Exhibit F

TITLE 16. BOARD OF PODIATRIC MEDICINE

NOTICE IS HEREBY GIVEN that the Board of Podiatric Medicine (hereinafter referred to as the "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, 2005 Evergreen Street, Sacramento, CA 95815, Hearing Room 1150, at 10:00 am, on February 24, 2012. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on **February 20, 2012** or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2470 of the Business and Professions Code and Section 11400.20 of the Government Code, and to implement, interpret or make specific Sections 11400.20 and 11425.50(e) of the Government Code, the board is considering changes to Division 13.9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1399.710, Disciplinary Guidelines.

Senate Bill 523 (Stats. 1995, Chapt. 938; Kopp) provided that a penalty in an administrative disciplinary action may not be based on a guideline unless it has been adopted as a regulation in accordance with the Administrative Procedure Act. The Board adopted the disciplinary guidelines as an administrative regulation, which became effective October 1997. The regulation incorporated by reference the disciplinary guidelines entitled "A Manual of Disciplinary Guidelines and Model Disciplinary Orders," revised November 1, 1996. Subsequent revisions to the guidelines adopted by the Board were later incorporated by reference.

Current law authorizes the Board to have complaints filed against doctors of podiatric medicine investigated and take disciplinary action against a license should a violation of law be proven. Section 2227 of the Business and Professions Code (Code) authorizes the Board to place licensees on probation following an evidentiary hearing, a default decision or the execution of a stipulated settlement. Section 2228 of the Code specifies the terms and conditions that may be included in a licensee's probationary order, including, but not limited to additional training, practice restrictions, and successful completion of diagnostic examinations. Business and Professions Code Section 2229 also requires that, whenever possible, the Board should take action that is calculated to aid in the rehabilitation of the licensee and order actions to include further education, restrictions from practice, or other means, that will remove the identified deficiencies. The *Manual of Disciplinary Guidelines with Model Disciplinary Orders* referenced in

the current regulation contains the approved terms and conditions that can be ordered to rehabilitate physicians as part of a probationary order while allowing the Board to honor its primary obligation of public protection.

On September 23, 2011, the board approved to incorporate by reference its recently revised Manual of Disciplinary Guidelines. The proposed amendment would incorporate by reference the most recent revision to the Board's *Manual of Disciplinary Guidelines with Model Disciplinary Orders*, which reestablishes consistency with the Medical Board of California's *Manual of Model Disciplinary Orders and Disciplinary Guidelines, 11th Edition, 2010* with respect to licensee rehabilitation as a condition of probation.

The specific benefits anticipated from the proposed amendment include greater protection of public health and safety, as well as improved worker safety through the setting of improved licensee rehabilitation standards employed by California Healing Arts Boards.

The proposed regulation has not been found to be inconsistent or incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact:
The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

There are no costs associated with the proposed regulatory action. This rulemaking only relates to doctors of podiatric medicine disciplined by the Board of Podiatric Medicine.

Impact on Jobs/New Businesses:
The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

This regulation will benefit the health and welfare of California residents, worker safety, and the state's environment by improving the licensee rehabilitation standards employed by California Healing Arts Boards.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board of Podiatric Medicine has determined that the proposed regulations would not affect small businesses. This proposed regulation will only impact doctors of podiatric medicine disciplined by the Board of Podiatric Medicine.

The most recent revision of the *Manual of Disciplinary Guidelines with Model Disciplinary Orders*, incorporated by reference, makes no changes that would result in an increase of costs to licensees or small businesses.

