844,200.00	$812,700.00	$894,888.00	$805,718.00	$4,165,606.00	$833,121.20	91.9%
7	INITIAL LICENSE - PODIATRY - 800	44,800.00	48,800.00	52,000.00	56,000.00	54,380.00	255,980.00	51,196.00	5.6%
7	NAT BOARD CERT-PODIATRY- 100.00	5,600.00	6,100.00	6,500.00	7,147.00	7,301.00	32,648.00	6,529.60	0.7%
8	CURES BIEN CONTRIBUTION-$12.00	0.00	0.00	0.00	2,736.00	11,664.12	14,400.12	2,880.02	0.3%
4	LIMITED LICENSE FEE - POD - 60.0	2,400.00	2,400.00	2,400.00	3,049.00	2,820.00	13,069.00	2,613.80	0.3%
8	BIENNIAL RENEWAL-PODIATRIST 800	0.00	0.00	0.00	10,807.00	0.00	10,807.00	2,161.40	0.2%
13	PENALTY FEE - POD - VAR	1,350.00	1,800.00	2,700.00	1,800.00	3,125.00	10,775.00	2,155.00	0.2%
12	DELINQUENCY FEE - PODCORP. - 150	1,650.00	1,350.00	1,650.00	1,800.00	1,650.00	8,100.00	1,620.00	0.2%
1	APP FEE - PODIATRY - 20.00	1,340.00	1,560.00	1,633.00	1,660.00	1,680.00	7,873.00	1,574.60	0.2%
10	LETTER OF GOOD STANDING - 30.00	1,470.00	1,830.00	1,740.00	1,470.00	1,320.00	7,830.00	1,566.00	0.2%
9	DUPLICATE RENEWAL RECEIPT - 40.0	1,190.00	920.00	800.00	280.00	0.00	3,190.00	638.00	0.1%
9	DUPLICATE LICENSE/CERT - 40.00	0.00	0.00	0.00	560.00	940.00	1,500.00	300.00	0.0%
11	CME - COURSE APPROVAL - $100.00	200.00	100.00	100.00	100.00	0.00	500.00	100.00	0.0%
	TOTALS	**$868,100.00**	**$909,060.00**	**$882,223.00**	**$982,297.00**	**$890,598.12**	**$4,532,278.12**	**$906,455.62**	**100.0%**

Source: CalSTARS reports for Board of Podiatric Medicine

** pre-BreEZe fees appeared under Accounting fee code 6M for FY 10/11 through the first part of FY13/14; post-BreEZe fees appear under Accounting fee code 6L FY 13/14 - 14/15. BPM currently does not charge $40 for a Duplicate Renewal Receipt but does for a Duplicate License/Certificate.

As the table illustrates, both of these combined income sources have been relatively stable with both hitting highs in FY 2013-14 and both dipping in FY 2014-15. Over the five-fiscal year period, combined Biennial Podiatrist renewal fees (schedule 8) have averaged $838,163 per year and the combined initial licenses fees (schedule 7) $57,726 per year. Other minor fees for penalty and delinquency fees, podiatry application fees, and duplicate renewal and license certificate fees comprise the remaining 1.5% of fee schedule revenue.

Non-Fee Schedule Revenue

Table 8 details and summarizes the Board Non-Fee Schedule income for FY's 2010-11 through 2014-15. Income from fictitious name renewals and permits, and surplus money investment represent 66.4% of these revenues and were relatively consistent over the period. However, income from other miscellaneous sources such as suspended revenue, citation fees, and cancelled warrants was inconsistent from year to year.

Table 8
Board of Podiatric Medicine Non-Fee Schedule Income Summary
FY's 2010-11 through 2014-2015

DESCRIPTION	2010-11	2011-12	2012-13	2013-14	2014-15	Totals	Avg	% Total
FICT NAME REN. - POD CORP. - 40.	6,960.00	6,680.00	6,760.00	7,040.00	6,320.00	33,760.00	6,752.00	39.1%
SUSPENDED REVENUE	0.00	0.00	0.00	6,508.00	15,778.98	22,286.98	4,457.40	25.8%
INCOME FROM SURPLUS MONEY INVESTM	4,855.90	3,438.29	2,802.90	2,468.38	2,821.08	16,386.55	3,277.31	19.0%
FICT NAME PERMIT - PODIATRY CORP.	1,500.00	1,250.00	1,250.00	1,600.00	1,550.00	7,150.00	1,430.00	8.3%
CITATION FEE - PODIATRY - VAR	1,600.00	500.00	0.00	300.00	3,500.00	5,900.00	1,180.00	6.8%
REVENUE CANCELLED WARRANTS	0.00	0.00	1,800.00	0.00	1,050.00	2,850.00	570.00	3.3%
DELI. RENEWAL - FICT NAME - POD -	200.00	220.00	140.00	60.00	220.00	840.00	168.00	1.0%
ATTORNEY GENERAL PROCEEDS OF ANTI	0.00	0.00	0.00	0.00	78.00	78.00	15.60	0.1%
PRIOR YEAR REVENUE ADJUSTMENT	0.00	0.00	0.00	-1,871.00	-1,000.00	-2,871.00	-574.20	-3.3%
TOTALS	**15,115.90**	**12,088.29**	**12,752.90**	**16,105.38**	**30,318.06**	**86,380.53**	**17,276.11**	**100.0%**

Source: CalSTARS reports for Board of Podiatric Medicine

Unscheduled Reimbursement

Unscheduled reimbursements are unplanned and treated as an offset to total actual expenditures rather than as revenue. Table 9 details and summarizes this category and shows unscheduled investigative cost recovery consistently accounted for 91.2% of these funds over the five-fiscal year period. Fingerprint reimbursement offset fingerprint expenses. Other offsetting funds include external private grants, and DCA account fees for dishonored checks, over and short fees, and miscellaneous services to the general public. Over the five-fiscal year period, these account fees have been inconsistent from year to year and have resulted in minimal income.

Table 9
Board of Podiatric Medicine Unscheduled Reimbursement Summary
FY's 2010-11 through 2014-2015

DESCRIPTION	2010-11	2011-12	2012-13	2013-14	2014-15	Totals	Avg	% Total
UNSCHED-INVESTIGATIVE COST RECOVE	58,198.39	70,113.54	57,380.77	72,020.75	59,899.71	317,613.16	63,522.63	91.2%
FINGERPRINT REPORTS	3,366.00	3,845.00	4,020.00	3,871.00	3,773.00	18,875.00	3,775.00	5.4%
EXTERNAL/PRIVATE/GRANT	3,175.00	3,135.00	1,195.00	1,645.00	2,115.00	11,265.00	2,253.00	3.2%
DISHONORED CHECK FEE-VAR	25.00	100.00	25.00	75.00	100.00	325.00	65.00	0.1%
OVER/SHORT FEES	180.00	53.00	-50.00	4.00	0.09	187.09	37.42	0.1%
MISC. SER TO PUBLIC - GENERAL	11.00	0.00	52.00	85.00	0.00	148.00	29.60	0.0%
Totals	**64,955.39**	**77,246.54**	**62,622.77**	**77,700.75**	**65,887.80**	**348,413.25**	**69,682.65**	**100.0%**

Source: CalSTARS reports for Board of Podiatric Medicine

Expense Analysis

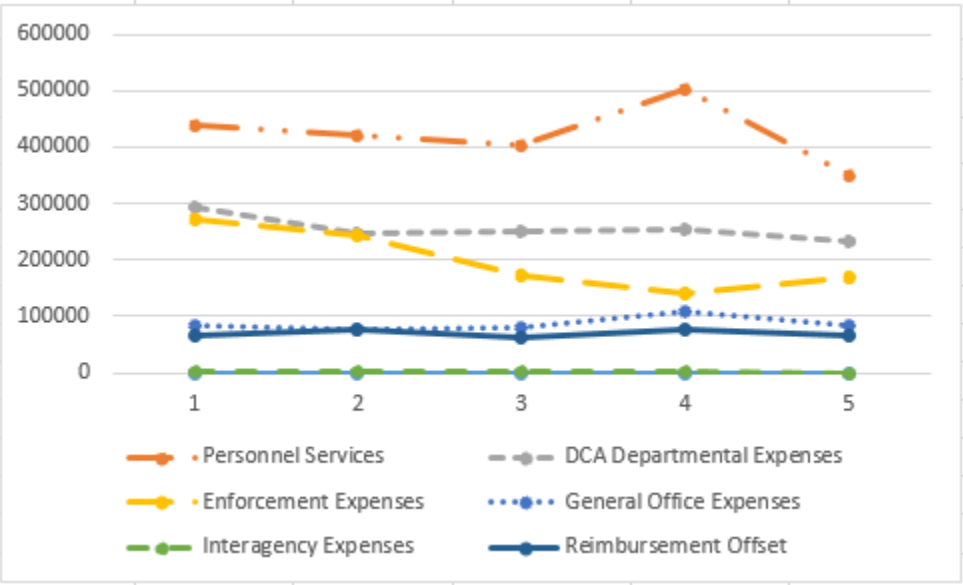
Table 10 summarizes and Figure 3 graphically displays the Board's expenses for FYs 2010-11 through 2014-15 by BPM's major budget categories: Personnel Services, Operating Expense and Equipment, and offsetting Reimbursements.

Table 10
Board of Podiatric Medicine Expense Summary
FY's 2010-11 through 2014-2015

Description	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	5 FY Totals	Avg/Yr	% Total Exp
Personnel Services								
Salaries & Wages	$319,264.55	$310,461.24	$290,272.75	$371,347.19	$242,000.18	$1,533,345.91	$306,669.18	31.7%
Staff Benefits	118,858.14	109,441.08	113,643.53	130,122.07	107,048.01	579,112.83	115,822.57	12.0%
Salaries & Benefits	**$438,122.69**	**$419,902.32**	**$403,916.28**	**$501,469.26**	**$349,048.19**	**$2,112,458.74**	**$422,491.75**	**43.7%**
Operating Expenses & Equipment								
DCA Departmental Expenses	$294,446.07	$248,125.76	$249,082.93	$252,770.64	$232,174.36	$1,276,599.76	$255,319.95	26.4%
Enforcement Expenses	273,476.14	244,925.71	172,588.70	140,749.75	169,425.83	1,001,166.13	200,233.23	20.7%
General Office Expenses	83,607.30	78,328.30	80,330.54	108,692.67	84,222.40	435,181.21	87,036.24	9.0%
Interagency Expenses	2,546.68	1,396.73	758.14	647.00	0.00	5,348.55	1,069.71	0.1%
Subtotals	**$654,076.19**	**$572,776.50**	**$502,760.31**	**$502,860.06**	**$485,822.59**	**$2,718,295.65**	**$543,659.13**	**56.3%**
Total Expenses	**$1,092,198.88**	**$992,678.82**	**$906,676.59**	**$1,004,329.32**	**$834,870.78**	**$4,830,754.39**	**$966,150.88**	**100.0%**
Reimbursement Offset	64,955.39	77,246.54	62,622.77	77,700.75	65,887.80	348,413.25	69,682.65	
Net Expenses	***$1,027,243.49***	***$915,432.28***	***$844,053.82***	***$926,628.57***	***$768,982.98***	***$4,482,341.14***	***$896,468.23***	

Source: CalSTARS reports for Board of Podiatric Medicine

Figure 3
Board of Podiatric Medicine Expense Trends and Analysis
FY's 2010-11 through 2014-2015



Following presents more detailed analyses of each major budget category.

Personnel Services Expenses

Table 11 details and summarize Board Personnel Services expenses; the Board's largest recurring expense. They have averaged about 43.7% of total costs over the last five fiscal years. This expense category covers exempt, civil service and temporary employee salaries and wages, overtime, Board member compensation, and various employee benefits. The highest salary, wage and benefit year was FY 2013-14 at $501,469. In contrast, in FY 2014-15 the Board spent the lowest amount for salaries & wages at $349,048. This is due in part to reduced staffing during part of the year and no large extraordinary payments (which were made in the prior fiscal year).

Table 11
Board of Podiatric Personnel Services Expense Summary
FY's 2010-11 through 2014-2015

Description	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	5 FY Totals	Avg/Yr	% Total Exp
Salaries & Wages								
CIVIL SERVICE-PERM	$202,394.22	$202,653.77	$188,035.36	$258,273.91	$148,990.60	$1,000,347.86	$200,069.57	20.7%
STATUTORY-EXEMPT	76,384.68	80,473.32	77,955.96	84,180.00	76,450.00	395,443.96	79,088.79	8.2%
TEMP HELP (907)	32,685.65	21,834.15	16,381.43	13,103.58	13,059.82	97,064.63	19,412.93	2.0%
BD/COMMSN (901,920)	7,800.00	5,500.00	7,900.00	9,100.00	3,500.00	33,800.00	6,760.00	0.7%
OVERTIME	0.00	0.00	0.00	6,689.70	0.00	6,689.70	1,337.94	0.1%
Subtotal	***$319,264.55***	***$310,461.24***	***$290,272.75***	***$371,347.19***	***$242,000.42***	**$1,533,346.15**	**$306,669.23**	**31.7%**
Staff Benefits								
RETIREMENT	$51,733.98	$50,695.31	$54,528.84	$62,423.00	$50,734.64	$270,115.77	$54,023.15	5.6%
HEALTH/WELFARE INS	33,709.87	25,554.02	26,468.86	28,005.91	29,032.45	142,771.11	28,554.22	3.0%
OASDI	16,636.84	17,141.53	16,123.23	18,100.18	12,451.98	80,453.76	16,090.75	1.7%
OTHER-STAFF BENEFITS	7,888.99	8,243.85	8,659.66	8,911.61	6,475.71	40,179.82	8,035.96	0.8%
MEDICARE TAXATION	4,477.84	4,377.83	4,107.61	4,529.40	3,366.81	20,859.49	4,171.90	0.4%
DENTAL INSURANCE	2,510.34	1,799.93	1,754.52	1,985.95	1,472.93	9,523.67	1,904.73	0.2%
SCIF ALLOCATION COST	1,383.00	1,073.00	1,514.00	1,677.00	1,526.00	7,173.00	1,434.60	0.1%
STAFF BENEFITS	0.00	42.14	15.21	4,008.78	1,017.93	5,084.06	1,016.81	0.1%
VISION CARE	417.08	414.72	388.80	397.44	250.56	1,868.60	373.72	0.0%
TRANSIT DISCOUNT	0.00	0.00	0.00	0.00	650.00	650.00	130.00	0.0%
LIFE INSURANCE	100.20	98.75	82.80	82.80	69.00	433.55	86.71	0.0%
Subtotal	***$118,858.14***	***$109,441.08***	***$113,643.53***	***$130,122.07***	***$107,048.01***	**$579,112.83**	**$115,822.57**	**12.0%**
TOTALS	**$438,122.69**	**$419,902.32**	**$403,916.28**	**$501,469.26**	**$349,048.43**	**$2,112,458.98**	**$422,491.80**	**43.7%**

Source: CalSTARS reports for Board of Podiatric Medicine

DCA Departmental Allocated Expenses

Table 12 summarizes the Board's DCA Departmental Allocated Expenses for FYs 2010-11 through 2014-15. At a five fiscal-year average of 26.6% of total expenditures, these activities are the Board's second largest recurring expense and include all of DCA services allocated and/or charged on a pro rata basis to cover the cost of DCA operations. Depending on the service or DCA department or division charging the service, DCA allocates or charges these expenses to BPM annually on the basis of authorized positions or workload unit consumed. The table shows most line item charges have been relatively stable over time.

Costs that have routinely represented most of BPM's allocated costs are DOI investigative services, DCA pro rata overall, indirect distribution, Office of Information Services (OIS) pro rata, and MBC shared investigative services. All of these cost items have experienced swings up and down of approximately 20% over the five-fiscal year per period, but the average expenses have been relatively consistent. DOI investigative services and MBC shared service costs decreased substantially in FY 2014-15. MCC shared service costs have been declining the last three fiscal years while the other three expenses have increased from 2% to 12%.

Table 12
Board of Podiatric Medicine DCA Departmental Allocated Expense Summary
FY's 2010-11 through 2014-2015

Description	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	5 FY Totals	Avg/Yr	% Total Exp
DOI INVEST SVS-MBC ONLY	$104,400.00	$55,078.00	$53,912.00	$56,746.00	$33,722.00	$337,580.00	$67,516.00	6.0%
PRO RATA	45,061.00	54,139.00	63,349.00	46,006.78	47,324.00	303,203.78	60,640.76	5.4%
INDIRECT DISTRB COST	46,355.00	42,417.00	42,321.00	53,052.00	59,063.00	302,271.00	60,454.20	5.3%
OIS PRO RATA	42,678.00	41,010.00	42,877.00	49,030.00	55,110.00	285,815.00	57,163.00	5.0%
SHARED SVS-MBC ONLY	43,036.00	44,469.00	35,226.00	38,680.00	26,991.00	215,393.00	43,078.60	3.8%
PUBLIC AFFAIRS PRO R	3,272.00	2,850.00	2,199.00	1,956.00	2,065.00	14,407.00	2,881.40	0.3%
CCED PRO RATA	2,125.00	2,955.00	2,917.00	1,934.00	1,997.00	13,925.00	2,785.00	0.2%
ALLOCATED POSTAGE-DC	1,247.20	1,037.02	1,537.13	1,850.49	2,181.14	10,034.12	2,006.82	0.2%
DOI - PRO RATA	1,539.00	1,427.00	1,776.00	1,693.00	1,780.00	9,995.00	1,999.00	0.2%
ADMIN OVERHEAD-OTHR	1,307.33	881.06	970.63	1,400.88	1,495.72	7,551.34	1,510.27	0.1%
ALLOCATED COPY COSTS	2,288.06	673.52	842.76	51.50	445.50	4,746.84	949.37	0.1%
ALLOCATED POSTAGE-ED	1,137.48	1,189.16	1,155.41	369.99	0.00	3,852.04	770.41	0.1%
TOTALS	**$294,446.07**	**$248,125.76**	**$249,082.93**	**$252,770.64**	**$232,174.36**	**$1,508,774.12**	**$301,754.82**	**26.6%**

Source: CalSTARS reports for Board of Podiatric Medicine

Enforcement Expenses

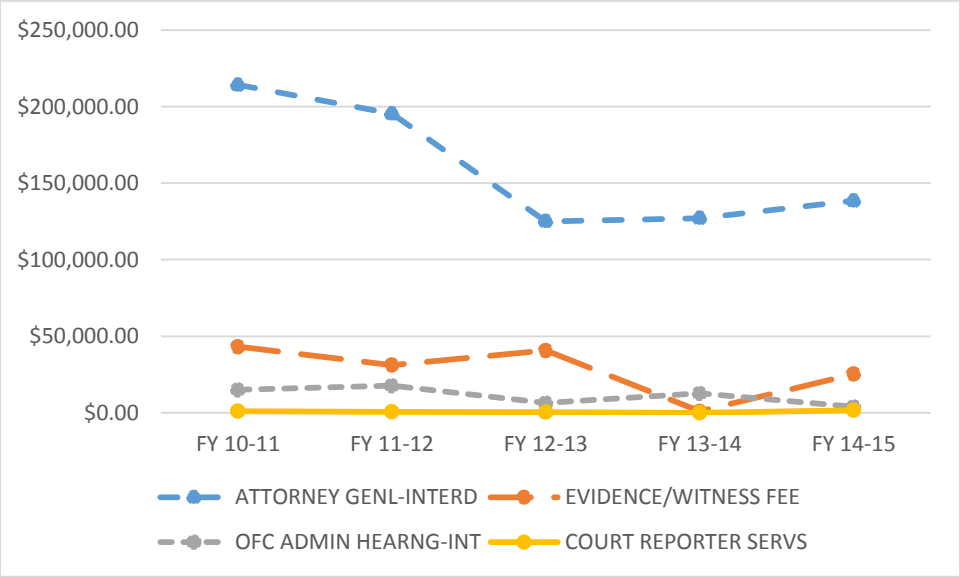
Table 13 summarizes and Figure 4 graphically displays the Board's expenses for Enforcement activities for FYs 2010-11 through 2014-15. These activities include interdepartmental services from the Attorney General's Office, evidence/witness fees, Office of Administrative Hearings interdepartmental services, and court reporter services. Collectively, at 20.7% of total expenses, Enforcement Expenses have consistently been the Board's third largest recurring expense. However, at 16.6%, Attorney General expenses have consistently been the Board's highest enforcement expense followed by evidence/witness fees, and the Office of Administrative Hearings. However, BPM has experienced large expense swings for each of the services. For example, in FY 2014-15, Attorney General expenses fell 35% since their high cost in FY 2010-11. The last three fiscal years Attorney General expenses have been significantly less than their five fiscal-year average. Costs for the Office of Administrative Hearing have also dropped significantly over time.

