



**CALIFORNIA BOARD OF PODIATRIC MEDICINE
SEPTEMBER 18, 2015**

SUBJECT: BOARD OF PODIATRIC MEDICINE (“BPM”) 2015/16 SUNSET REVIEW REPORT

ACTION: CONSIDER AND DISCUSS DRAFT SUNSET REVIEW REPORT

8

RECOMMENDATION

Discuss and consider the draft 2015/2016 Sunset Review Report.

ISSUE

The BPM Sunset Review Report for 2015/2016 must be completed and submitted to the Joint Legislative Sunset Review Committee (“JLSRC”) by December 1, 2015.

DISCUSSION

BPM is scheduled for automatic repeal on January 1, 2017, unless the Legislature extends the date for repeal before conclusion of the 2016 calendar year through the “Sunset Review” process.

The Sunset Review process was created in 1994. The process was an effort by both chambers of the State Legislature (Joint Committee) with oversight responsibilities over licensing and regulatory entities to ensure the proper execution, effectiveness and protection against incompetent practice or illegal activities of state licensed professionals in the several professions and occupations. The Joint Committee prepared and forwarded a series of inquiries to BPM which must be answered as part of the Sunset Review process. There are a total of 62 questions. In addition, BPM must respond to sections querying Board action to prior sunset issues in addition to soliciting information on any new issues facing the Board.

Preliminary draft responses to questions in various stages of development have been provided and are included for review and consideration by the Board. The present report represents a preliminary draft response. Board guidance and recommendations for questions answered and/or not yet to fully complete will be incorporated appropriately. BPM will have two additional opportunities for review of the draft report at the October and November committee and Board meetings, respectively, before the final draft is approved. Once approved by the Board, the Sunset Review Report will be finalized and submitted to the Joint Committee on or before the requested December 1st due date.

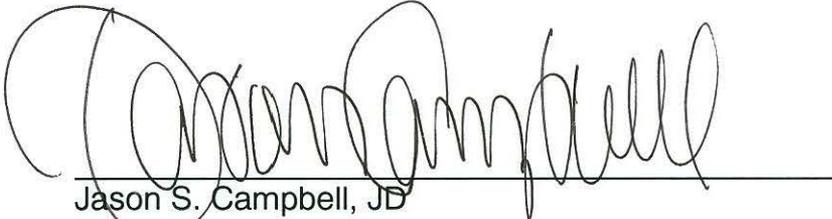
NEXT STEPS

Staff will continue to draft and refine responses for improved clarity and conciseness incorporating member guidance as offered in addition to refining statistical analysis included in the accompanying report tables for greatest accuracy. An additional opportunity for review and comment by Committees will take place in October before final review by the Board in November.

ATTACHMENTS

A. Draft Sunset Review Report

Prepared by: Jason S. Campbell, JD, Executive Officer

A handwritten signature in black ink, appearing to read "Jason S. Campbell", is written over a horizontal line. The signature is cursive and somewhat stylized.

Jason S. Campbell, JD
Executive Officer

California Board of Podiatric Medicine

BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

As of September 5, 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 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 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

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.

Committee and the Assembly Speaker each appoint one of the two remaining public members of the Board.

Notwithstanding 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 just merely 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 (“DPMs”). As a specialty focus in the care and treatment of the human foot and ankle, the practice of podiatry as branch of medicine may be said analogous 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, DPMs 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 DPMs 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 DPM 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, DPMs 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 DPMs 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. Broadly speaking, 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 Board 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.

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 as follows.

Executive Committee

Members of the Executive Committee include the Board's president and vice-president (elected annually), the 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. 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 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.

Very recently—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 calendar year. 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.