CONSIDERATION OF ALTERNATIVES

The Board of Podiatric Medicine must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all of the information upon which the proposal is based. Copies of the initial statement of reasons and all of the information upon which the proposal is based may be obtained from the person designated in the Notice under Contact Person or by accessing the Board's website: http://www.bpm.ca.gov/lawsregs/prop_regs.shtml.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the Board's website: http://www.bpm.ca.gov/lawsregs/prop_regs.shtml.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the

rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below, or by accessing the Board's website: http://www.bpm.ca.gov/lawsregs/prop_regs.shtml.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Mischa Matsunami
Address:	Board of Podiatric Medicine 2005 Evergreen St., Ste. 1300 Sacramento, CA 95815
Telephone:	(916) 263-0315
Fax:	(916) 263-2651
E-Mail Address:	Mischa.Matsunami@dca.ca.gov

The backup contact person is:

Name:	Jim Rathlesberger
Address:	2005 Evergreen Street, Suite 1300 Sacramento, California 95815
Telephone No.:	(916) 263-2647
Fax No.:	(916) 263-2651
E-Mail Address:	Jim.Rathlesberger@dca.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.bpm.ca.gov/lawsregs/prop_regs.shtml.

BOARD OF PODIATRIC MEDICINE
INITIAL STATEMENT OF REASONS

Hearing Date: February 24, 2012

Subject Matter of Proposed Regulations:
To amend the *Manual of Disciplinary Guidelines with Model Disciplinary Orders* to reflect changes in law and make technical changes to reflect the current probationary environment.

Section(s) Affected:
Division 13.9, Article 11 of Title 16
Amend Section 1399.710 – Disciplinary Guidelines

Specific purpose of each adoption, amendment, or repeal:
The current *Manual of Disciplinary Guidelines with Model Disciplinary Orders* referenced in the regulation (revised February 4, 2006) must be made consistent with current law. The proposed regulation will reference the September 23, 2011 revision of the *Manual of Disciplinary Guidelines with Model Disciplinary Orders*, reflecting changes in law, as well as making technical changes to reflect the current probationary environment.

Because of the small licensee population, podiatric medical cases occur far less often than standard medical cases. As a result, while the Board of Podiatric Medicine (BPM) utilizes Medical Board of California (MBC) enforcement staff under a Shared Services agreement, those involved are often not as familiar with the Disciplinary Guidelines held by BPM as they are with those currently employed by MBC. This proposal would make the Board's Manual of Disciplinary Guidelines consistent with MBC's Manual of Disciplinary Guidelines and pending, proposed regulations with respect to licensee rehabilitation as a condition of probation, and would therefore enable the MBC's Central Complaint Unit, investigative staff, Deputy Attorneys General, and Administrative Law Judges to review and apply the BPM's guidelines in a more efficient manner.

The specific benefits anticipated from the proposed amendment, which would improve licensee rehabilitation standards and consistency between enforcement practices, include:

- Greater protection of public health and safety.
- Improved worker safety.

Factual Basis/Rationale:
The factual basis and rationale for the determination that each amendment is reasonably necessary to clarify the purpose for which technical changes are required, together with a description of the problem, administrative requirement, or other condition or circumstance that each amendment is intended to address, is as follows:

Conditions 9-10 Controlled Substances/Alcohol Abstain from Use

- Allows the BPM to impose a "cease practice" order when a positive biological fluid test is received for alcohol or a substance not legally prescribed and requires that an administrative action be filed timely so the respondent is afforded due process.

  In accordance with the *Uniform Standards Regarding Substance-Abusing Healing Arts Licensees* developed by the Department of Consumer Affairs pursuant to SB 1441 (http://www.dca.ca.gov/about_dca/sacc/uniform_standards.pdf), the MBC recently revised its disciplinary guidelines to incorporate a specific condition enabling the MBC to order physicians testing positive for drugs or alcohol to cease practice. The most recent revision to BPM's guidelines establishes consistency with MBC's Manual of Disciplinary Guidelines and pending, proposed regulations with respect to this matter, enabling BPM to impose a cease practice order in cases in which doctors of podiatric medicine have tested positive for the use of controlled substances while on probation. Consistency between the practices employed by both boards allows for efficient and effective handling of podiatric medical cases.

Condition 11. Biological Fluid testing

- Expands and defines "Biological Fluid Testing" to include blood, urine, breathalyzer, and hair follicle testing and allows the Board to order the respondent to cease practice for failing to cooperate with the required testing. Deletes language stating that the failure to cooperate with the biological fluid testing constitutes a violation of probation. Establishes consistency with MBC's Manual of Disciplinary Guidelines and pending, proposed regulations, allowing for efficient and effective handling of podiatric medical cases.