Table 13
Board of Podiatric Medicine Enforcement Expense Summary
FY's 2010-11 through 2014-2015

Description	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	5 FY Totals	Avg/Yr	% Total Exp
ATTORNEY GENL-INTERD	$214,127.20	$195,370.25	$124,999.00	$127,058.75	$138,523.75	$938,602.70	$187,720.54	16.6%
EVIDENCE/WITNESS FEE	43,191.44	31,211.46	40,685.70	1,029.00	25,300.83	166,719.26	33,343.85	2.9%
OFC ADMIN HEARNG-INT	15,030.00	17,674.00	6,404.00	12,662.00	3,901.25	59,572.50	11,914.50	1.1%
COURT REPORTER SERVS	1,127.50	670.00	500.00	0.00	1,700.00	5,697.50	1,139.50	0.1%
TOTALS	**$273,476.14**	**$244,925.71**	**$172,588.70**	**$140,749.75**	**$169,425.83**	**$1,170,591.96**	**$234,118.39**	**20.7%**

Source: CalSTARS reports for Board of Podiatric Medicine

Figure 4
Board of Podiatric Medicine Enforcement Expense Trends and Analysis
FY's 2010-11 through 2014-2015



General Office Expenses

There are 41 General Office Expense line items that comprise the Board's fourth largest recurring expense. Table 14 displays only the top 10 line items which represent 86.0% of all BPM General Office expenses. Office rent accounts for 4.5% of total expenses and has been stable over the past five fiscal years. Except for Information Technology expenses, most of the other line item expenses have been relatively small and consistent over the period reviewed. Appendix B contains a detailed itemization of all General Office Expenses.

Table 14
Board of Podiatric Medicine General Office Expense Summary
FY's 2010-11 through 2014-2015

Description	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	5 FY Totals	Avg/Yr	% Total Exp
RENT-BLDG/GRND(NON S	$43,112.08	$43,432.84	$45,152.79	$42,295.60	$41,160.25	$215,153.56	$43,030.71	4.5%
INFO TECHNOLOGY-EX	0.00	0.00	104.00	33,768.78	0.00	$33,872.78	6,774.56	0.7%
COMMERCIAL AIR-I/S	5,968.20	3,788.80	7,897.47	6,045.20	6,890.95	$30,590.62	6,118.12	0.6%
CELL PHONES,PDA,PAGE	4,114.11	2,673.12	4,674.63	4,602.67	3,019.40	$19,083.93	3,816.79	0.4%
FINGERPRINT REPORTS	3,515.00	3,459.00	3,984.00	3,527.00	3,528.00	$18,013.00	3,602.60	0.4%
MISC OFFICE SUPPLIES	3,239.80	2,349.81	2,553.44	968.73	2,934.18	$12,045.96	2,409.19	0.2%
TELEPHONE EXCHANGE	2,524.52	2,250.38	1,817.11	2,753.09	2,463.69	$11,808.79	2,361.76	0.2%
DUES & MEMBERSHIPS	2,325.00	2,325.00	2,328.15	2,325.00	2,325.00	$11,628.15	2,325.63	0.2%
SOFTWARE-IT PURCH,LI	0.00	2,671.82	2,257.84	2,426.93	2,565.21	$9,921.80	1,984.36	0.2%
PER DIEM-I/S	5,098.71	1,513.24	722.49	948.64	670.81	$8,953.89	1,790.78	0.2%

Source: CalSTARS reports for Board of Podiatric Medicine

Interagency Service Expenses

The final BPM expense item is for Interagency Services. Table 15 displays expenses for the services of the Consolidated Data Center which represent only 0.1% of total expenses.

Table 15
Board of Podiatric Medicine General Office Expense Summary
FY's 2010-11 through 2014-2015

Description	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	5 FY Totals	Avg/Yr	% Total Exp
CONSOLIDATED DATA CENTER	$2,546.68	$1,396.73	$758.14	$647.00	$0.00	$5,348.55	$1,069.71	0.1%
TOTALS	**$2,546.68**	**$1,396.73**	**$758.14**	**$647.00**	**$0.00**	**$5,348.55**	**$1,069.71**	**0.1%**

Source: CalSTARS reports for Board of Podiatric Medicine

Board Fund Balance

The following summarizes the Board 0295 fund balances for FY's 2010-11 through 2014-15. Table 16 shows that despite minor (up to 10%) fluctuations in revenue and expenses over the years, the fund balance increased by 15.9% over the five fiscal-year period. As a result, the Fund has a balance of $992,762 beginning FY 2015-16. The gain in FY 2014-15 is primarily due to average revenues and significant cost reduction from the prior fiscal year. This fiscal year BPM spent less than the prior four fiscal years. As a result, the Board's reserve has increased from 11+ months to 13.2 months. (The reserve value is calculated by dividing the beginning fund balance by total expenditures and multiplying the quotient by 12).

Table 16
Fund 0295 Board of Podiatric Medicine
Fund Balance Summary for FY's 2010-11 through 2014-2015

	7/1/2010	7/1/2011	7/1/2012	7/1/2013	7/1/2014
Beginning Fund Balance	**$ 1,010,867.04**	**$856,453.29**	**$858,824.11**	**$892,695.12**	**$947,012.37**
Prior Year Adjustments	(2,543.54)	4445.47	4,022.08	15,341.19	(2,129.10)
Total Prior Year Adjustments	1,008,323.50	860,898.76	862,846.19	908,036.31	944,883.27
Current Year Resources					
Total Revenue	883,431.90	921,301.29	895,002.90	995,830.38	909,352.15
Operating Transfers	0.00	0.00	0.00	0.00	0.00
Total Revenues & Other Adjustments	1,891,755.40	1,782,200.05	1,757,849.09	1,903,866.69	1,854,235.42
Total Expenditures	1,035,302.11	923,375.94	865,153.97	956,854.32	861,473.71
Expenditure Adjustments	0.00	0.00	0.00	0.00	0.00
Total Expenditures	1,035,302.11	923,375.94	865,153.97	956,854.32	861,473.71
Ending Fund Balance June 30, _____	**$856,453.29**	**$858,824.11**	**$892,695.12**	**$947,012.37**	**$992,761.71**
Months in Reserve	**11.7**	**11.1**	**11.9**	**11.2**	**13.2**

Source: State of California Detailed Fund Balance Report

Fee Projections

The study goal is to determine if fees are properly aligned and sufficient to recover the actual cost of the BPM programs and maintain 12 months of income in reserve. The following presents the Board's summarized revenue and expenditure history, pertinent revenue and expense assumptions used to project fees and estimated expenses for FYs 2015-16 through 2019-20, and projections based on the average case scenario. In addition, this section explains the methodology and results used to compute an hourly rate to cover current fee schedule and non-fee schedule tasks/services.

Revenue and Expenditure History

Table 17 summarizes the Board's revenues, expenditures and revenue-offsetting reimbursements to show the net appropriation and net income or loss for the five fiscal years reviewed. The Board suffered a loss in FY 2010-11, but net income since FY 2011-12 offset the loss in FY 2013-14 (see running balance below). While cost control will always be paramount to BPM, the key to long-term sustainability is revenue growth.

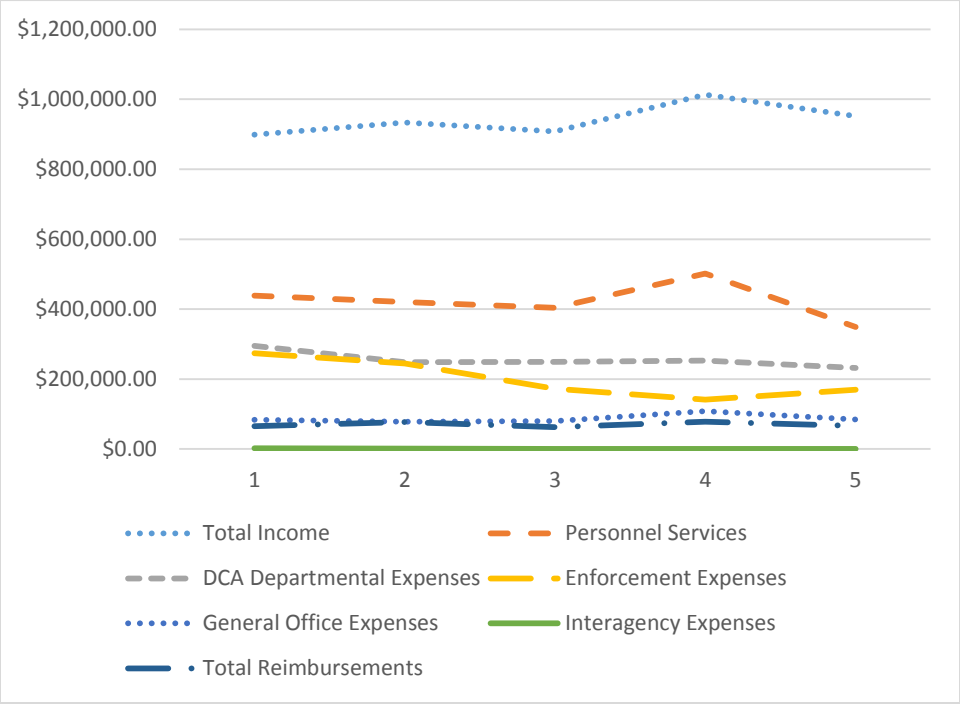
Table 17
Board of Podiatric Medicine Revenue and Expenditure History
FY's 2010-11 through 2014-2015

DESCRIPTION	2010-11	2011-12	2012-13	2013-14	2014-15	Avg/Yr
Revenues						
Fee Schedule income	$883,615.90	$921,468.29	$895,215.90	$997,251.38	$921,154.18	$923,741.13
Non-Fee Schedule income	15,115.90	12,088.29	12,752.90	16,105.38	30,318.06	$17,276.11
Total Income	**$898,731.80**	**$933,556.58**	**$907,968.80**	**$1,013,356.76**	**$951,472.24**	**$941,017.24**
Expenses						
Personnel Services	$438,122.69	$419,902.32	$403,916.28	$501,469.26	$349,048.19	$422,491.80
DCA Departmental Expenses	294,446.07	248,125.76	249,082.93	252,770.64	232,174.36	$255,319.95
Enforcement Expenses	273,476.14	244,925.71	172,588.70	140,749.75	169,425.83	$200,233.23
General Office Expenses	83,607.30	78,328.30	80,330.54	108,692.67	84,222.40	$87,036.24
Interagency Expenses	2,546.68	1,396.73	758.14	647.00	0.00	$1,069.71
Total Expenses	**$1,092,198.88**	**$992,678.82**	**$906,676.59**	**$1,004,329.32**	**$834,870.78**	**$966,150.93**
Reimbursements						
Investigative Cost Recovery	$58,198.39	$70,113.54	$57,380.77	$72,020.75	$59,899.71	$63,522.63
Fingerprints	3,366.00	3,845.00	4,020.00	3,871.00	3,773.00	$3,775.00
External Private Grants	3,175.00	3,135.00	1,195.00	1,645.00	2,115.00	$2,253.00
Dishonored Check Fees	25.00	100.00	25.00	75.00	100.00	$65.00
Over/Short Fees	180.00	53.00	-50.00	4.00	0.09	$37.42
Misc. Services to the Public	11.00	0.00	52.00	85.00	0.00	$29.60
Total Reimbursements	**$64,955.39**	**$77,246.54**	**$62,622.77**	**$77,700.75**	**$65,887.80**	**$69,682.65**
Net Appropriation	1,027,243.49	915,432.28	844,053.82	926,628.57	768,982.98	896,468.28
Net Income/(Loss)	**($128,511.69)**	**$18,124.30**	**$63,914.98**	**$86,728.19**	**$182,489.26**	**$44,548.96**
Running Balance	($128,511.69)	($110,387.39)	($46,472.41)	$40,255.78	$222,745.04	

Source: CalSTARS reports for Board of Podiatric Medicine

Figure 5 graphically displays the Board's revenue and expenditure trends over the five fiscal-year period reviewed. Revenue has remained stable. Personnel Service expenses have climbed and dropped. Enforcement expenses have dropped. Departmental expenses have stabilized. General Office and Interagency expenses, and Reimbursements have remained constant and low.

Figure 5
Board of Podiatric Medicine Revenue and Expenditure Trends and Analysis
FY's 2010-11 through 2014-2015



Projection Assumptions and Results

CPS used conservative assumptions and incorporated the Department of Finance's (DOF) September 16, 2015 budget letter guidance to project the average case revenue and expenses displayed in Table 18a and 18b for the five fiscal-year period.

Assumptions

- Beginning revenue is estimated to be equal to the five fiscal-year average shown in Table 17 and is projected to remain flat (0%) each year over the projection period.
- Licensees are expected to retire at age 65, which will impact total revenue by $912 per retiree each year for the projection period.
- Beginning salary & wage expenses are estimated to be equal to the five fiscal-year average displayed in Table 17 and are projected to increase 2.5% per year for the projection period according to the SEIU collective bargaining agreement. This assumes no increase in staffing levels over the five fiscal-year period.

- Employee benefit expenses reflect the DOF budget letter guidance for FY's 2015-16, 2016-17 and thereafter. These include factors for OASDI, Medicare taxation, Medical Care, Health Benefits, and Retirement with increases of 3% per year over the projection period.
- Other operating expenses (DCA Departmental, Enforcement, General Office and Interagency) are estimated to be equal to their respective five fiscal-year averages revealed in Table 17 and are projected to increase 2.0% in FY 2015-16, 4.1% in FY 2016-17, and 2.5% per fiscal year thereafter to reflect inflation for the projection period.
- Beginning reimbursements are estimated to be equal to the five-fiscal year average presented in Table 17 and are projected to increase 1% per fiscal year for the projection period. Reimbursements reduce total expenditures on a dollar for dollar basis.

Results

Based on the previous assumptions, Table 18a displays the Board's projected average case revenue and expenditures for the period from FY 2015-16 through FY 2019-20. The table indicates a growing, negative running balance of $150,512 at the end of the five-fiscal year projection period, demonstrating fee increases are warranted at this time.

Table 18a
Board of Podiatric Medicine Best Case Revenue and Expenditure Projection
FY's 2015-16 through 2019-2020

DESCRIPTION	Avg/Yr	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Projected Revenues						
0% increase per year						
5 Year Average Income	**$941,017.24**	**$941,017.24**	**$941,017.24**	**$941,017.24**	**$941,017.24**	**$941,017.24**
Less potential retiree impact	$3,648.00	$3,648.00	$3,648.00	$3,648.00	$3,648.00	$3,648.00
Total Income	**$937,369.24**	**$937,369.24**	**$937,369.24**	**$937,369.24**	**$937,369.24**	**$937,369.24**
Projected Expenses						
% increase per year		*1.025*	*1.025*	*1.025*	*1.025*	*1.025*
Personnel Services - wages	$306,669.23	$314,335.96	$322,194.36	$330,249.22	$338,505.45	$346,968.09
% increase per year		*1.03*	*1.03*	*1.03*	*1.03*	*1.03*
Personnel Services - benefits	$115,822.57	$119,297.24	$122,876.16	$126,562.45	$130,359.32	$134,270.10
Personnel subtotal	**$422,491.80**	**$433,633.20**	**$445,070.52**	**$456,811.66**	**$468,864.77**	**$481,238.18**
Non-Personnel Expenses						
Inflation per year		*1.02*	*1.041*	*1.025*	*1.025*	*1.025*
DCA Departmental Expenses	$255,319.95	$260,426.35	$271,103.83	$277,881.43	$284,828.46	$291,949.17
Enforcement Expenses	200,233.23	204,237.89	212,611.65	217,926.94	223,375.11	228,959.49
General Office Expenses	87,036.24	88,776.96	92,416.82	94,727.24	97,095.42	99,522.81
Interagency Expenses	1,069.71	1,091.10	1,135.84	1,164.24	1,193.34	1,223.17
Non-Personnel subtotal	**$543,659.13**	**$554,532.31**	**$577,268.14**	**$591,699.84**	**$606,492.34**	**$621,654.65**
Total Expenses	**$966,150.93**	**$988,165.52**	**$1,022,338.66**	**$1,048,511.51**	**$1,075,357.11**	**$1,102,892.83**
Projected Reimbursements						
% increase per year		*1.01*	*1.01*	*1.01*	*1.01*	*1.01*
Total Reimbursements	**$69,682.65**	**$70,379.48**	**$71,083.27**	**$71,794.10**	**$72,512.05**	**$73,237.17**
Net Appropriation	$896,468.28	$917,786.04	$951,255.39	$976,717.40	$1,002,845.06	$1,029,655.67
Net Income/(Loss)	**40,900.96**	**19,583.20**	**(13,886.15)**	**(39,348.16)**	**(65,475.82)**	**(92,286.43)**
Running Balance	***$40,900.96***	***$60,484.16***	***$46,598.01***	***$7,249.85***	***($58,225.97)***	***($150,512.40)***

Table 18b displays the Board's average case estimated fund balance using the results generated in Table 18a and indicates a falling reserve that drops to 10.4 months at the end of the five fiscal-year projection period, and again, demonstrates fees increases are warranted at this time.

Table 18b
Board of Podiatric Medicine Average Case Estimated Fund Balance Summary
FY's 2015-16 through 2019-2020

	7/1/2015	7/1/2016	7/1/2017	7/1/2018	7/1/2019
Beginning Fund Balance	**$992,761.71**	**$1,012,344.91**	**$998,458.76**	**$959,110.59**	**$893,634.77**
Current Year Estimated Resources					
Total Annual Revenue	937,369.24	937,369.24	937,369.24	937,369.24	937,369.24
Total Revenues	**$1,930,130.95**	**$1,949,714.15**	**$1,935,828.00**	**$1,896,479.83**	**$1,831,004.01**
Expenditures & Reimbursements					
Expenditures	988,165.52	1,022,338.66	1,048,511.51	1,075,357.11	1,102,892.83
Less Reimbursements	70,379.48	71,083.27	71,794.10	72,512.05	73,237.17
Total Expenditures	**$917,786.04**	**$951,255.39**	**$976,717.41**	**$1,002,845.06**	**$1,029,655.66**
Ending Fund Balance June 30, _____	**$1,012,344.91**	**$998,458.76**	**$959,110.59**	**$893,634.77**	**$801,348.35**
Months in Reserve	**13.0**	**12.8**	**12.3**	**11.5**	**10.4**

Fee and Non-Fee Schedule Hourly Rate

As previously indicated, the BPM fee schedule displayed as Table 4 on page 18 does not accurately reflect all the potential revenues for which the Board may charge. The fee schedule could be better organized, all-inclusive and easier for applicants to understand. Table 19, prepared by BPM staff, meets these requirements.