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

Table 1a. Attendance (Period Since 2011 Sunset 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	Not yet appointed
	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	#
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			

Con't Table 1a. Attendance (Period Since 2011Sunset Review)

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	Not yet appointed
	09/23/2011	Los Angeles, CA	Not yet appointed
Board Meetings 2012	02/24/2012	Sacramento, CA	Not yet appointed
	07/20/2012	Los Angeles, CA	Not yet appointed
	11/16/2012	Sacramento, CA	Not yet appointed
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	TBD
	11/13/2015	Sacramento, CA	TBD
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	via teleconference	TBD
*Executive Management Committee Meetings 2015	05/20/2015	Inglewood, CA – via teleconference	Yes
	08/19/2015	Gardena, CA via teleconference	Yes
	10/21/2015	via teleconference	TBD

* 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	TBD
	11/13/2015	Sacramento, CA	TBD
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	via teleconference	TBD
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	via teleconference	TBD
*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	via teleconference	TBD
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	TBD
	11/13/2015	Sacramento, CA	TBD
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	via teleconference	TBD

Melodi Masaniai

Date Appointed:	April 24, 2013		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2011	02/11/2011	San Jose, CA	Not yet appointed
	09/23/2011	Los Angeles, CA	Not yet appointed
Board Meetings 2012	02/24/2012	Sacramento, CA	Not yet appointed
	07/20/2012	Los Angeles, CA	Not yet appointed
	11/16/2012	Sacramento, CA	Not yet appointed
Board Meetings 2013	02/22/2013	Orange, CA	Not yet appointed
	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	TBD
	11/13/2015	Sacramento, CA	TBD
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	via teleconference	TBD
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	via teleconference	TBD

†Partial attendance due to transportation and logistical issues

Dr. Michael A. Zapf, DPM

Date Appointed:	December 21, 2012		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2011	02/11/2011	San Jose, CA	Not yet appointed
	09/23/2011	Los Angeles, CA	Not yet appointed
Board Meetings 2012	02/24/2012	Sacramento, CA	Not yet appointed
	07/20/2012	Los Angeles, CA	Not yet appointed
	11/16/2012	Sacramento, CA	Not yet appointed
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	TBD
	11/13/2015	Sacramento, CA	TBD
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	via teleconference	TBD

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	Not yet appointed
	09/23/2011	Los Angeles, CA	Not yet appointed
Board Meetings 2012	02/24/2012	Sacramento, CA	Not yet appointed
	07/20/2012	Los Angeles, CA	Not yet appointed
	11/16/2012	Sacramento, CA	Not yet appointed
Board Meetings 2013	02/22/2013	Orange, CA	Not yet appointed
	05/10/2013	Sacramento, CA	Not yet appointed
	09/13/2013	Los Angeles, CA	Not yet appointed
Board Meetings 2014	02/21/2014	Sacramento, CA	Not yet appointed
	05/02/2014	Sacramento, CA	Not yet appointed
	08/08/2014	Sacramento, CA	Not yet appointed
	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	TBD
	11/13/2015	Sacramento, CA	TBD
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	via teleconference	TBD

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

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)
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
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

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.

As mentioned in response to question 1 above, the board adopted a new committee meeting schedule with separate open and noticed committee meetings for the 2015 calendar year. This recently implemented active posture 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 to 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)**

New Board members

New Executive Officer

New Strategic Plan

New Active and Open Committee Structure

New Board Administrative Manual

New Board Website (under development)

New Board Newsletter (under development)

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

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

[...]

- **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.

[...]

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 study and its findings and conclusions are further discussed in response to Question 9 of Section 3 below. A copy of the report has also been provided for review as part of the oversight hearing process as requested under Section 12 – Attachments and labeled Exhibit C.

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 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 licensure requirements in the future.

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 K.

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 have been consistently sent with every complainant closure letter encouraging consumers to respond with their views in a genuine effort to determine public opinion regarding BPM enforcement performance. However, due to the low volume of consumer complaints fielded by the board per year, in addition to the fact that survey return averages are historically and continue to be extremely low, BPM does not have any consumer satisfaction survey data that is of statistical value.

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. Through careful fiscal and budgetary discipline, the Board operates within funding levels generated exclusively from fees set by State statute and collected from licensees and applicants.

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

[...]

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.

[...]

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						

Revenues and Transfers						
Total Revenue	\$	\$	\$	\$	\$	\$
Budget Authority						
Expenditures						
Loans to General Fund						
Accrued Interest, Loans to General Fund						
Loans Repaid From General Fund						
Fund Balance	\$	\$	\$	\$	\$	\$
Months in Reserve						

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.

[...]

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						
Enforcement								
Examination								
Licensing								
Administration *								
DCA Pro Rata								
Diversion (if applicable)								
TOTALS	\$	\$	\$	\$	\$	\$	\$	\$

*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.