  In accordance with the *Uniform Standards Regarding Substance-Abusing Healing Arts Licensees* developed by the Department of Consumer Affairs pursuant to SB 1441 (http://www.dca.ca.gov/about_dca/sacc/uniform_standards.pdf), the MBC recently revised its disciplinary guidelines to incorporate a specific condition enabling the MBC to order physicians who fail to cooperate in a random biological fluid testing program in a timely manner to cease practice. The most recent revision to BPM's guidelines establishes consistency with MBC's Manual of Disciplinary Guidelines and pending, proposed regulations, enabling BPM to impose a cease practice order in cases in which doctors of podiatric medicine fail to cooperate in a random biological fluid testing program in a timely manner while on probation. Consistency between these practices allows for efficient and effective handling of podiatric medical cases.

  Standard Condition #37 states that the failure to comply with any term and condition is a violation of probation; therefore this language is redundant and unnecessary.

Violation of Probation

- Establishes consistency with the MBC's recommended range of penalties for violations of probation, as identified in its pending regulatory proposal.

Underlying Data:

Documents relied upon include:

- BPM's Manual of Disciplinary Guidelines with Model Disciplinary Orders (revised February 4, 2006) is referenced in current regulation. The September 23, 2011 revision

of the Manual of Disciplinary Guidelines with Model Disciplinary Orders reflects changes in law and establishes consistency with the Medical Board of California's Manual of Model Disciplinary Orders and Disciplinary Guidelines, 11th Edition, 2010 with respect to licensee rehabilitation as a condition of probation and probation violation penalties.

- Economic Impact Analysis document.

Economic Impact:

- The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.
- This regulation will benefit the health and welfare of California residents, worker safety, and the state's environment by improving the licensee rehabilitation standards employed by California Healing Arts Boards.

Business Impact:

__X__ This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

This regulation only impacts doctors of podiatric medicine disciplined by the Board of Podiatric Medicine.

_____ Description of alternatives which would lessen any significant adverse impact on business:

_____ Not applicable, as the proposed regulation has no business or economic impact.

Specific Technologies or Equipment:

__X__ This regulation does not mandate the use of specific technologies or equipment.

_____ This regulation mandates the use of specific technologies or equipment. Such mandates or prescriptive standards are required for the following reasons:

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

BOARD OF PODIATRIC MEDICINE
Disciplinary Guidelines

Specific Language

Amend section 1399.710 in Article 11 of Title 16, Division 13.9, to read as follows:

1399.710. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400, et seq.), the board shall consider the disciplinary guidelines entitled "Manual of Disciplinary Guidelines with Model Disciplinary Orders" [revised September ~~2005~~ 2011] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board in its sole discretion determines that the facts of the particular case warrant such a deviation -for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Section 2470, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 11400.20 and 11425.50(e), Government Code.

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 ~~February 4, 2006~~ September 23, 2011)

These Disciplinary Guidelines were originally adopted by the BPM on September 5, 1984, and most recently revised ~~September 2005~~ 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.

MODEL DISCIPLINARY ORDERS

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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 Schedules(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 ~~or~~ receiving any lawfully prescribed ~~lawful prescription~~ medications, respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, ~~and~~ 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 ~~the~~ 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 ~~may~~ proceedings between the Board and ~~the~~ respondent. ~~Failure to submit to, or failure to complete the required biological fluid testing, is a violation of probation.~~

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]
2. 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 ~~Impose actual period of suspension~~
Maximum penalty: Revocation ~~Impose penalty that was stayed~~

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 ~~Other violations of probation~~ should result in, ~~draw~~ at minimum, a 60 day ~~least a period of actual~~ suspension:~~,~~ ~~preferably 90 days or more.~~

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
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
MEDICAL BOARD OF CALIFORNIA
BOARD OF PODIATRIC MEDICINE
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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