Table 19
Revised Board of Podiatric Fee Schedule

Rev Code	Description	Fee
INITIAL APPLICATION - DPM PERMANENT LICENSE		***$1,018***
125700 6A*	Application fee	*$20*
125700 6D	Wall certificate	*$100*
125700 8D	Initial license	*$800*
125700 8E	Initial license 1/2 year**	$400
None	Fingerprint fees	*$49*
INITIAL APPLICATION - DPM RESIDENT LICENSE		***$129***
125700 6A*	Application fee	*$20*
125600 6K*	Resident's training license	*$60*
None	Fingerprint fees	*$49*
DPM RENEWAL		***$912***
125800 6K*	Biennial renewal	*$900*
125600 4G*	CURES renewal assessment	*$12*
125900 6D*	DPM delinquent fee (30-89 days late)	$150
None	Delinquent after 90 days (Penalty)	$450
FICTITIOUS NAME PERMIT		
125700 6B	Fictitious name permit	$50
FICTITIOUS NAME PERMIT RENEWAL		
125800 6F	Fictitious name renewal	$40
125900 6E	Fictitious name permit - delinquent renewal	$20
MISC - DPM (PERM & RES) LICENSE		
125600 6L*	Duplicate license	$40
125600 6N*	Letter of Good Standing	$30
MISC - BPM		
125600 6S*	CME course approval	$100
125600 6T	Exam appeal	$25
125700 6Q	Ankle certification	$50
** On published fee schedule*		
*** Fee rarely used so not included in total initial application fee*		

Source: BPM staff

As previously indicated, the Biennial License fee was permanently increased to $900 in 2004. However, the other scheduled fees shown in Table 4 on page 17 and Table 19 above have not been changed since 1989 and do not accurately reflect the time it takes BPM staff to provide the services.

In addition, Table 9, Board of Podiatric Medicine Unscheduled Reimbursement Summary, on page 22 shows over the past five fiscal years BPM received a total of $148 in unscheduled reimbursement for miscellaneous services to the general public (last row on the chart). The Board's existing fee schedule does not contain a fee for these unscheduled services.

One of the objectives of this study was to establish a cost basis to assess for services provided by BPM when a separate fee does not exist. The most convenient and fairest way to charge for

unscheduled services is to determine an hourly charge based on full absorption costing that considers all BPM costs and all available staff hours. By dividing BPM's average expenses for the last five fiscal years by total staff available hours, an hourly rate can be derived. For example, the average yearly expenses for five fiscal years shown in Table 17 on page 26 is $915,421. Dividing this average by total annual available staff hours (5 staff x 1,776 hours/year) yields an hourly rate rounded down to approximately $100 per hour. Depending on the time it takes to provide a specific non-fee schedule service, a fee could be calculated accordingly. For example, a one-hour task would be charged $100 or $50 for a half-hour task.

Based on this hourly rate, Table 20 shows the current and proposed fee changes based on the actual time it takes BPM staff to complete the listed task. In particular, during the review staff disclosed it takes a comparable amount of time to process an initial application for a DPM resident license as it does to process a permanent DPM license. As a result, the table proposes a significant change for the initial resident license fee and displays other proposed fee changes.

Table 20
Revised Board of Podiatric Current and Proposed Fee Changes

Rev Code	Description	Current	Proposed
INITIAL APPLICATION - DPM RESIDENT LICENSE		***$129***	***$769***
125700 6A*	Application fee	*$20*	*$20*
125600 6K*	Resident's training license	*$60*	*$700*
None	Fingerprint fees	*$49*	*$49*
FICTITIOUS NAME PERMIT RENEWAL			
125800 6F	Fictitious name renewal	$40	$50
125900 6E	Fictitious name permit - delinquent renewal	$20	$50
MISC - DPM (PERM & RES) LICENSE			
125600 6L*	Duplicate license	$40	$50
125600 6N*	Letter of Good Standing	$30	$50
MISC - BPM			
125600 6T	Exam appeal	$25	$100
125700 6Q	Ankle certification	$50	$100
** On published fee schedule*			

Recommendations

2. BPM management should develop, approve and implement a revised fee schedule as soon as possible, and post it on the Board's website.
3. When appropriate, BPM should charge for schedule and unscheduled services based on a fully absorbed cost rate of $100 per hour. Services should be charged accordingly based on the actual time BPM consumes to provide the service.
4. BPM should increase specific fees for DPM resident license, fictitious name renewal, fictitious name permit delinquent renewal, duplicate license, letter of good standing, exam appeal and ankle certification based on the fully absorbed cost rate of $100 per hour.

Appendix A: DCA Board/Bureau Licensing Fees and Cycles

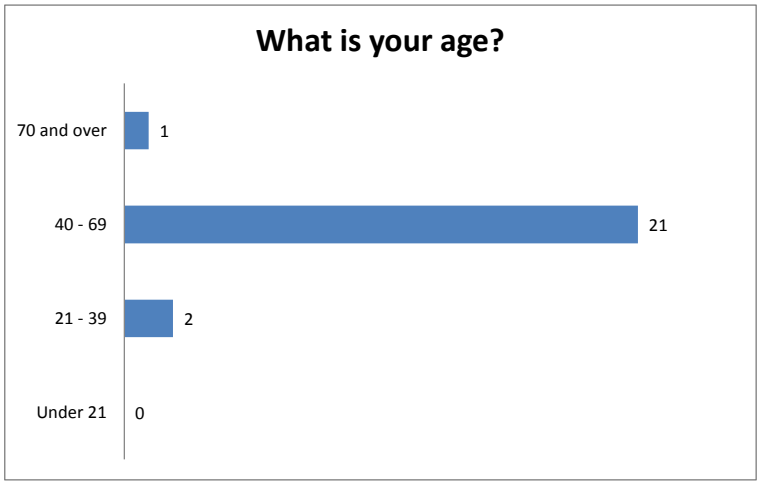
BOARD/BUREAU	FEE	CYCLE
FIDUCIARIES	***$700.00***	***ANNUAL***
PODIATRIC	**$900.00**	**BIENNIAL**
NATUROPATHIC MEDICINE	$800.00	BIENNIAL
MEDICAL BOARD	$783.00	BIENNIAL
HEARING AID	***$280.00***	***ANNUAL***
DENTAL BD	$525.00	BIENNIAL
CHIRO	***$250.00***	***ANNUAL***
REAL ESTATE	***$245.00***	***ANNUAL***
REAL ESTATE APPRAISERS	$435.00	BIENNIAL
OPTOMETRY	$425.00	BIENNIAL
OSTEO	$400.00	BIENNIAL
PSYCHOLOGY	$400.00	BIENNIAL
CONTRACTORS LICENSE BD	$360.00	BIENNIAL
ACUPUNCTURE	$325.00	BIENNIAL
ARCHITECTS	$300.00	BIENNIAL
PHYSICIAN ASSIST BD	$300.00	BIENNIAL
PSYCHIATRIC TECHNICIANS	$300.00	BIENNIAL
VET MED	$290.00	BIENNIAL
GEOLOGIST	$270.00	BIENNIAL
COURT REPORTERS	***$125.00***	***ANNUAL***
RESP CARE	$230.00	BIENNIAL
PHYSICAL THERAPY	$200.00	BIENNIAL
PHARMACIST	$195.00	BIENNIAL
HYGIENISTS	$160.00	BIENNIAL
ENGINEER	$150.00	BIENNIAL
OCCUPATIONAL THERAPY	$150.00	BIENNIAL
VOC NURSE	$150.00	BIENNIAL
VET TECH	$140.00	BIENNIAL
BEHAVIOR SCIENCE	$130.00	BIENNIAL
PHARMACY TECH	$130.00	BIENNIAL
REGISTERED NURSING	$130.00	BIENNIAL
SPEECH	$110.00	BIENNIAL
DENTAL ASSISTS	$70.00	BIENNIAL
STRUCTURAL PEST	***$120.00***	***TRIENNIAL***
ACCOUNTANCY	$50.00	BIENNIAL
BARBER/COSMO	$50.00	BIENNIAL

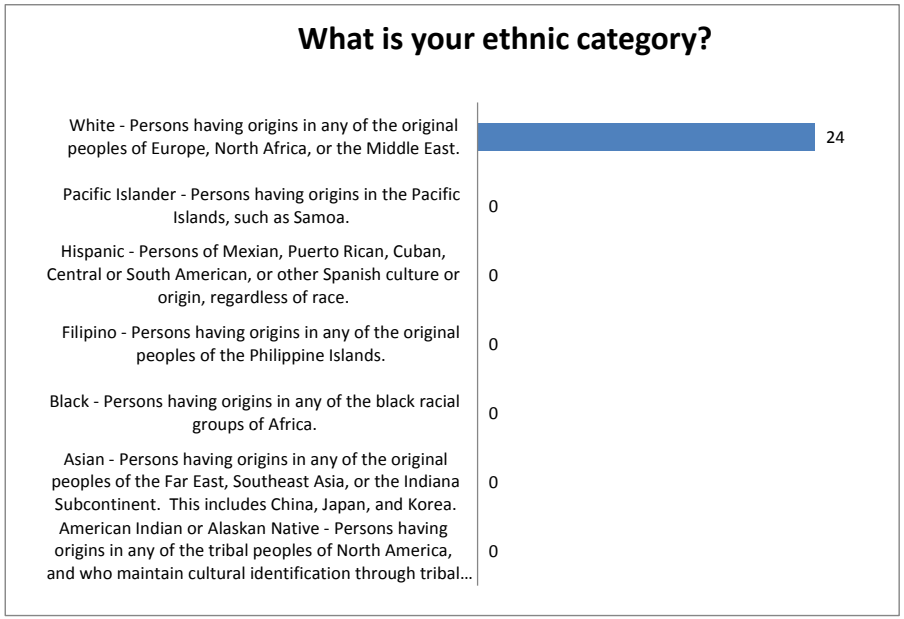
Source: DCA Budget Office

Appendix B: General Office Expenses

Description	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	5 FY Totals	Avg/Yr	% Total Exp
RENT-BLDG/GRND(NON S	$43,112.08	$43,432.84	$45,152.79	$42,295.60	$41,160.25	$256,313.81	$51,262.76	4.5%
COMMERCIAL AIR-I/S	5,968.20	3,788.80	7,897.47	6,045.20	6,890.95	37,481.57	7,496.31	0.7%
INFO TECHNOLOGY-EX	0.00	0.00	104.00	33,768.78	0.00	33,872.78	6,774.56	0.6%
CELL PHONES,PDA,PAGE	4,114.11	2,673.12	4,674.63	4,602.67	3,019.40	22,103.33	4,420.67	0.4%
FINGERPRINT REPORTS	3,515.00	3,459.00	3,984.00	3,527.00	3,528.00	21,541.00	4,308.20	0.4%
MISC OFFICE SUPPLIES	3,239.80	2,349.81	2,553.44	968.73	2,934.18	14,980.14	2,996.03	0.3%
TELEPHONE EXCHANGE	2,524.52	2,250.38	1,817.11	2,753.09	2,463.69	14,272.48	2,854.50	0.3%
DUES & MEMBERSHIPS	2,325.00	2,325.00	2,328.15	2,325.00	2,325.00	13,953.15	2,790.63	0.2%
SOFTWARE-IT PURCH,LI	0.00	2,671.82	2,257.84	2,426.93	2,565.21	12,487.01	2,497.40	0.2%
STAMPS, STAMP ENVEL	1,341.48	2,034.78	1,535.32	1,969.18	1,630.04	10,140.84	2,028.17	0.2%
PER DIEM-I/S	5,098.71	1,513.24	722.49	948.64	670.81	9,624.70	1,924.94	0.2%
C&P EXT ADMIN CR C	0.00	0.00	3.73	0.00	4,500.00	9,003.73	1,800.75	0.2%
MIN EQPMT-GEN-REPL	0.00	0.00	706.00	0.00	3,782.48	8,270.96	1,654.19	0.1%
PRIVATE CAR-I/S	2,189.10	1,417.75	1,155.88	1,287.86	966.00	7,982.59	1,596.52	0.1%
METRO PRINT/MAIL	0.00	0.00	339.00	1,958.02	2,584.73	7,466.48	1,493.30	0.1%
MIN EQPMT-DP-REPL	857.11	4,000.22	437.99	0.00	0.00	5,295.32	1,059.06	0.1%
PAMPHLT/LEAFLT/BROCH	3,305.00	1,453.00	497.00	0.00	0.00	5,255.00	1,051.00	0.1%
FACILITY PLNG-DGS	776.04	820.36	835.32	830.67	774.40	4,811.19	962.24	0.1%
SUPPLIES-IT (PAPER,	1,435.30	977.30	1,180.30	1,093.66	32.50	4,751.56	950.31	0.1%
FREIGHT & DRAYAGE	582.18	514.73	406.98	306.21	1,186.95	4,184.00	836.80	0.1%
OFFICE COPIER EXP	396.00	396.00	453.05	614.72	726.00	3,311.77	662.35	0.1%
RENTAL CAR-I/S	1,111.61	375.12	792.08	375.13	74.63	2,803.20	560.64	0.0%
LIBRARY PURCH/SUBSCR	34.00	218.49	0.00	0.00	755.95	1,764.39	352.88	0.0%
TAXI & SHUTTLE SERV-	311.30	54.00	158.15	309.20	183.30	1,199.25	239.85	0.0%
WASTE REMOVAL	0.00	0.00	0.00	0.00	571.50	1,143.00	228.60	0.0%
EDD PRODUCTIONS	0.00	463.00	313.00	109.00	0.00	885.00	177.00	0.0%
ATH INSP MSC 906,910	0.00	817.53	0.00	0.00	0.00	817.53	163.51	0.0%
MIN EQPMT-CELL PHO	0.00	0.00	0.00	0.00	400.37	800.74	160.15	0.0%
MTG/CONF/EXHIBIT/SHO	563.78	0.00	0.00	0.00	0.00	563.78	112.76	0.0%
MGMT/TRANS FEE-I/S	0.00	0.00	0.00	10.00	212.00	434.00	86.80	0.0%
TUITN/REGISTRATN FEE	375.00	0.00	0.00	0.00	0.00	375.00	75.00	0.0%
CALATERS SERVICE FEE	0.00	36.00	0.00	52.00	112.00	312.00	62.40	0.0%
MIN EQPMT-CELL PHONE	291.94	0.00	0.00	0.00	0.00	291.94	58.39	0.0%
RAIL AND BUS-I/S	55.80	0.00	0.00	7.00	93.00	248.80	49.76	0.0%
TRANSCRIPTION SVS	0.00	171.75	0.00	0.00	0.00	171.75	34.35	0.0%
REPRODUCTION SVS	53.25	36.65	3.07	26.88	0.00	119.85	23.97	0.0%
FAX	1.75	4.37	1.75	58.26	24.06	114.25	22.85	0.0%
RECURRING MAINT SV	0.00	0.00	0.00	0.00	55.00	110.00	22.00	0.0%
PRINTED FORM/STATNRY	13.24	23.24	20.00	23.24	0.00	79.72	15.94	0.0%
TRAINING	0.00	50.00	0.00	0.00	0.00	50.00	10.00	0.0%
ELECT WASTE RECYCLE/	16.00	0.00	0.00	0.00	0.00	16.00	3.20	0.0%
TOTALS	**$83,607.30**	**$78,328.30**	**$80,330.54**	**$108,692.67**	**$84,222.40**	**$519,403.61**	**$103,880.72**	**9.2%**

Equal Employment Opportunity Questionnaire



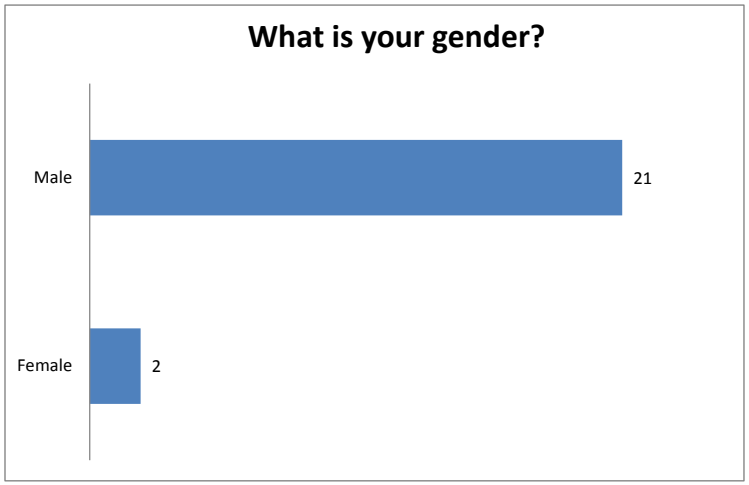


Q1 What is your age?

Under 21	0	0.00%
21 - 39	2	8.33%
40 - 69	21	87.50%
70 and over	1	4.17%
Total	**24**	

Q3 What is your ethnic category? (Please check the box that best describes your race/ethnicity):

American Indian or Alaskan Native - Persons having origins in any of the tribal peoples of North America, and who maintain cultural identification through tribal affiliation or community.	0	0.00%
Asian - Persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indiana Subcontinent. This includes China, Japan, and Korea.	0	0.00%
Black - Persons having origins in any of the black racial groups of Africa.	0	0.00%
Filipino - Persons having origins in any of the original peoples of the Philippine Islands.	0	0.00%
Hispanic - Persons of Mexian, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.	0	0.00%
Pacific Islander - Persons having origins in the Pacific Islands, such as Samoa.	0	0.00%
White - Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.	24	100.00%
Total	**24**	

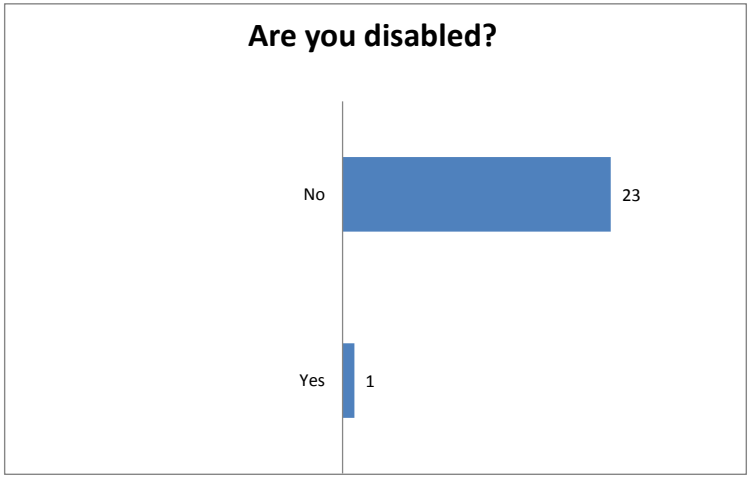


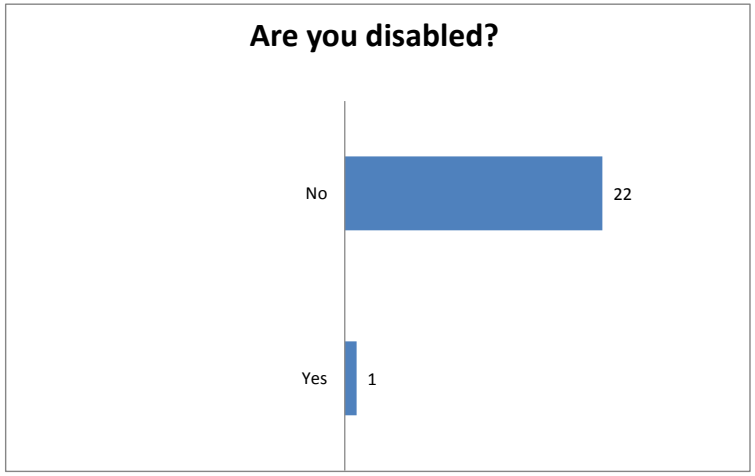
Q2 What is your gender?

