



**EXECUTIVE MANAGEMENT COMMITTEE  
AUGUST 19, 2015**

**SUBJECT: CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION  
2477**

**ACTION: DISCUSS AND CONSIDER ANY NECESSITY FOR REVISIONS  
OR AMENDMENTS**

**9**

**RECOMMENDATION**

Discuss and provide direction to the Executive Office regarding any proposed or suggested amendments to section 2477 of the California Business and Professions Code ("B&P").

**ISSUE**

Should section 2477 B&P be amended to explicitly provide that a license to practice medicine is required to diagnose and prescribe corrective shoes or appliances for the human foot?

**DISCUSSION**

Section 2472 provides in pertinent part that a certificate to practice podiatric medicine authorizes the holder to treat the human foot and ankle including the ankle and tendons that insert into the foot through medical, surgical, mechanical, manipulative and electrical means. This necessarily includes the diagnosis and prescription for any orthotic device.

Orthotic devices typically refer to custom-fabricated shoe inserts or corrective devices prescribed by a doctor of podiatric medicine or medical or osteopathic doctor after an appropriate medical examination and diagnosis. Notwithstanding, section 2477 provides that the Podiatric Medicine Act does not prohibit the manufacture, recommendation or sale of corrective shoes or appliances for the human feet.

During BPM's last Sunset Review in 2011/2012, BPM proposed an amendment to Section 2477 B&P suggesting clarification was necessary to indicate that while an unlicensed individual may offer special shoes or inserts for comfort or athletic performance, a medical or podiatric license was nonetheless required to diagnose and prescribe for medical conditions of the foot.

Members may note that section 2052 already prohibits the unlicensed practice of medicine and while the proposed amendment was solely intended to underscore that the referenced provision did not authorize the unlicensed practice of medicine, BPM's

3. Section 3: Fiscal and Staff
4. Section 9: Current Issues
5. Section 10: Board Action and Responses to Prior Sunset Issues
6. Section 11: New Issues
7. Section 12: Attachments

Guidance and recommendations for sections yet to be completed in addition to revisions and/or further suggestions by committee will be incorporated appropriately and forwarded for final BPM Board review at its regularly scheduled meeting. Once approved by the Board, the Sunset Review Report will be finalized and submitted to the Joint Committee on or before the requested December 1<sup>st</sup> due date.

### **NEXT STEPS**

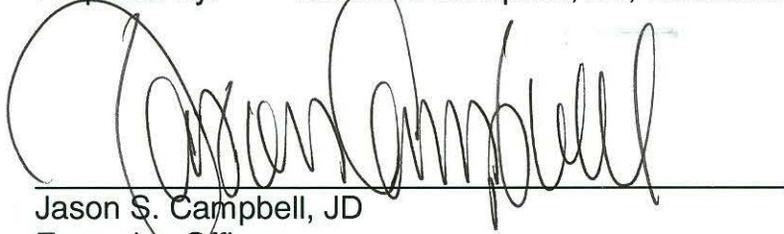
Staff will continue refining and drafting responses to questions as directed which are segregated into appropriate sections and reviewed by the respective BPM committees with subject matter jurisdiction over the particular subject areas.

Committee recommendations will in turn continue to be incorporated and submitted to the full board for consideration, discussion, input and/or approval at its regularly scheduled meeting in September.

### **ATTACHMENTS**

- A. Draft Sunset Review Report Sections: 1, 2, 3, 9, 10, 11 & 12

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Jason S. Campbell, JD  
Executive Officer



**State of California**  
**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 2. HEALING ARTS**  
**CHAPTER 5. MEDICINE**  
**Article 22. Podiatric Medicine**  
**§ 2472**

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2472. (a) The certificate to practice podiatric medicine authorizes the holder to practice podiatric medicine.

(b) As used in this chapter, "podiatric medicine" means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

(c) A doctor of podiatric medicine may not administer an anesthetic other than local. If an anesthetic other than local is required for any procedure, the anesthetic shall be administered by another licensed health care practitioner who is authorized to administer the required anesthetic within the scope of his or her practice.

(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 pursuant to subdivision (e).

(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.

(2) Nothing in this subdivision shall be construed to permit a doctor of podiatric medicine to function as a primary surgeon for any procedure beyond his or her scope of practice.

(e) A doctor of podiatric medicine may perform surgical treatment of the ankle and tendons at the level of the ankle only in the following locations:

(1) A licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(2) A licensed surgical clinic, as defined in Section 1204 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical clinic.

(3) An ambulatory surgical center that is certified to participate in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege

to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical center.

(4) A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1). For purposes of this section, a "freestanding physical plant" means any building that is not physically attached to a building where inpatient services are provided.

(5) An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

(Amended by Stats. 2012, Ch. 332, Sec. 16. (SB 1236) Effective January 1, 2013.)



**State of California**  
**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 2. HEALING ARTS**  
**CHAPTER 5. MEDICINE**  
**Article 22. Podiatric Medicine**  
**§ 2477**

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2477. Nothing in this chapter prohibits the manufacture, the recommendation, or the sale of either corrective shoes or appliances for the human feet.

(Added by Stats. 1980, Ch. 1313, Sec. 2.)



**State of California**  
**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 2. HEALING ARTS**  
**CHAPTER 5. MEDICINE**  
**Article 3. License Required and Exemptions**  
**§ 2052**

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2052. (a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

(b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.

(c) The remedy provided in this section shall not preclude any other remedy provided by law.

(Amended by Stats. 2011, Ch. 15, Sec. 11. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)