[...]

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

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.

Two Vacancies 2014 [...]

Turnover of Licensing Analyst [...]

Promotion of Office Technician to Licensing Desk [...]

Reclassification of Office Technician to Program Technician [...]

Turnover of Administration Analyst [...]

Reclassification of Administration Analyst to SSA/AGPA [...]

Recruitment and Selection of new Administration Analyst [...]

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	Sexual Harassment prevention

			Prevention Training	
	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	
	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	Executive	Ethics Orientation for State Officials - Department of Justice	Laws governing acceptable practices as a state official
	N/C	Executive	DCA Board Member Orientation Training	Roles and responsibilities of Board Members
	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	Executive	Ethics Orientation for State Officials - Department of Justice	Laws governing acceptable practices as a state official
	N/C	Executive	DCA Board Member Orientation Training	Roles and responsibilities of Board Members
	N/C	Licensing/ Administrative	Preventing Harassment and Other EEO Issues at Work:	Preventing Harassment Training

			It's All About Respect (AB 1825 Compliance)	
11/12	N/C	Executive	Ethics Orientation for State Officials - Department of Justice	Laws governing acceptable practices as a state official
	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

Section 4 Licensing Program

16. What are the board's performance targets/expectations for its licensing² 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 BreZE system. This internal performance target/expectation is being met with aplomb 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

² The term "license" in this document includes a license certificate or registration.

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 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 entirely attributed to factors 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 111 licenses each year for a grand total of 442 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	77	77	77	-	-	-	-	-	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

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			64	66	77	69
Initial License Applications Closed			64	66	77	69
Initial License Applications Received		Resident (Limited/Temporary)	36	45	51	44
Initial License Applications Approved			36	45	47	38
Initial License Applications Closed			36	45	47	38
<i>Total Initial License Issued – Permanent and Resident</i>			100	111	124	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

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 provided 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 Board 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. 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 under penalty of perjury.

“Additional steps for renewal” [...]

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.

Without compliance with California requirements for podiatric licensure, the Board does not grant a certificate to practice podiatric medicine nor does it have reciprocity with other states. 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 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 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 BreZze 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 education, training or experience—including post-graduate medical training offered by armed service podiatric residency programs—to meet licensing or credentialing requirements for a certificate to practice podiatric medicine to date.

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 with 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 for waiver of fees or requirements for active duty members of the armed forces or National Guard 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?

While the 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 in order to expedite the applications for individuals holding active licensure in another state while married to active duty service members assigned to duty in California, the board has not received any applications for expedited licensure to date.

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 not completed electronically but rather through use of the mails or facsimile transmittals, 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 1 st Time Candidates	Not Applicable to this program (BPM Oral Clinical Exam discontinued in 2002)		
	Pass %			
FY 2012/13	# of 1 st Time Candidates			
	Pass %			
FY 2013/14	# of 1 st Time Candidates			
	Pass %			
FY 2014/15	# of 1 st 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 1 st Time Candidates	Examinations administered by the National Board of Podiatric Medical Examiners (NBPME)		41
	Pass %			93%
FY 2012/13	# of 1 st Time Candidates			51
	Pass %			98%
FY 2013/14	# of 1 st Time Candidates			42
	Pass %			98%
FY 2014/15	# of 1 st 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.

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 miles 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. 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. There are currently no CPME accredited teaching institutions located abroad in other countries.

While 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, 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 accredited any teaching institution outside of the United States. Notwithstanding, 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.

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 within 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 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. Table 8a below provides a summary of relevant findings.

[...]

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.

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.

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

The performance measures additionally included metrics for two additional areas including complaint volume and probation monitoring data. Through a deliberative process of collaboration across line, managerial and executive staff agency wide, performance targets were collectively agreed upon and established. The most relevant target metrics 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 metrics 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.

[...]

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?

[...]