Female	2	8.33%
Male	21	91.30%
No answer/skipped	1	
Total	**24**	

EXHIBIT C1

Equal Employment Opportunity Questionnaire





Q4 Are you disabled? - A person with a disability is an individual who: (1) has a physical or mental impairment that substantially limits one or more life activities, such as walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself or working, ...; (2) has a record of such an impairment; (3) is regarded as having such an impairment.

Yes	1	4.17%
No	23	95.83%
Total	**24**	

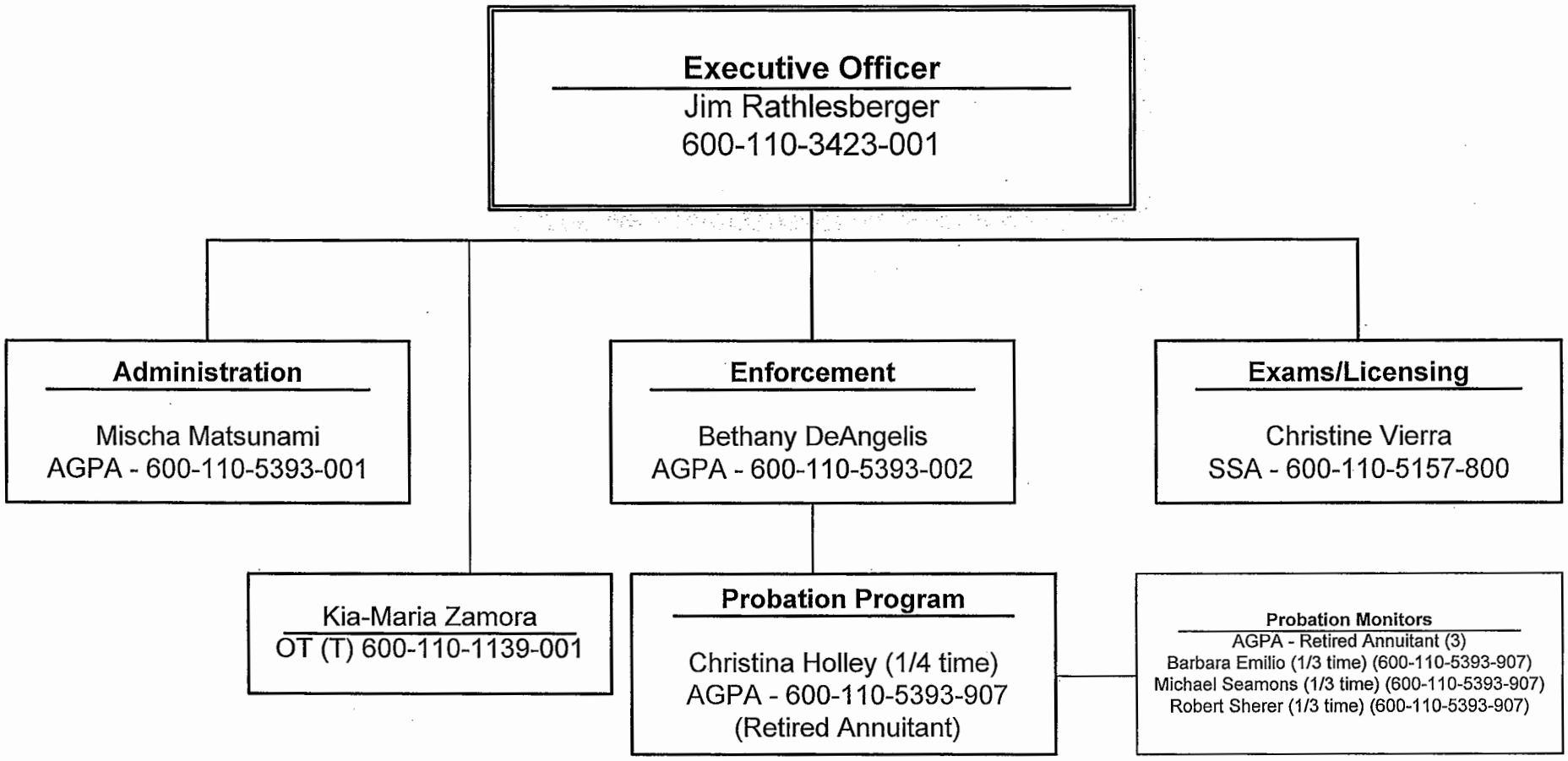
Q5 Are you a military veteran; widow or widower of a veteran; or a spouse of a 100% disabled veteran?

Yes	1	4.35%
No	22	95.65%
No answer/skipped	1	
Total	**24**	

Department of Consumer Affairs
Board of Podiatric Medicine

July 1, 2011

FY 2011-12
5.0 PY



James H. Rathlesberger, Executive Officer

Elesia Ray, Personnel Analyst

EXHIBIT D

Department of Consumer Affairs
Board of Podiatric Medicine

July 1, 2012

FY 2012-13
5.0 PY

Executive Officer
Jim Rathlesberger
600-110-3423-001

Administration
Mischa Matsunami
AGPA - 600-110-5393-001

Kia-Maria Zamora
OT (T) 600-110-1139-001

Enforcement
Bethany DeAngelis
AGPA - 600-110-5393-002

Probation Program
Probation Program Coordinator
(Retired Annuitant -1/4 time)
AGPA - 600-110-5393-907
Vacant

Probation Monitors
AGPA - Retired Annuitant (4)
Barbara Emilio (1/4time) (600-110-5393-907)
Michael Seamons (1/4 time) (600-110-5393-907)
Robert Sherer (1/4 time) (600-110-5393-907)
Michael Brown (1/4 time) (600-110-5393-907)

Exams/Licensing
Christine Raymond
SSA - 600-110-5157-800

James H. Rathlesberger, Executive Officer

Elesia Ray, Personnel Analyst

EXHIBIT E

Department of Consumer Affairs
BOARD OF PODIATRIC MEDICINE
July 1, 2013

NHA/C&P RECEIVED AUG 14 2013

BOARD MEMBERS

CURRENT
FY 2013-14
Authorized Positions: 5.00
Temp Help (907 Blanket): 4.00

Executive Officer
James "Jim" Rathlesberger
600-110-3423-001

Kia-Maria Zamora
Office Technician (Typing)
600-110-1139-001

ADMINISTRATION

Mischa Matsunami
Assoc. Gov. Program Analyst
600-110-5393-001

ENFORCEMENT

Bethany DeAngelis
Assoc. Gov. Program Analyst
600-110-5393-002

Probation Monitors

Fernando "Fred" Argosino
Assoc. Gov. Program Analyst
(Retired Annuitant)
600-110-5393-907

Michael Brown
Assoc. Gov. Program Analyst
(Retired Annuitant)
600-110-5393-907

Michael Seamons
Assoc. Gov. Program Analyst
(Retired Annuitant)
600-110-5393-907

Robert Sherer
Assoc. Gov. Program Analyst
(Retired Annuitant)
600-110-5393-907

EXAMS AND LICENSING

Christine Raymond
Staff Services Analyst (G)
600-110-5157-800

[signature] 8-7-13
Executive Officer Date

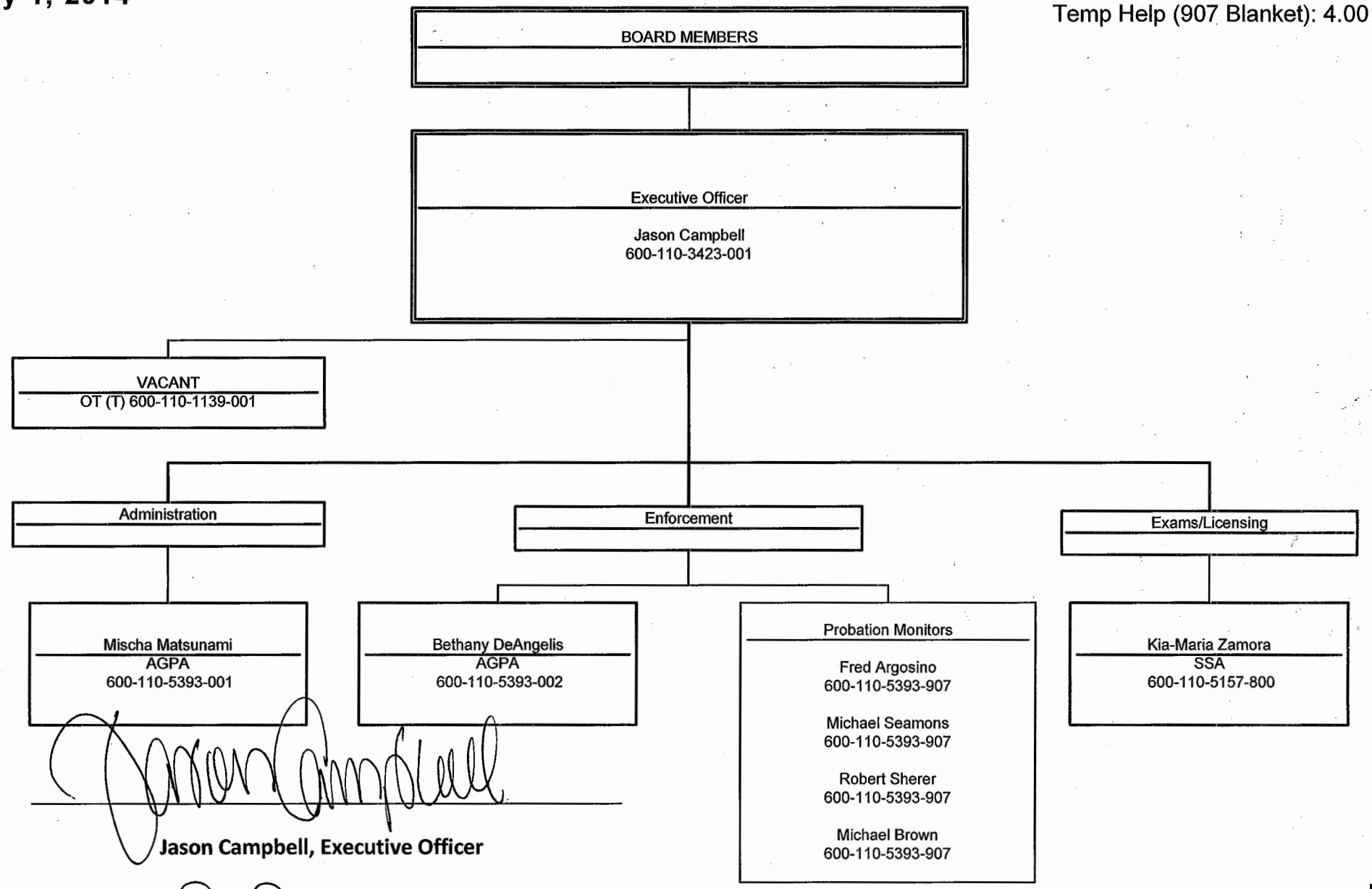
Nicholas A. Reitor 8/15/2013
Personnel Analyst Date

NOTE: All positions are CORI designated.

EXHIBIT F

Department of Consumer Affairs
Board of Podiatric Medicine
July 1, 2014

CURRENT
FY 2014-15
Authorized Positions: 5.00
Temp Help (907 Blanket): 4.00



Jason Campbell, Executive Officer

Korey Landry, Personnel Analyst

EXHIBIT G

EXHIBIT H

Department of Consumer Affairs

Board of Podiatric Medicine

Performance Measures

Q1 Report *(July - September 2011)*

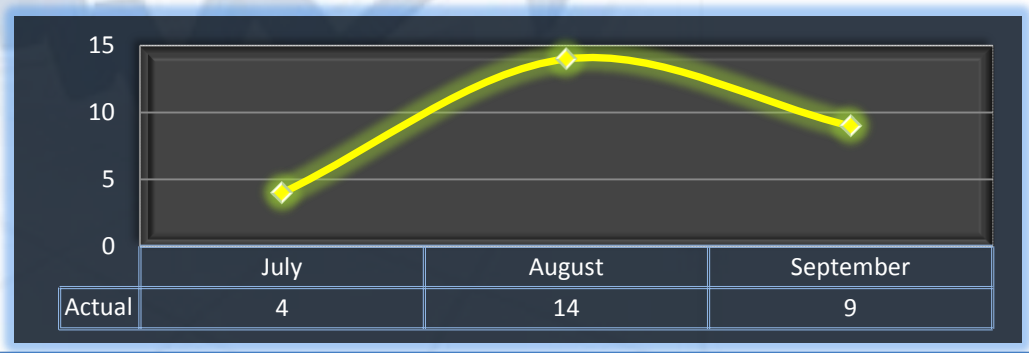
To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints and convictions received.

Q1 Total: 27

Q1 Monthly Average: 9



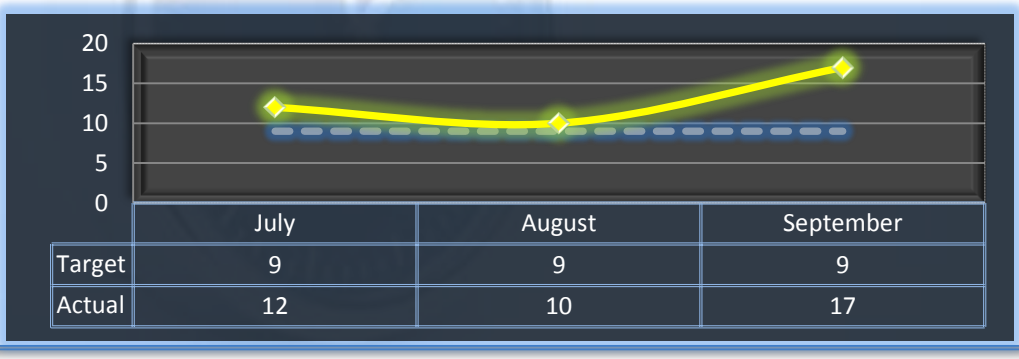
	July	August	September
Actual	4	14	9

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q1 Average: 12 Days



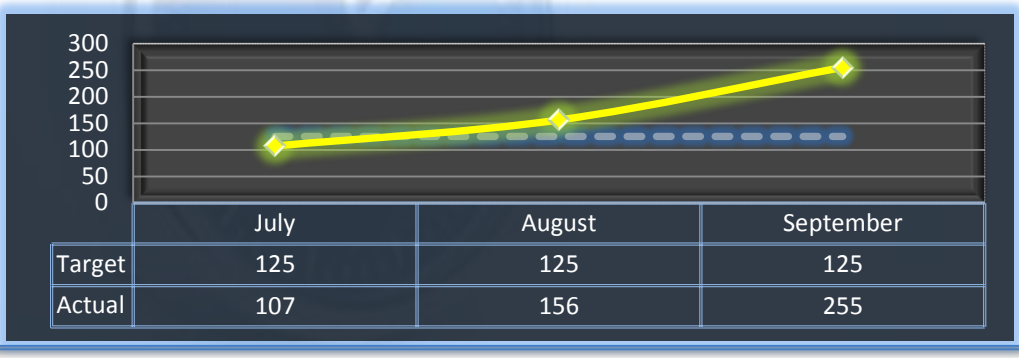
	July	August	September
Target	9	9	9
Actual	12	10	17

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 125 Days

Q1 Average: 175 Days



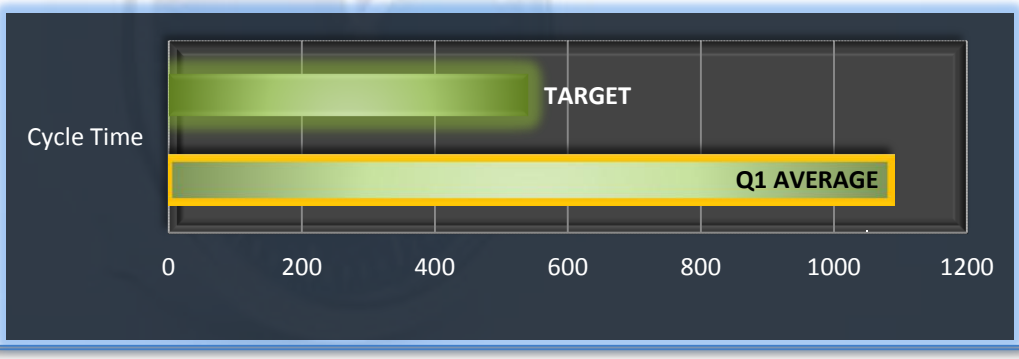
	July	August	September
Target	125	125	125
Actual	107	156	255

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q1 Average: 1,084 Days



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 25 Days

Q1 Average: N/A

The Board did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 14 Days

Q1 Average: N/A

The Board did not handle any probation violations this quarter.

EXHIBIT I

Department of Consumer Affairs

Board of Podiatric Medicine

Performance Measures

Q3 Report *(January - March 2012)*

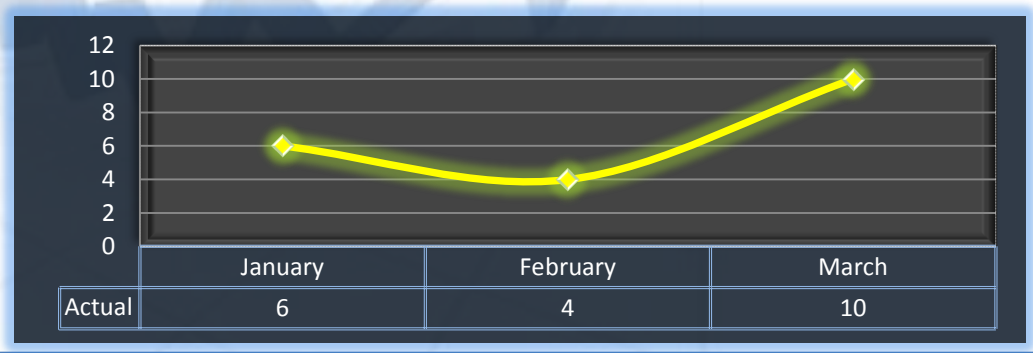
To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints and convictions received.

Q3 Total: 20

Q3 Monthly Average: 7

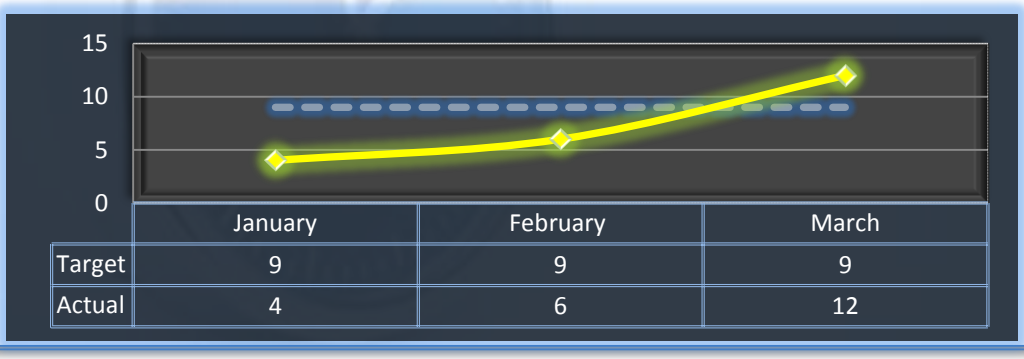


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q3 Average: 9 Days

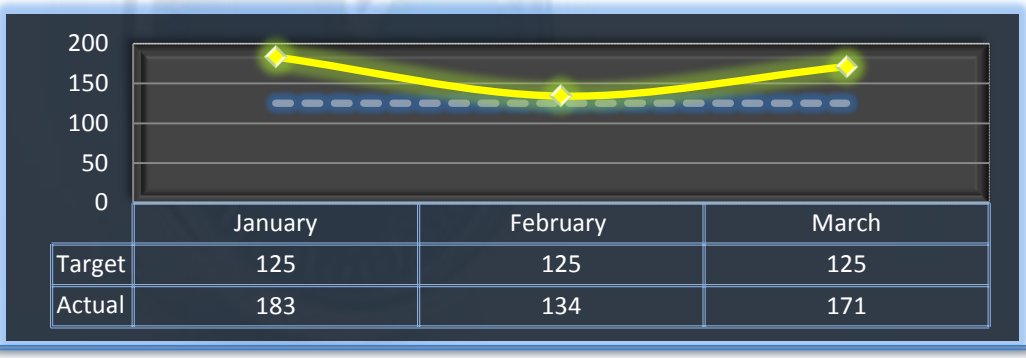


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 125 Days

Q3 Average: 158 Days



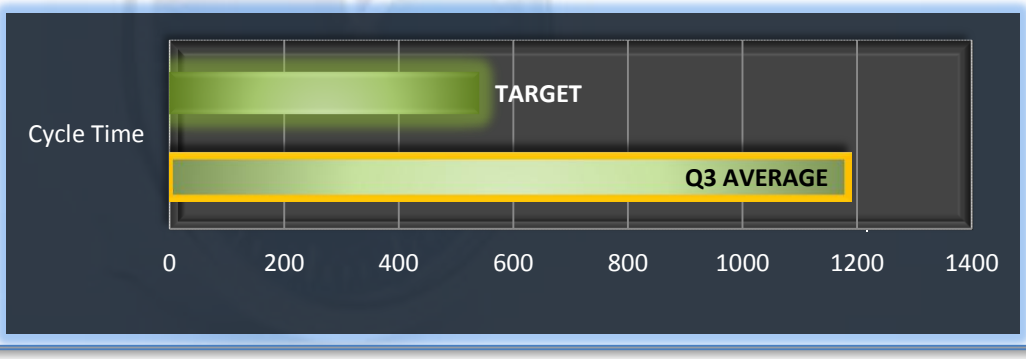
	January	February	March
Target	125	125	125
Actual	183	134	171

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q3 Average: 1,182 Days



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 25 Days

Q3 Average: N/A

The Board did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 14 Days

Q3 Average: N/A

The Board did not handle any probation violations this quarter.

EXHIBIT J

Department of Consumer Affairs

Board of Podiatric Medicine

Performance Measures

Q4 Report *(April - June 2012)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

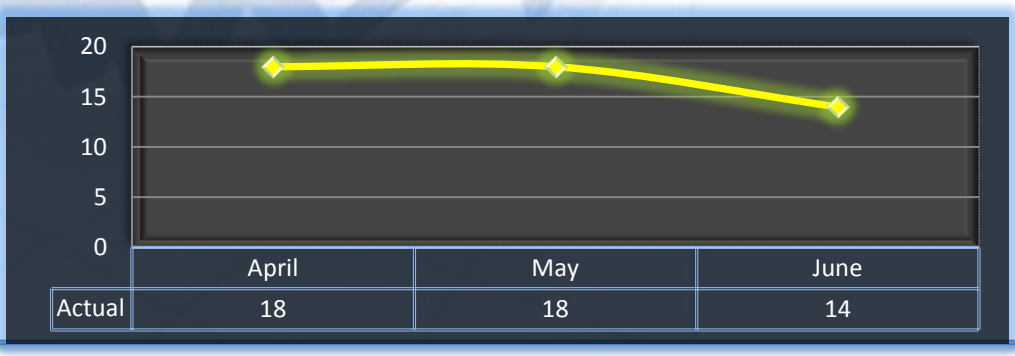
Volume

Number of complaints and convictions received.

Q4 Total: 50

Q4 Monthly Average: 17

Complaints: 45 Convictions: 5

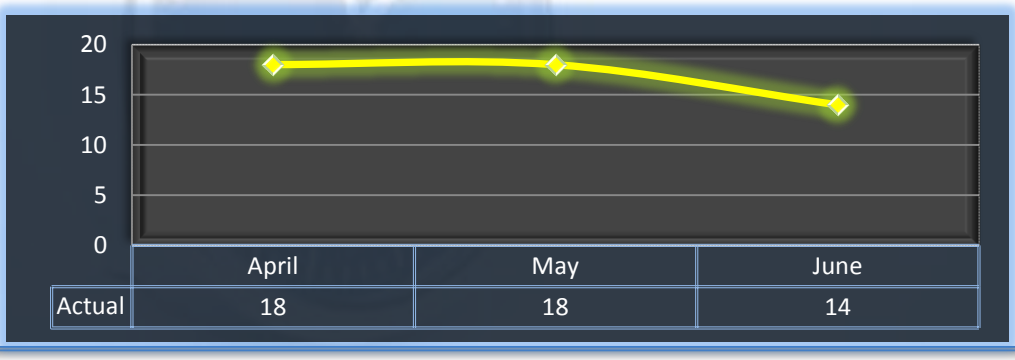


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q4 Average: 9 Days

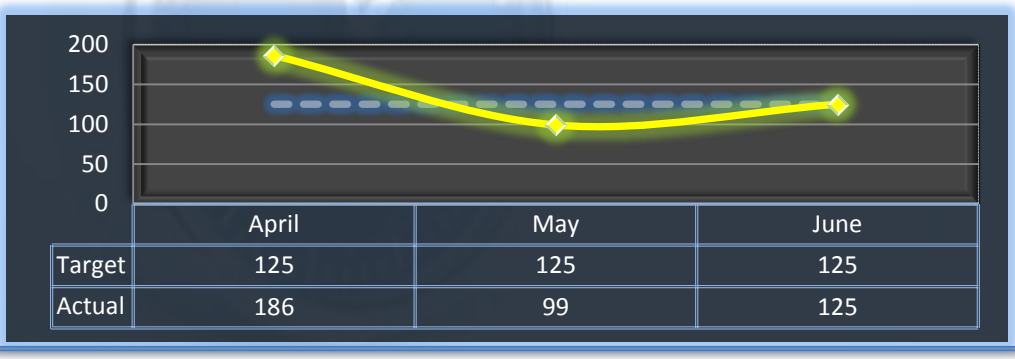


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 125 Days

Q4 Average: 123 Days



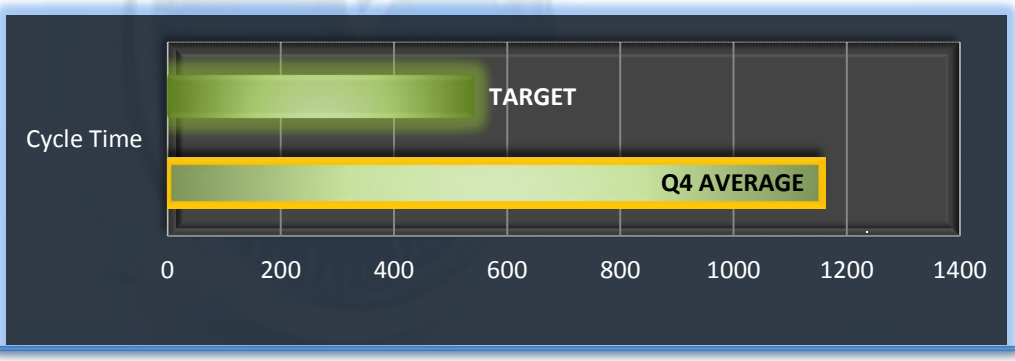
	April	May	June
Target	125	125	125
Actual	186	99	125

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q4 Average: 1,154 Days



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 25 Days

Q4 Average: N/A

The Board did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 14 Days

Q4 Average: N/A

The Board did not report any probation violations this quarter.

EXHIBIT K

Department of Consumer Affairs

California Board of Podiatric Medicine

Performance Measures

Annual Report *(2011 – 2012 Fiscal Year)*

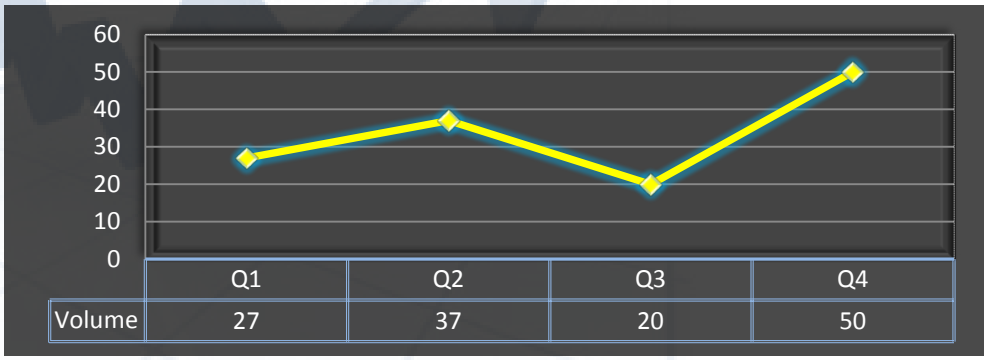
To ensure stakeholders can review the Board's progress in meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures are posted publicly on a quarterly basis.

This annual report represents the culmination of the four quarters worth of data.

Volume

Number of complaints and convictions received.

The Board had an annual total of 134 this fiscal year.

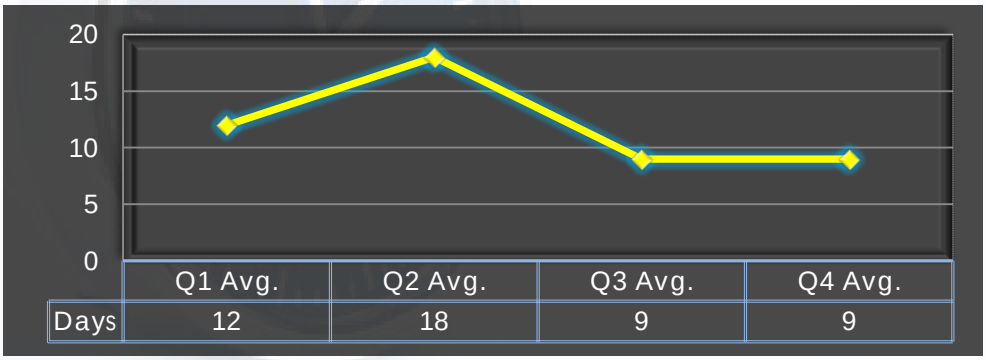


	Q1	Q2	Q3	Q4
Volume	27	37	20	50

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

The Board has set a target of 9 days for this measure.

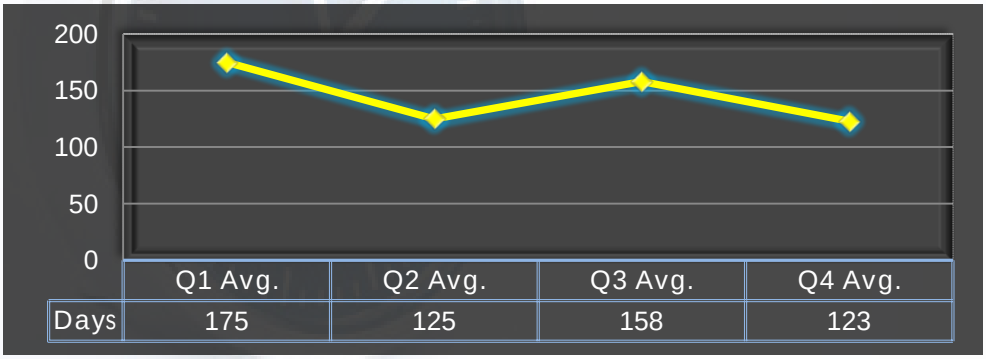


	Q1 Avg.	Q2 Avg.	Q3 Avg.	Q4 Avg.
Days	12	18	9	9

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

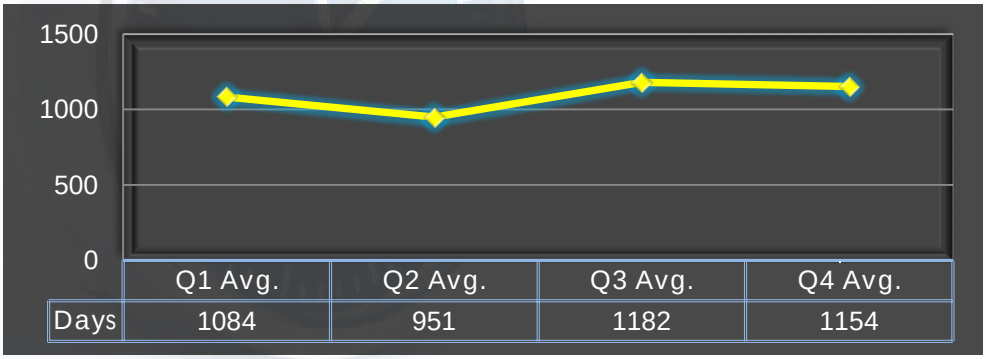
The Board has set a target of 125 days for this measure.



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

The Board has set a target of 540 days for this measure.



Department of Consumer Affairs

Board of Podiatric Medicine

Performance Measures

Q1 Report *(July - September 2012)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

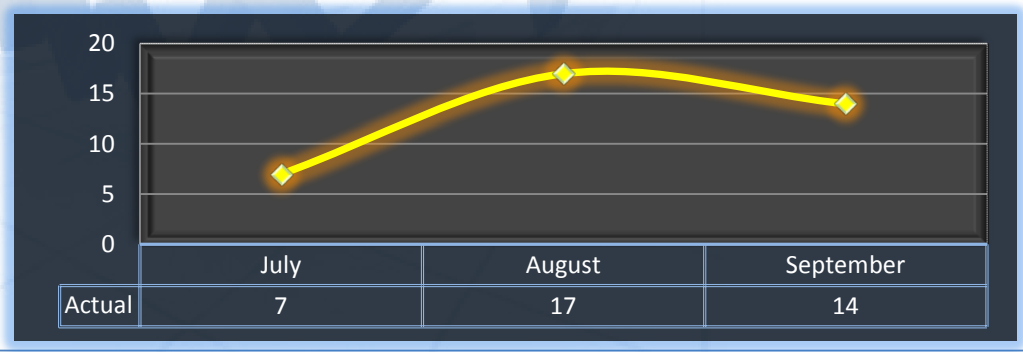
Volume

Number of complaints and convictions received.

Q1 Total: 38

complaints:34 convictions:4

Q1 Monthly Average: 13



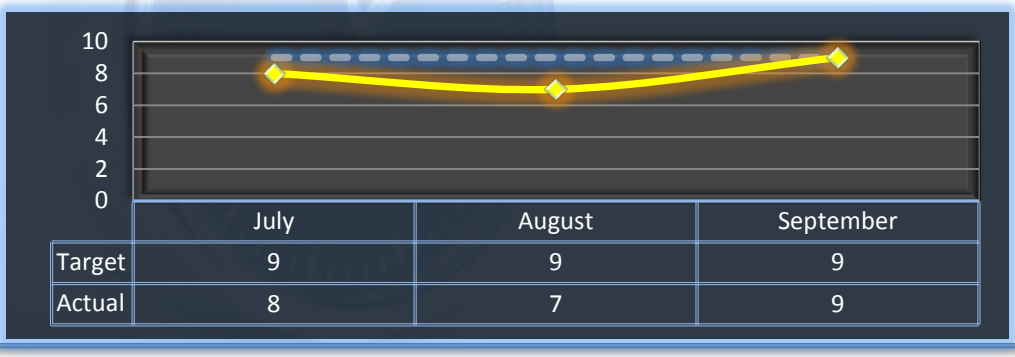
	July	August	September
Actual	7	17	14

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q1 Average: 8 Days



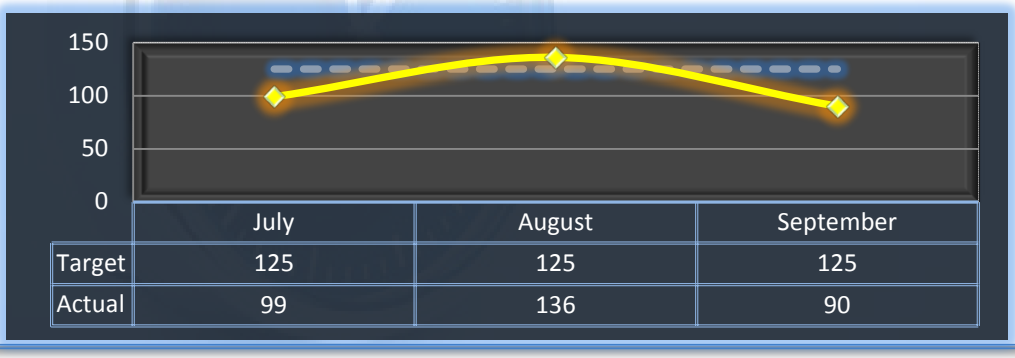
	July	August	September
Target	9	9	9
Actual	8	7	9

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 125 Days

Q1 Average: 106 Days



	July	August	September
Target	125	125	125
Actual	99	136	90

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

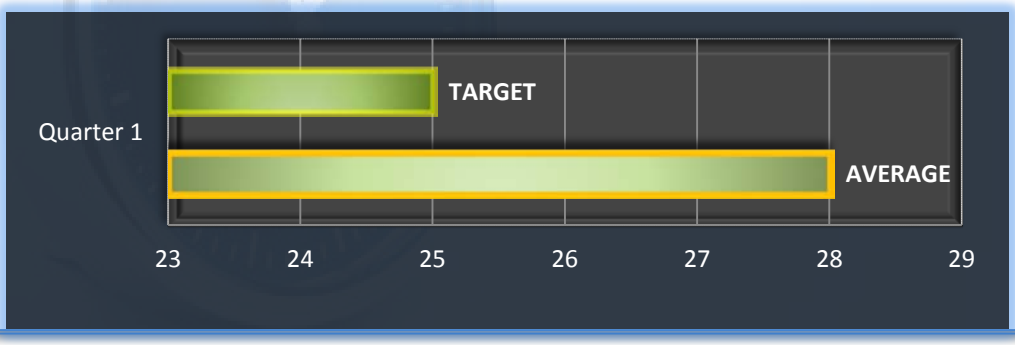
Q1 Average: 658 Days

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 25 Days

Q1 Average: 28 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 14 Days

Q1 Average: N/A

The Board did not handle any probation violations this quarter.