Table 9a. Enforcement Statistics			
	FY 2012/13	FY 2013/14	FY 2014/15
COMPLAINT			
Intake (Use CAS Report EM 10)			
Received			
Closed			
Referred to INV			
Average Time to Close			
Pending (close of FY)			
Source of Complaint (Use CAS Report 091)			
Public			
Licensee/Professional Groups			
Governmental Agencies			
Other			
Conviction / Arrest (Use CAS Report EM 10)			
CONV Received			
CONV Closed			
Average Time to Close			
CONV Pending (close of FY)			
LICENSE DENIAL (Use CAS Reports EM 10 and 095)			
License Applications Denied			
SOIs Filed			
SOIs Withdrawn			
SOIs Dismissed			
SOIs Declined			
Average Days SOI			
ACCUSATION (Use CAS Report EM 10)			
Accusations Filed			
Accusations Withdrawn			
Accusations Dismissed			
Accusations Declined			
Average Days Accusations			
Pending (close of FY)			

Table 9b. Enforcement Statistics (continued)			
	FY 2012/13	FY 2013/14	FY 2014/15
DISCIPLINE			
Disciplinary Actions (Use CAS Report EM 10)			
Proposed/Default Decisions			
Stipulations			
Average Days to Complete			
AG Cases Initiated			
AG Cases Pending (close of FY)			
Disciplinary Outcomes (Use CAS Report 096)			
Revocation			
Voluntary Surrender			
Suspension			
Probation with Suspension			
Probation			
Probationary License Issued			
Other			
PROBATION			
New Probationers			
Probations Successfully Completed			
Probationers (close of FY)			
Petitions to Revoke Probation			
Probations Revoked			
Probations Modified			
Probations Extended			
Probationers Subject to Drug Testing			
Drug Tests Ordered			
Positive Drug Tests			
Petition for Reinstatement Granted			
DIVERSION			
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			
All Investigations (Use CAS Report EM 10)			
First Assigned			
Closed			
Average days to close			
Pending (close of FY)			
Desk Investigations (Use CAS Report EM 10)			
Closed			
Average days to close			
Pending (close of FY)			
Non-Sworn Investigation (Use CAS Report EM 10)			
Closed			
Average days to close			
Pending (close of FY)			
Sworn Investigation			
Closed (Use CAS Report EM 10)			
Average days to close			
Pending (close of FY)			
COMPLIANCE ACTION (Use CAS Report 096)			
ISO & TRO Issued			
PC 23 Orders Requested			
Other Suspension Orders			
Public Letter of Reprimand			
Cease & Desist/Warning			
Referred for Diversion			
Compel Examination			
CITATION AND FINE (Use CAS Report EM 10 and 095)			
Citations Issued			
Average Days to Complete			
Amount of Fines Assessed			
Reduced, Withdrawn, Dismissed			
Amount Collected			
CRIMINAL ACTION			
Referred for Criminal Prosecution			

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						
2 Years						
3 Years						
4 Years						
Over 4 Years						
Total Cases Closed						
Investigations (Average %)						
Closed Within:						
90 Days						
180 Days						
1 Year						
2 Years						
3 Years						
Over 3 Years						
Total Cases Closed						

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

[...]

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:

Section 801.01 B&P

[...]

Section 802.1 B&P

[...]

Section 802.5 B&P

[...]

Sections 803 and 803.5 B&P

[...]

Section 805 B&P

[...]

Section 805.01 B&P

[...]

Section 2240 B&P

[...]

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 administrative accusation against a licensee due to statute of limitation issues.

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

Historically speaking there has not been a large incidence of unlicensed activity either by individuals masquerading as licensed DPMs or by DPMs with invalid licenses.

[...]

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 section 1399.696 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 A11.

BPM Table A11. 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.

[...]

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

No. Once a Board decision 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 it is in this fashion—in the administrative forum—that restitution is sought.

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				
Potential Cases for Recovery *				
Cases Recovery Ordered				
Amount of Cost Recovery Ordered				
Amount Collected				
* “Potential Cases for Recovery” are those cases in which disciplinary action has been taken based on violation of the license practice act.				

Table 12. Restitution (list dollars in thousands)				
	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15

Amount Ordered				
Amount Collected				

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?

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 has 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.

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 Board'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.

Table 8b provides a convenient reference that fully summarizes BPM public disclosure policies below.

BPM Table 8b. Board of Podiatric Medicine Public Disclosure of Information

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 lesser form of discipline that can be negotiated for minor violations before the	Date issued by the Medical Board	Available indefinitely	Designated Public Document pursuant to 803.1

filing of formal charges [Accusations])			
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	Date Board becomes aware	Remains on profile 10 years	Designated as public information pursuant to 803.1 - No documents provided

available from the Medical Board)			
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
- License number and type
- License issue date and expiration
- License status
- Public record actions or disciplinary information
- Podiatric Medical School name
- Year graduated

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 been 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 rich and successful track record 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.