EXHIBIT M

Department of Consumer Affairs

Board of Podiatric Medicine

Performance Measures

Q2 Report *(October - December 2012)*

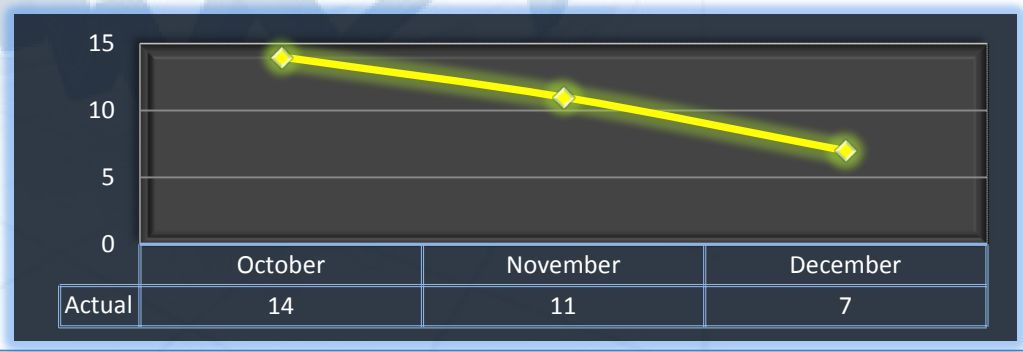
To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

Volume

Number of complaints and convictions received.

Q2 Total: 32

Q2 Monthly Average: 11



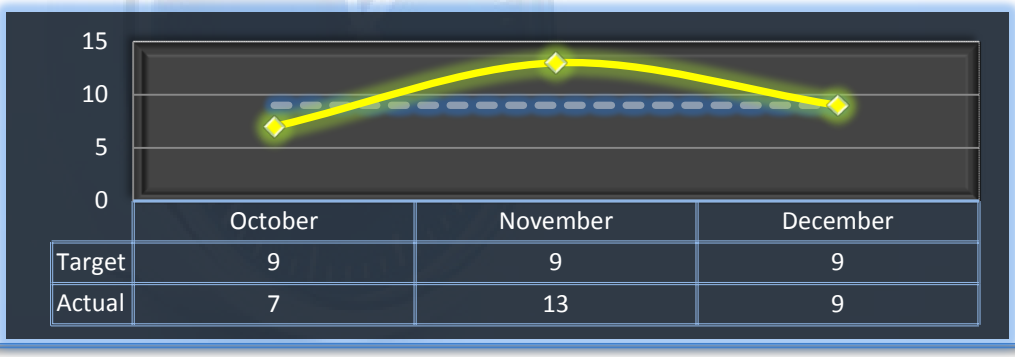
	October	November	December
Actual	14	11	7

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q2 Average: 9 Days



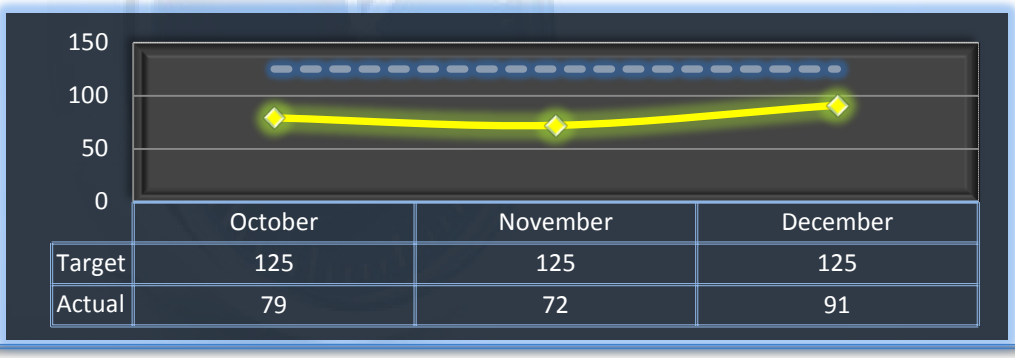
	October	November	December
Target	9	9	9
Actual	7	13	9

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 125 Days

Q2 Average: 77 Days



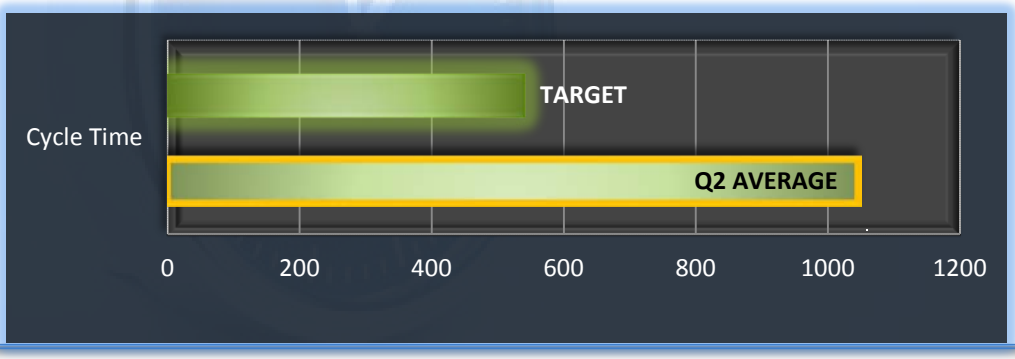
	October	November	December
Target	125	125	125
Actual	79	72	91

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q2 Average: 1,044 Days

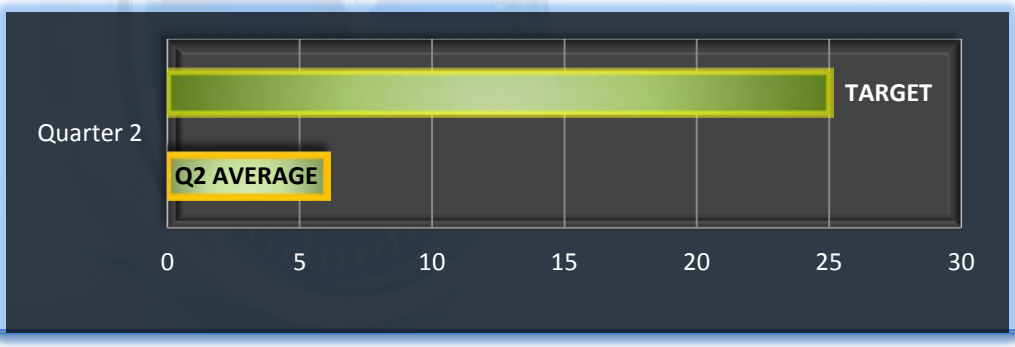


Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 25 Days

Q2 Average: 6 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 14 Days

Q2 Average: N/A

The Board did not handle any probation violations this quarter.

EXHIBIT N

Department of Consumer Affairs

Board of Podiatric Medicine

Performance Measures

Q3 Report *(January - March 2013)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

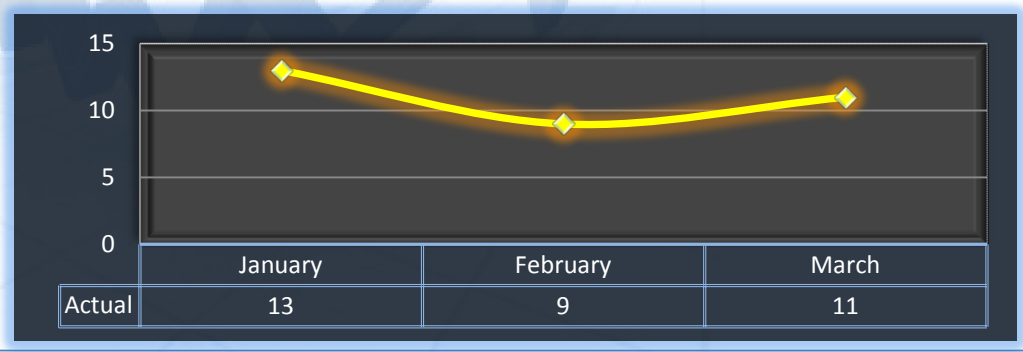
Volume

Number of complaints and convictions received.

Q3 Total: 33

Q3 Monthly Average: 11

Complaints: 28 Convictions: 5



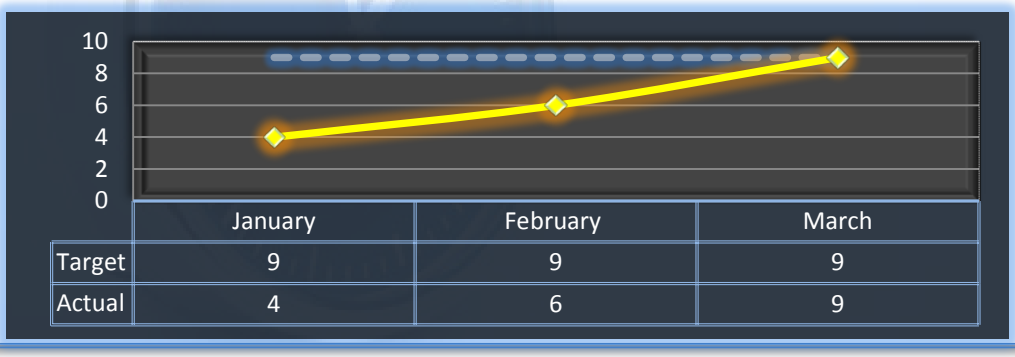
	January	February	March
Actual	13	9	11

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q3 Average: 7 Days



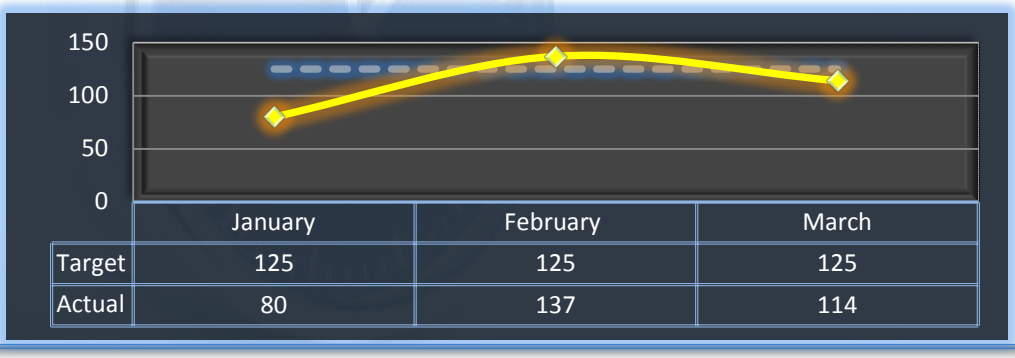
	January	February	March
Target	9	9	9
Actual	4	6	9

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 125 Days

Q3 Average: 109 Days



	January	February	March
Target	125	125	125
Actual	80	137	114

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

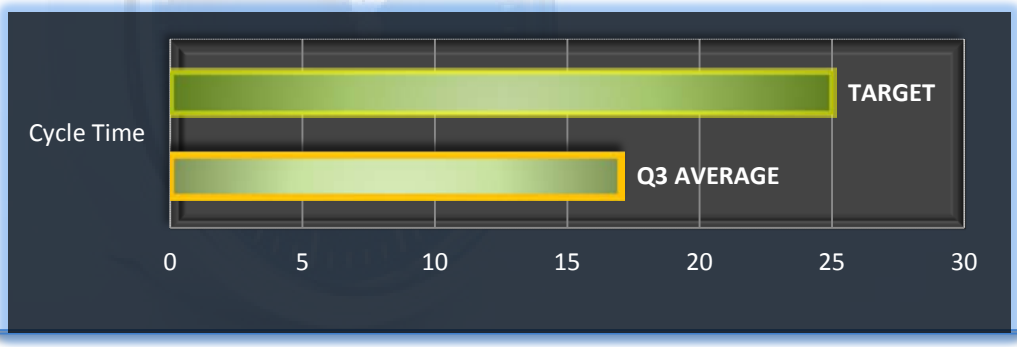
Q3 Average: 1,315 Days

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 25 Days

Q3 Average: 17 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 14 Days

Q3 Average: N/A

The Board did not handle any probation violations this quarter.

EXHIBIT O

Department of Consumer Affairs

Board of Podiatric Medicine

Performance Measures

Q4 Report *(April - June 2013)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

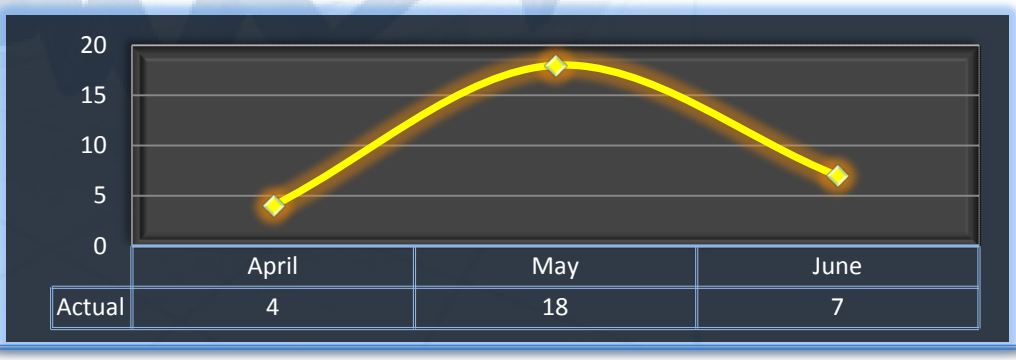
Volume

Number of complaints and convictions received.

Q4 Total: 29

Q4 Monthly Average: 10

Complaints: 27 Convictions: 2



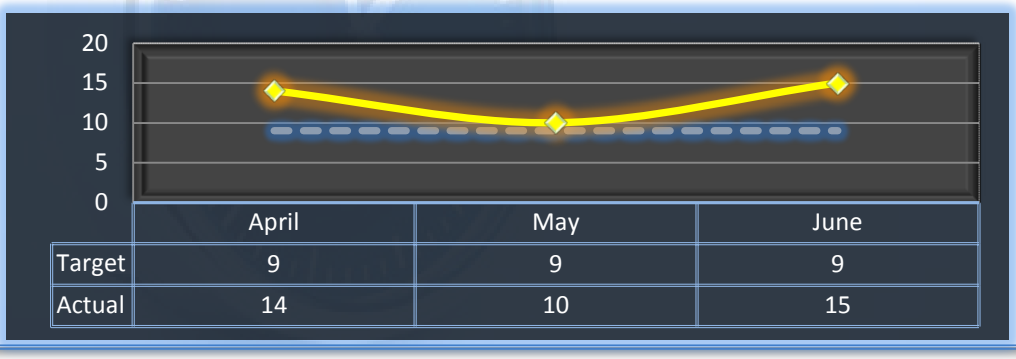
	April	May	June
Actual	4	18	7

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q4 Average: 13 Days



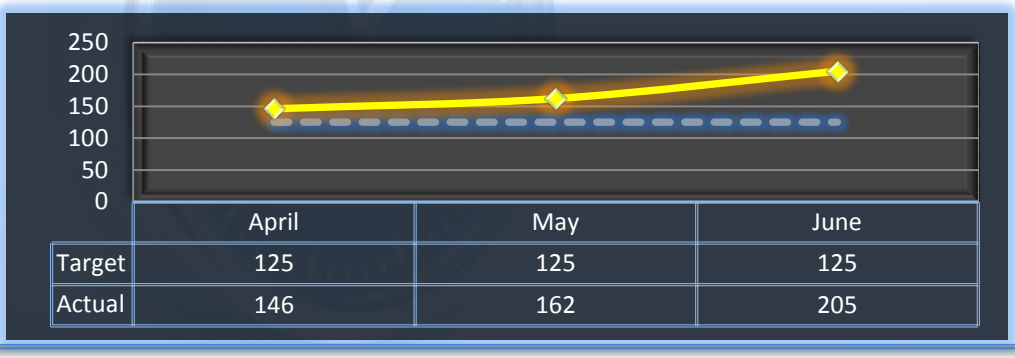
	April	May	June
Target	9	9	9
Actual	14	10	15

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 125 Days

Q4 Average: 174 Days



	April	May	June
Target	125	125	125
Actual	146	162	205

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q4 Average: N/A

The Board did not close any disciplinary cases this quarter.

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 25 Days

Q4 Average: N/A

The Board did not contact any new probationers this quarter.

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 14 Days

Q4 Average: N/A

The Board did not report any probation violations this quarter.

Department of Consumer Affairs

California Board of Podiatric Medicine

Performance Measures

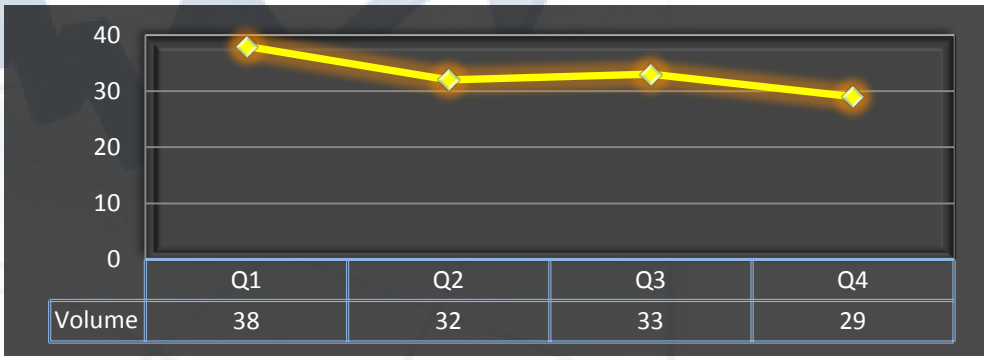
Annual Report *(2012 – 2013 Fiscal Year)*

To ensure stakeholders can review the Board's progress in meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures are posted publicly on a quarterly basis.

Volume

Number of complaints and convictions received.

The Board had an annual total of 132 this fiscal year.

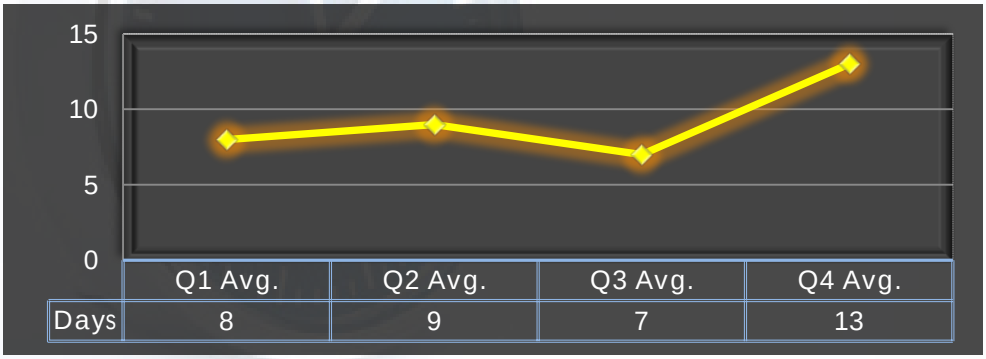


	Q1	Q2	Q3	Q4
Volume	38	32	33	29

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

The Board has set a target of 9 days for this measure.

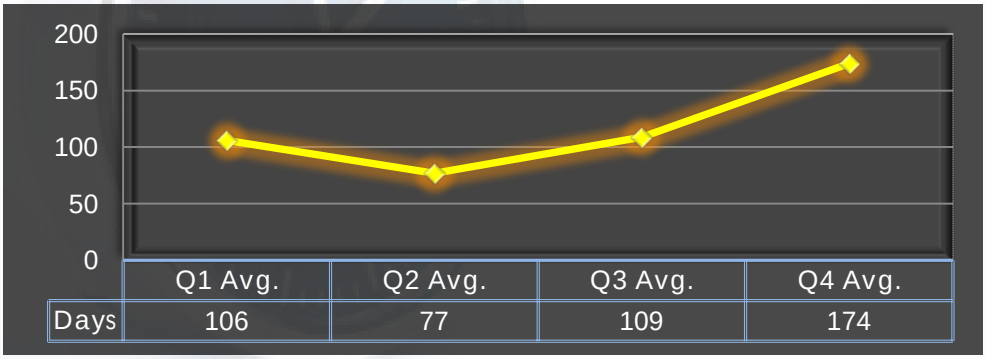


	Q1 Avg.	Q2 Avg.	Q3 Avg.	Q4 Avg.
Days	8	9	7	13

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

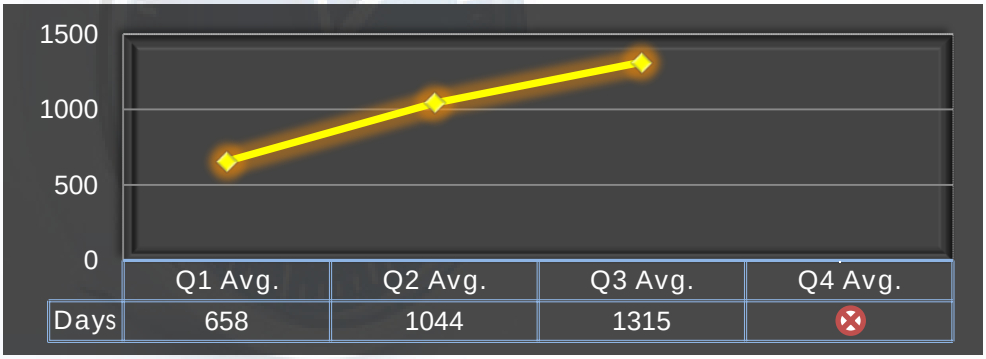
The Board has set a target of 125 days for this measure.



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

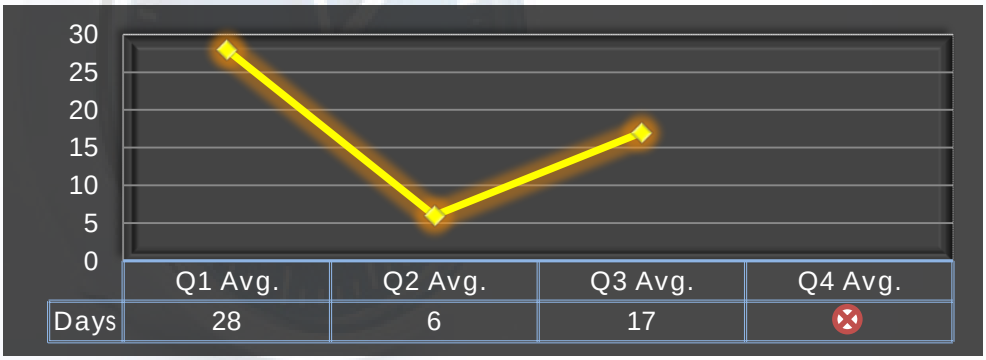
The Board has set a target of 540 days for this measure.



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board has set a target of 10 days for this measure.



Department of Consumer Affairs

Board of Podiatric Medicine

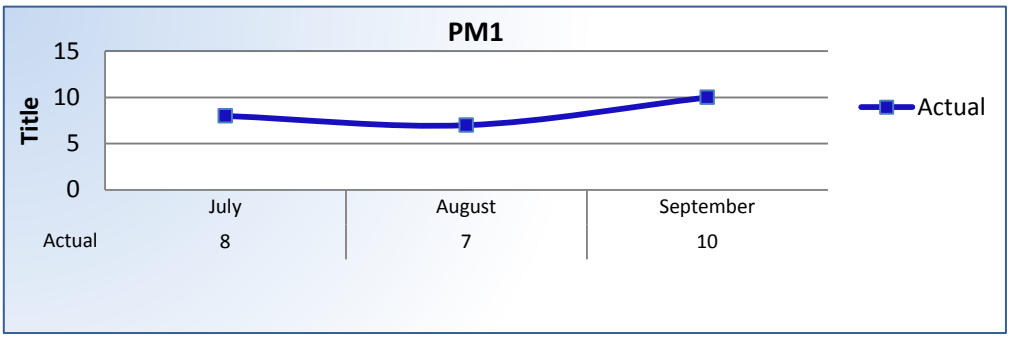
Performance Measures

Q1 Report *(July - September 2013)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

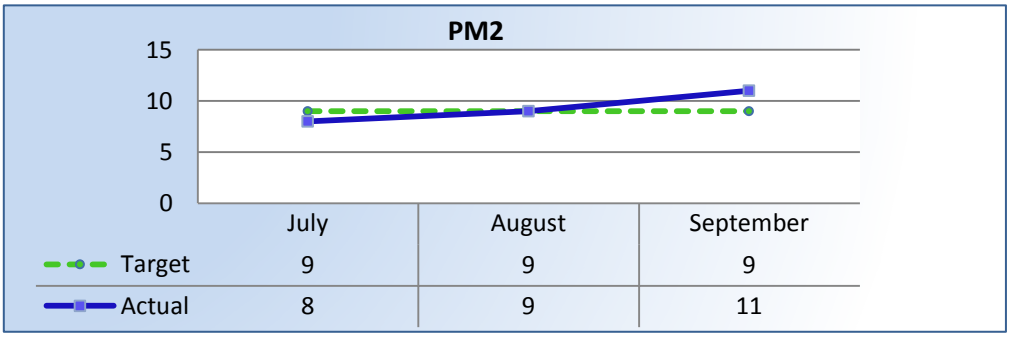


Total Received: 25 Monthly Average: 8

Complaints: 24 | **Convictions**: 1

PM2 | Intake

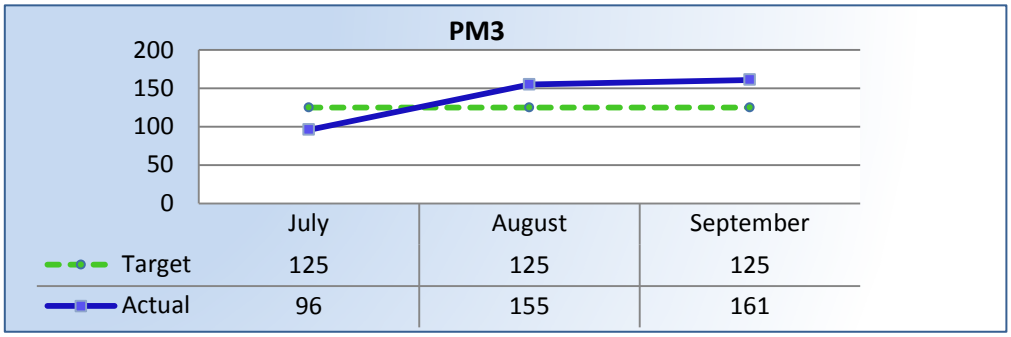
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 9 Days | **Actual Average:** 10 Days

PM3 | Intake & Investigation

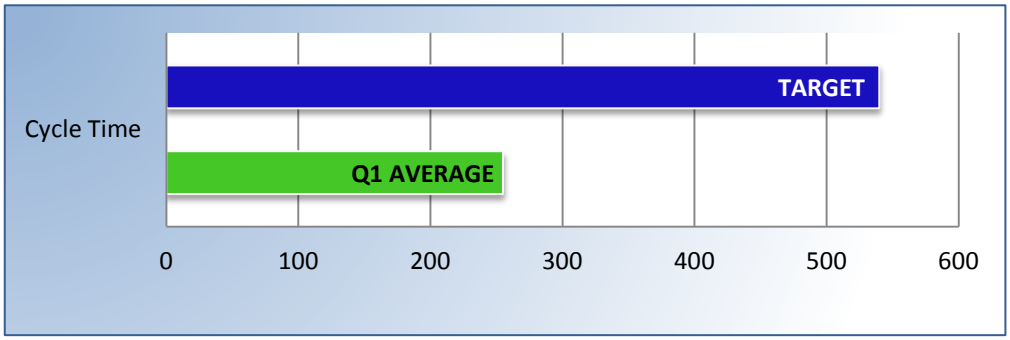
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 125 Days | **Actual Average:** 115 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | **Actual Average:** 255 Days

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 25 Days | **Actual Average:** N/A

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not report any new probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A

Department of Consumer Affairs

Board of Podiatric Medicine

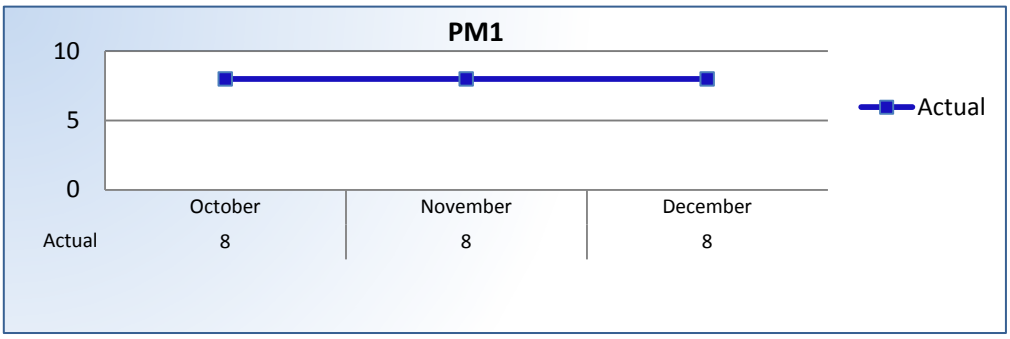
Performance Measures

Q2 Report *(October - December 2013)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

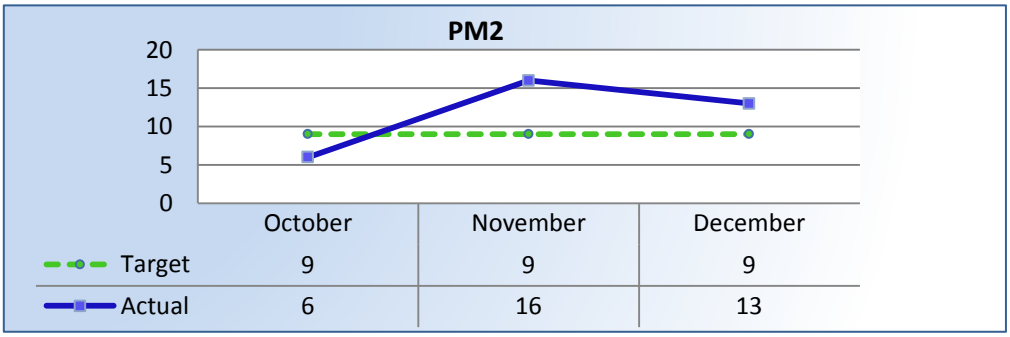


Total Received: 24 Monthly Average: 8

Complaints: 21 | **Convictions**: 3

PM2 | Intake

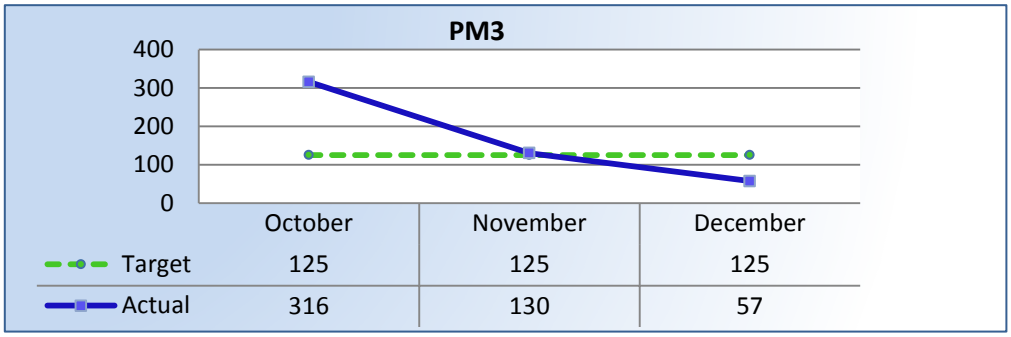
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 9 Days | **Actual Average:** 13 Days

PM3 | Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

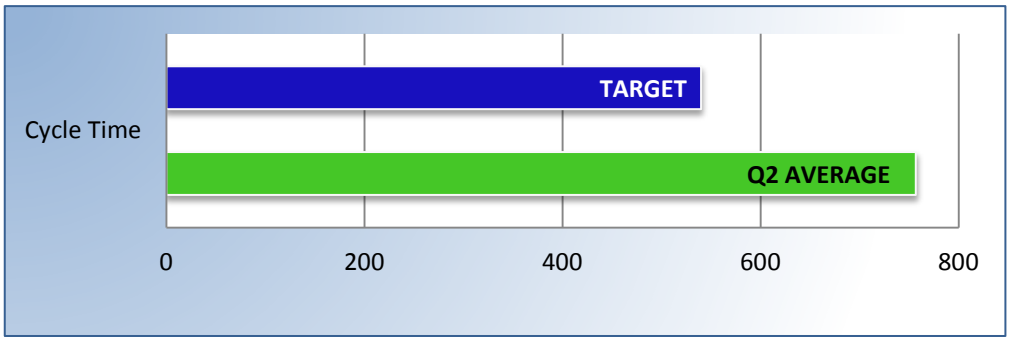


	October	November	December
Target	125	125	125
Actual	316	130	57

Target Average: 125 Days | **Actual Average:** 176 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | **Actual Average:** 757 Days

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 25 Days | **Actual Average:** N/A

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not report any new probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A

Department of Consumer Affairs

Board of Podiatric Medicine

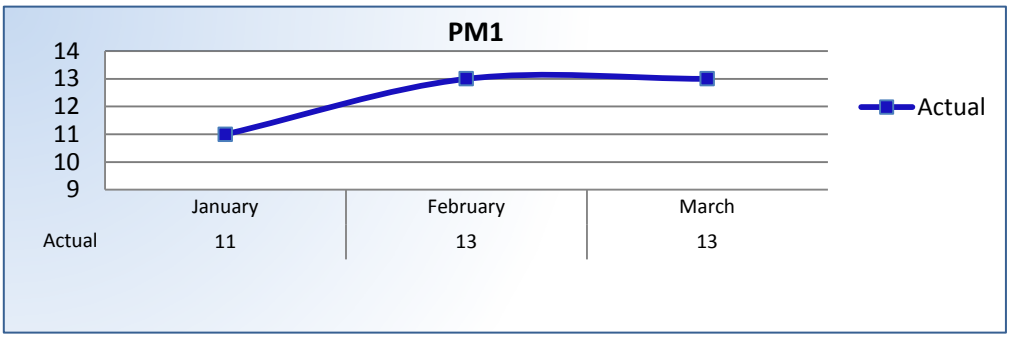
Performance Measures

Q3 Report *(January - March 2014)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

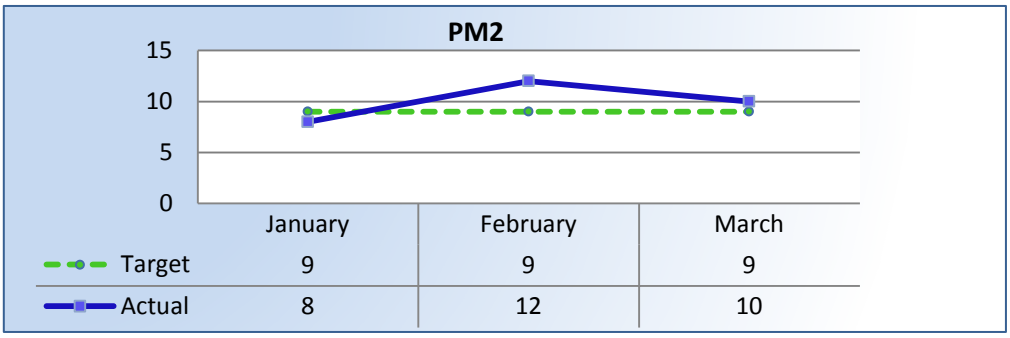


Total Received: 37 Monthly Average: 12

Complaints: 31 | **Convictions**: 6

PM2 | Intake

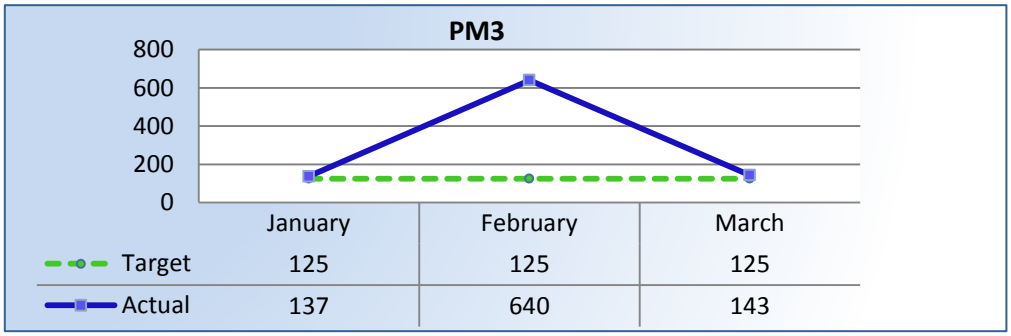
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 9 Days | **Actual Average:** 10 Days

PM3 | Intake & Investigation

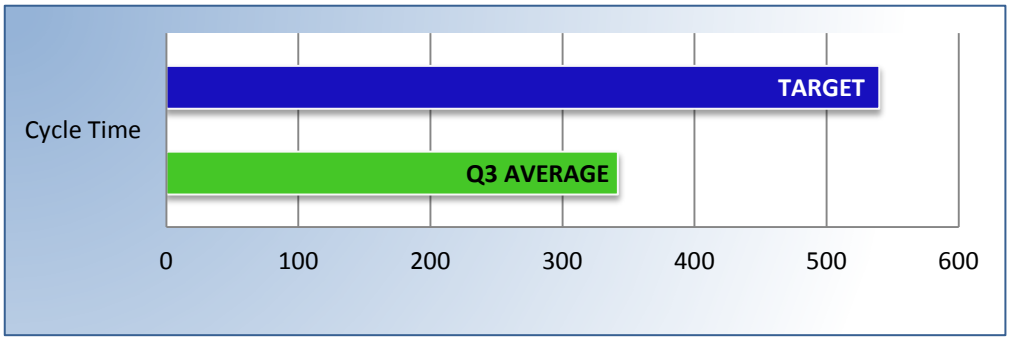
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 125 Days | **Actual Average:** 228 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | **Actual Average:** 342 Days

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 25 Days | **Actual Average:** N/A

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not report any new probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A