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.

Notwithstanding, 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 arising 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 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 prescription of marijuana and the requirement of an appropriate prior examination meeting the standard of care before prescribing, 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.

Section 8 Workforce Development and Job Creation

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

[...]

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. For greater insight into the BPM licensing cycles, the Board's licensing process has been more fully described in questions 16 and 17 in section 4 above. Accordingly, the board has not had cause to conduct a licensing delay assessment and it will endeavor to continue to provide same-day licensure issuance to all applicants once all licensing requirements have been conclusively met.

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

[...]

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

- a. Workforce shortages
- b. Successful training programs.

[...]

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 totality.

Effort incorporating all applicable standards now complete and regulatory rulemaking process is currently in process. [...]

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 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 1 of 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. 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. Other than routine ongoing minor maintenance corrections and current regression testing and/or script development to ensure that existing BreEZe configurations remain sound and operable during implementation of Release 2 of the system, BPM plays no ongoing continuing role in development.

**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 or after January 1, 1984” to confirm a single scope of DPM licensure.**

Background

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 also essentially created 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 standard matter of record. 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 or after January 1, 2984” 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 1 of 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 \$60,000 to its special fund or the equivalent of a 50% 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.

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.**

Elimination of Reference to Ankle Certification

“Licensee Study and Data analysis in progress”

[...]

Removal of Limitation on Post-Graduate Medical Education

All post-graduates in California podiatric residencies must obtain full podiatric medical licensure within three years of starting their residency programs in California else all rights, privileges and exemptions pertaining to their resident's licenses will cease. Medical education is the very foundation upon which high-quality health care is built. 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. An axiom of this proposition is that medical educational limitations of any kind are detrimental and preclude advancement and acquisition of evolving knowledge and science. This is particularly true in California in two important respects.

First, BPM requires all licensed DPMs to demonstrate compliance with Board-mandated continuing competency requirements. BPM is the only doctor-licensing board in the country to implement a performance based assessment program for licensed medical doctors over and above continuing education alone. Licensees who have been licensed longer than ten years, 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 and no longer required for state licensure as recommended by the Joint Committee in 2002, available pathways for demonstrating competency under section 2496 B&P for the individuals mentioned above would therefore be limited to passage of Part III of the national board examination; completion of a board approved extended course of study; or completion of a board approved residency program. However, once a physician's mandated post-graduate educational limit was reached, notwithstanding the fact that the DPM is already the holder of certificate to practice podiatric medicine, the pathway for demonstrating continuing competency through successful completion of an approved residency program would essentially be eliminated. A resident's license for continued learning and demonstration of competency could not be issued. The educational limitation is the only statutory educational prohibition known to exist in the country.

"Resident licenses expire annually" [...]

"Resident licenses require verification of enrollment in an approved residency program each year."
[...]

Second, the state's leading and most advanced practitioners are ostensibly precluded from advancing in their field through limitations on participation in formal programmatic medical residency options available for the acquisition of advanced medical knowledge in other fields. A resident's license represents plenary authorization to learn the clinical practice of medicine including full training rotations normally outside the scope of podiatric medicine under the supervision of medical or osteopathic doctors as part of a training program. This is incredibly important for development of expertise in the healing arts as the history of western medicine has always been predicated on "see one, do one, teach one" theory of acquisition of medical knowledge.

Doctors of podiatric medicine are already fully authorized and licensed by the state to perform surgical services normally beyond the scope of podiatric practice as assistants at surgery. It is

inimical to the very advancement of medical science and state of the art in a profession that a leading state licensed practitioner would be prohibited from combining with another leading medical expert in a formal training regimen simply because the licensed individual may have already obtained 8 years of formal post-graduate learning. In truth, it is doubtful that California consumers would prefer to be treated by doctors having less post-graduate education rather than more.

[...]

Increase to BPM Schedule of User Service Fees

“Fee Study and Data analysis in progress”

[...]

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 Fee Audit accompanying this report and labeled as Exhibit C.

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 K.