EXHIBIT T

Department of Consumer Affairs

Board of Podiatric Medicine

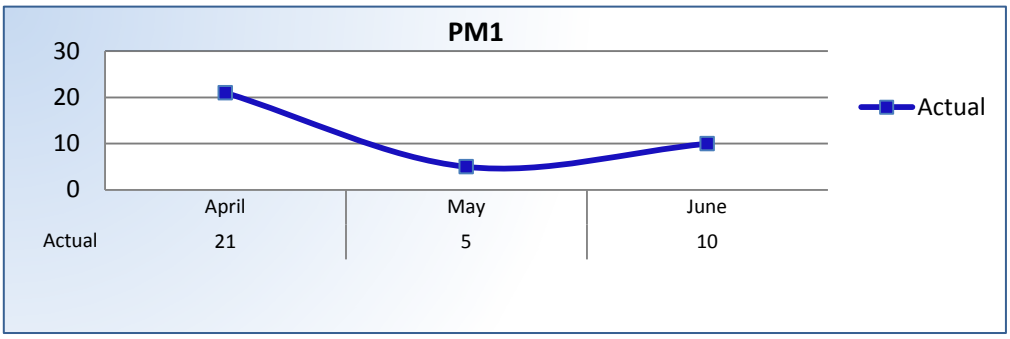
Performance Measures

Q4 Report *(April - June 2014)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

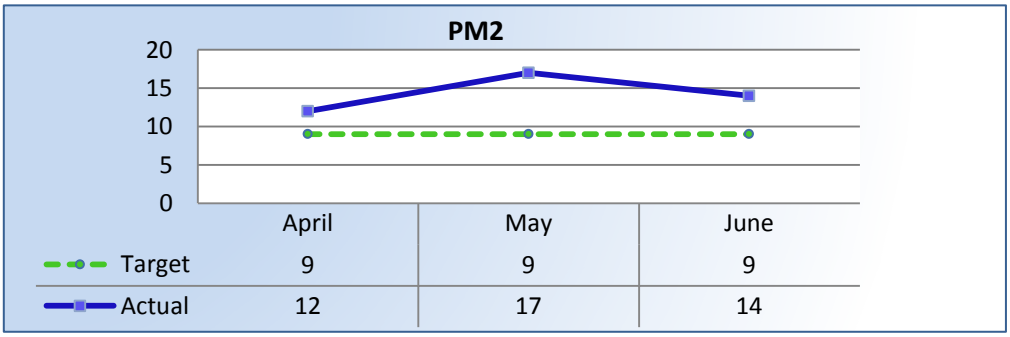


Total Received: 36 Monthly Average: 12

Complaints: 33 | **Convictions**: 3

PM2 | Intake

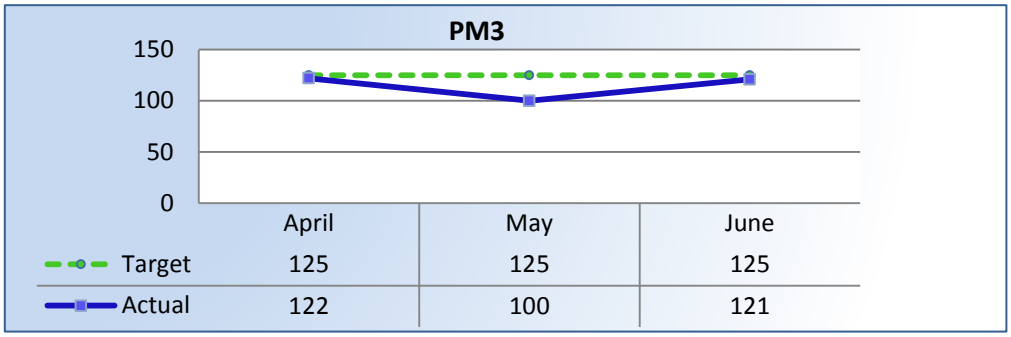
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 9 Days | **Actual Average:** 14 Days

PM3 | Intake & Investigation

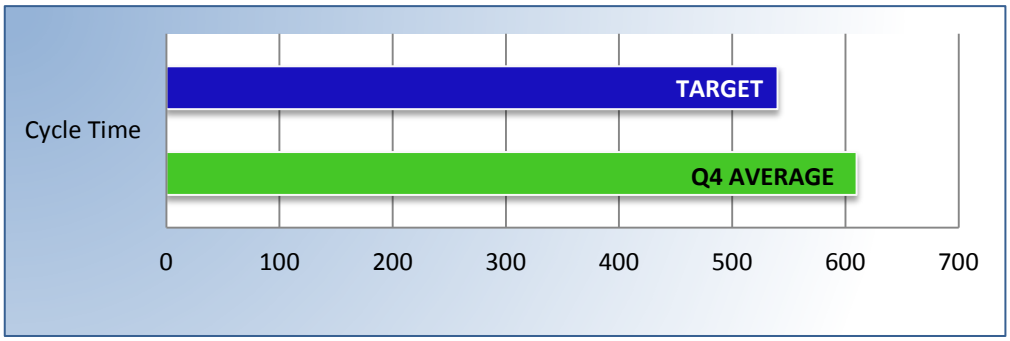
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 125 Days | **Actual Average:** 114 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | **Actual Average:** 610 Days

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 25 Days | **Actual Average:** N/A

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not report any new probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A

Department of Consumer Affairs

California Board of Podiatric Medicine

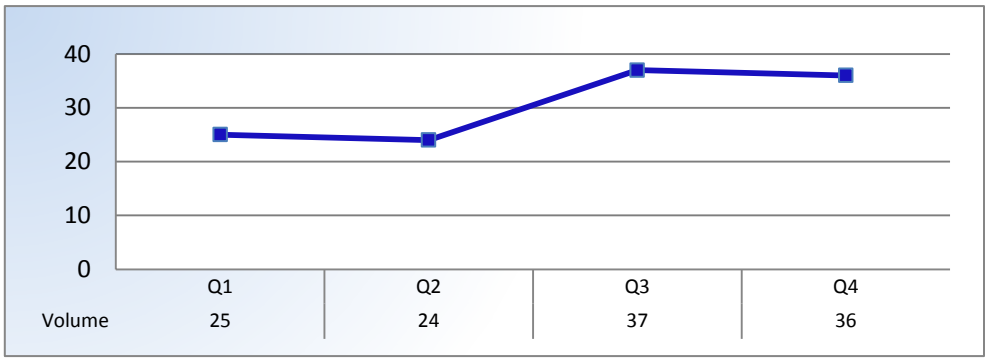
Performance Measures

Annual Report *(2013 – 2014 Fiscal Year)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly and annual basis.

PM1 | Volume

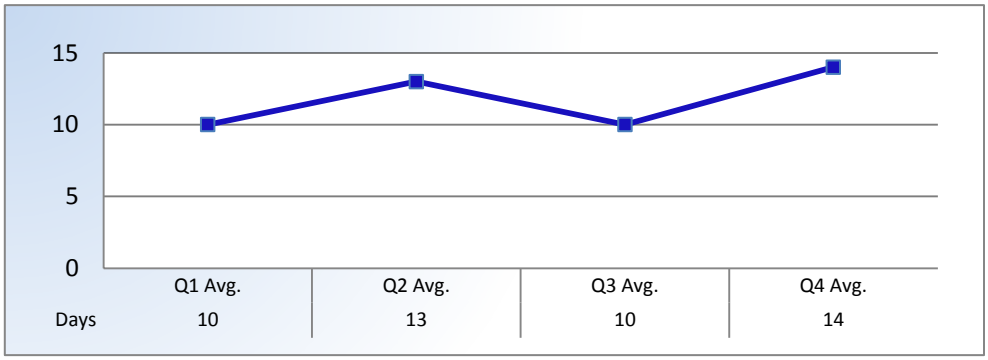
Number of complaints and convictions received.



Fiscal Year Total: 122

PM2 | Intake

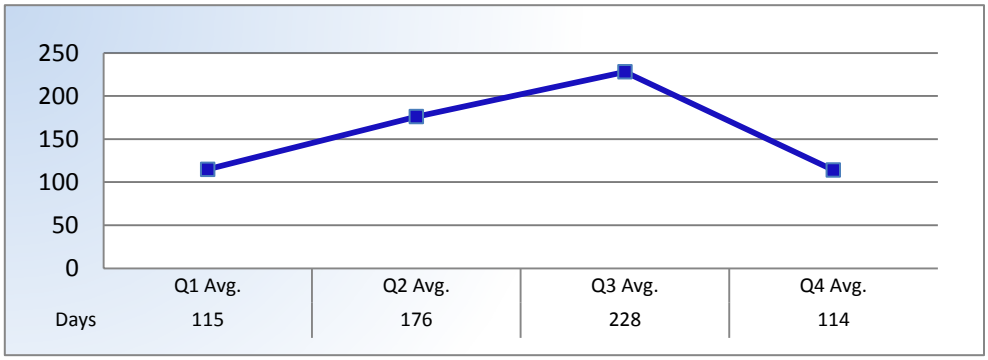
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days

PM3 | Intake & Investigation

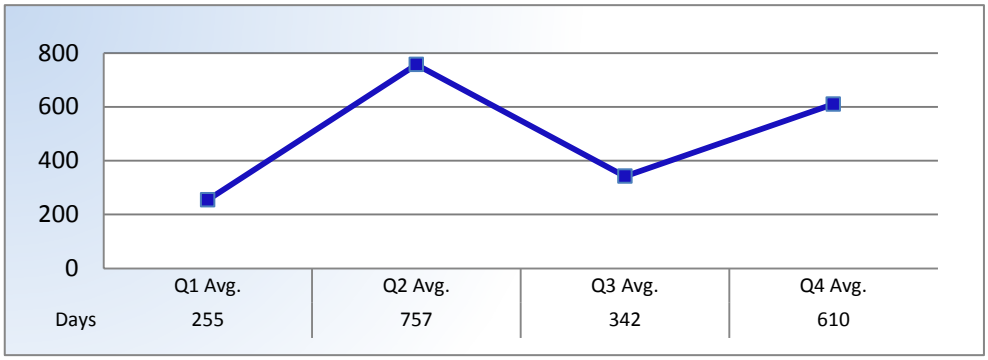
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 90 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this year.

Target Average: 6 Days

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not have any probation violations reported this year.

Target Average: 8 Days

EXHIBIT V

Department of Consumer Affairs

Board of Podiatric Medicine

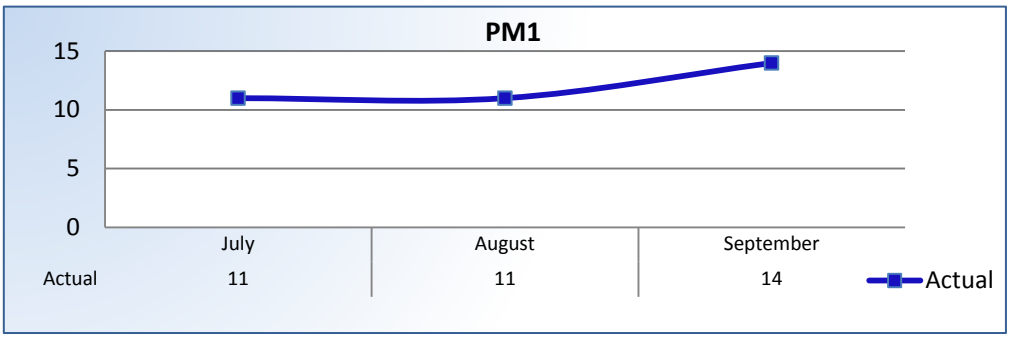
Performance Measures

Q1 Report *(July - September 2014)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

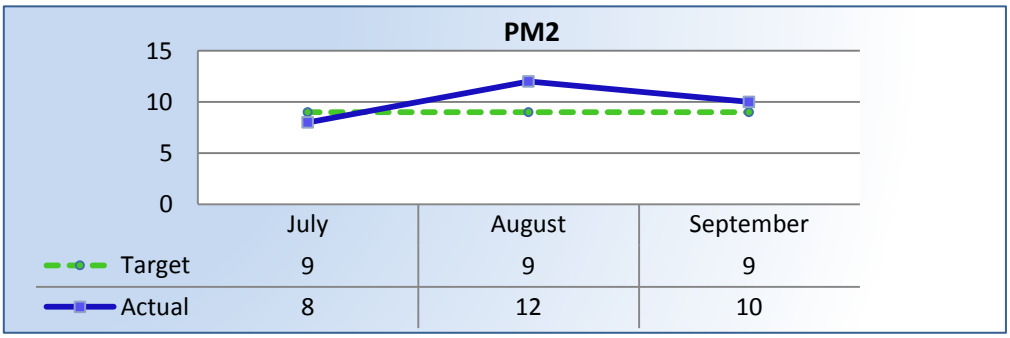


Total Received: 36 Monthly Average: 12

Complaints: 35 | **Convictions**: 1

PM2 | Intake

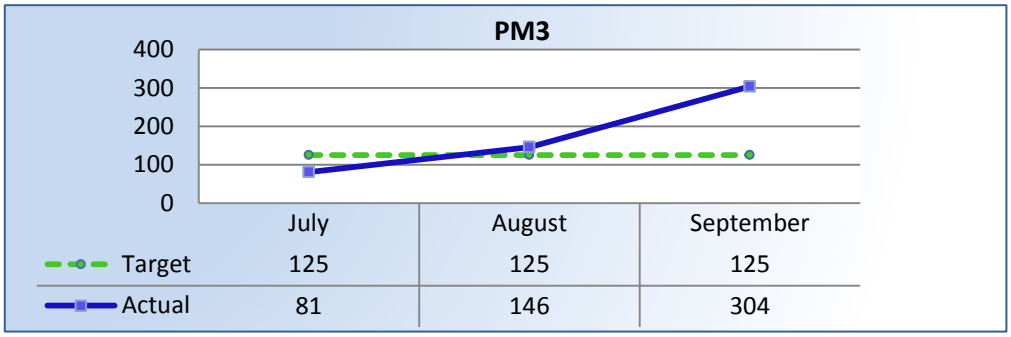
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 9 Days | **Actual Average:** 10 Days

PM3 | Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



	July	August	September
Target	125	125	125
Actual	81	146	304

Target Average: 125 Days | **Actual Average:** 174 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).

The Board did not have any cases go through formal discipline this quarter.

Target Average: 540 Days | **Actual Average:** N/A

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 25 Days | **Actual Average:** N/A

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not report any new probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A

EXHIBIT W

Department of Consumer Affairs

Board of Podiatric Medicine

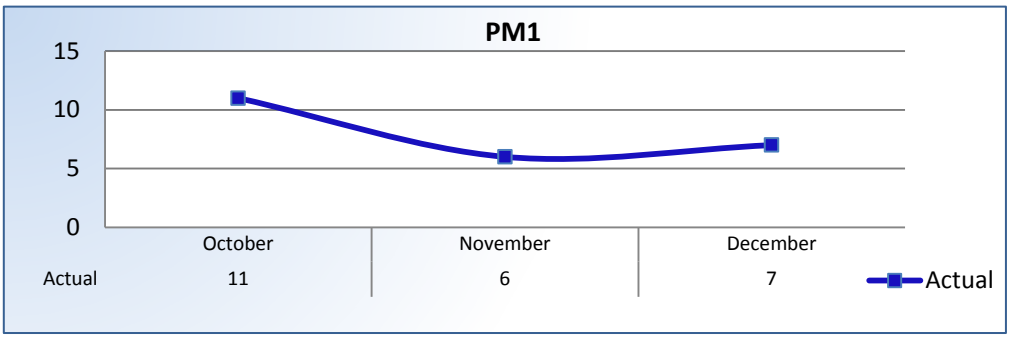
Performance Measures

Q2 Report *(October - December 2014)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

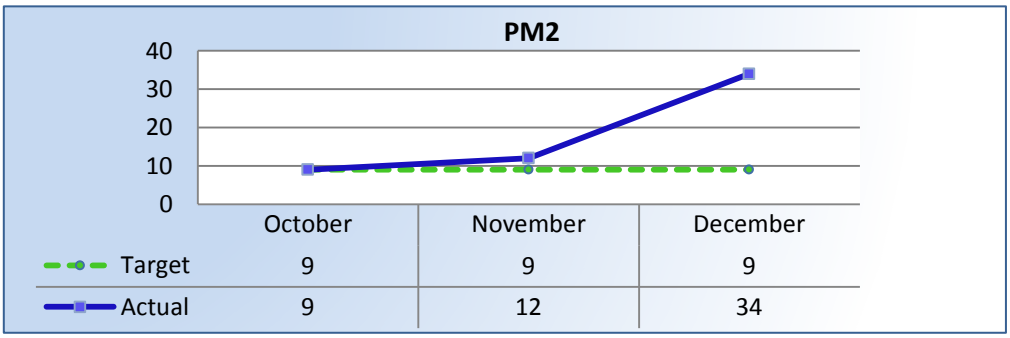


Total Received: 24 Monthly Average: 8

Complaints: 22 | **Convictions**: 2

PM2 | Intake

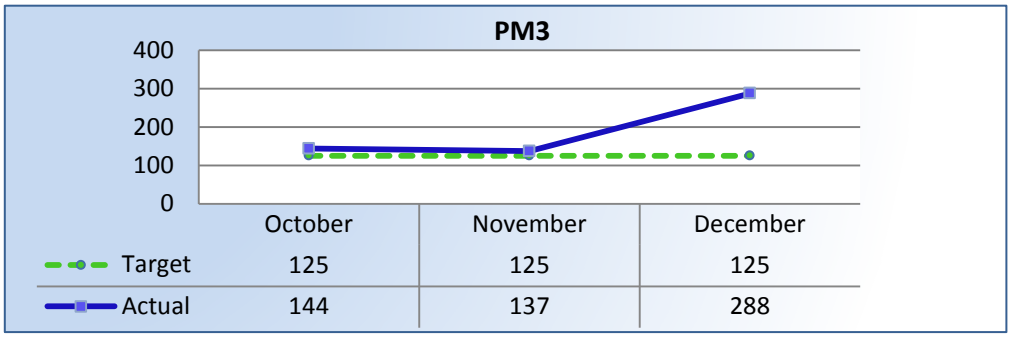
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 9 Days | **Actual Average:** 19 Days

PM3 | Intake & Investigation

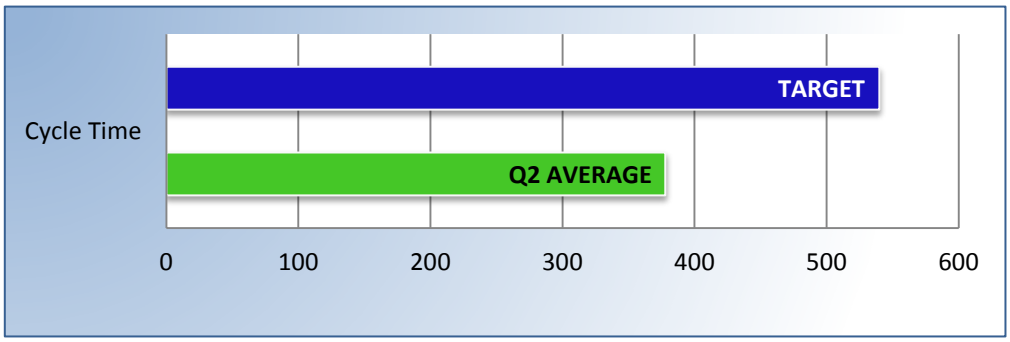
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 125 Days | **Actual Average:** 174 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | **Actual Average:** 378 Days

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 25 Days | **Actual Average:** N/A

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not report any new probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A